STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Michigan MHC, Inc,
Petitioner,

v

MTT Docket No. 415206

Township of Spring Lake,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Michigan MHC, Inc, appeals ad valorem property tax assessments levied by Respondent, Township of Spring Lake, against Petitioner's ownership interest in parcel nos. 70-03-13-300-033, 70-03-13-300-039, 70-03-13-300-045 and 70-03-13-300-046 for the 2011, 2012 and 2013 tax years. Jack Van Coevering, attorney, represented Petitioner, and Bradley J. Fisher, attorney, represented Respondent.

A hearing on this matter was held on June 24, 2013 and June 25, 2013. Petitioner's witnesses were Jeffrey G. Genzink, Van Zeilstra, Heather Singleton (called as an adverse witness), and Christopher Nortley (called as a rebuttal witness). Respondent's sole witness was Douglas C. Adams.

Based on the evidence, testimony, and case file, the Tribunal finds that Petitioner generally met its burden of proof in establishing the subject property's true cash value and further finds the total true cash value of the subject property for 2011 is $1,193,100, is $1,280,600 for 2012, and is $1,458,400 for 2013. The total true cash values have been allocated to the four subject parcels as follows[1]:

Parcel Number	Year	True Cash Value (“TCV”)	State Equalized Value (“SEV”)	Taxable Value (“TV”)
70-03-13-300-033	2011	$10,980	$5,490	$5,490
70-03-13-300-039	2011	$272,260	$136,130	$136,130
70-03-13-300-045	2011	$847,460	$423,730	$423,730
70-03-13-300-046	2011	$62,400	$31,200	$31,200
70-03-13-300-033	2012	$11,780	$5,890	$5,638
70-03-13-300-039	2012	$292,230	$146,115	$139,805
70-03-13-300-045	2012	$909,610	$454,805	$435,170
70-03-13-300-046	2012	$66,980	$33,490	$32,042
70-03-13-300-033	2013	$14,580	$7,290	$5,773
70-03-13-300-039	2013	$332,660	$166,330	$143,160
70-03-13-300-045	2013	$1,034,300	$517,150	$445,614
70-03-13-300-046	2013	$76,860	$38,430	$32,811

PETITIONER’S CONTENTIONS

Petitioner contends that the evidence presented in this case strongly supports a determination that the true cash values of the subject properties reflected on the assessment rolls are substantially overstated and, cumulatively, should not exceed $1.1 million. Petitioner further contends that: (i) both the sales comparison and

[1] Pursuant to discussions with the parties during the hearing (Transcript, Vol. 2, p. 195), allocations of total true cash value of the subject mobile home park to the four parcels that are the subject of this appeal were made based on the ratios of the assessed values of each parcel to the total assessed values of the four parcels for each tax year at issue.

income approaches to value are appropriate in determining the true cash value of the subject property and should be given equal weight, (ii) the subject property is a mobile home park that was 60% vacant during the tax years at issue, (iii) actual vacancy rather than market vacancy is the critical factor when attempting to determine the value of a mobile home park during the tax years at issue, (iv) although many of the sales of mobile home parks during the tax years at issue identified by Petitioner's appraiser were lender sales, such properties were actively marketed and constituted arms-length transactions, and (v) in applying the income approach, a capitalization rate in the range of 14% is appropriate given the testimony of both Mr. Genzink and Mr. Nortley.

As determined by Petitioner's appraiser,[2] the TCV, SEV, and TV for the subject property for the tax years at issue should be:

Parcel Number	Year	TCV	SEV	TV
70-03-13-300-033	2011	$10,130	$5,065	$5,065
70-03-13-300-039	2011	$251,010	$125,505	$125,505
70-03-13-300-045	2011	$781,340	$390,670	$390,670
70-03-13-300-046	2011	$57,520	$28,760	$28,760
70-03-13-300-033	2012	$10,130	$5,065	$5,065
70-03-13-300-039	2012	$251,010	$125,505	$125,505
70-03-13-300-045	2012	$781,340	$390,670	$390,670
70-03-13-300-046	2012	$57,520	$28,760	$28,760
70-03-13-300-033	2013	$10,130	$5,065	$5,065
70-03-13-300-039	2013	$251,010	$125,505	$125,505
70-03-13-300-045	2013	$781,340	$390,670	$390,670
70-03-13-300-046	2013	$57,520	$28,760	$28,760

[2] Although Petitioner's appraiser prepared an appraisal of the subject property for just the 2011 tax year, Petitioner contends that that true cash value determined for 2011 is also applicable to the 2012 and 2013 tax years. (Transcript, p. 195)

PETITIONER'S ADMITTED EXHIBITS

P-1 Photograph of Forest Lake and Neighborhood.

P-2 Forest Lake Board of Review Letter and Attachments.

P-3 Country Estates Consent Judgment.

P-5 Petitioner's Appraisal.

P-8 Manufactured Home Community Comparable Sales.

P-12A Bates Pages 00001 – 00010 from Petitioner's Responses to First Discovery Request.

P-16 Comparison of Sales Comparison Approaches.

P-17 Comparable Sales.

P-18 Country Estates Summary of Purchase Offers.

PETITIONER'S WITNESSES

Jeffrey G. Genzink

Jeffrey G. Genzink, MAI, is a licensed appraiser in the State of Michigan and was qualified as an expert witness in the appraisal of real estate. Mr. Genzink testified that (i) he has appraised several mobile home parks in West Michigan, including the subject property four times, (ii) the demand for manufactured homes declined significantly from 2000 to 2008 due to the "collapse of the financing industry for manufactured homes," (Transcript, Vol. 1, p. 106) (iii) the decline continued during 2009 through 2012, (iv) the economic recession that began in 2008 throughout the United States affected Michigan to a greater degree than other states, resulting in high unemployment rates, especially for those who might purchase manufactured housing, (v) beginning in 2010 there was a substantial market for bank-owned mobile home parks, (vi) sales of bank-owned mobile home parks can be considered arms-length transactions if the buyer and seller are typically motivated, both parties are well informed, the property was exposed to the market for a reasonable time, the transaction is cash or cash equivalent, and the sale price was not subject to creative financing or sales concessions, (vii) although Petitioner's purchase of the subject property in 2010 was from a bank, the seller was not under duress and, as a result, he determined the sale of the subject property to be an arms-length transaction, (viii) sale prices for mobile home parks during the tax years at issue were based on "the in-place, occupied home sites at the time of sale" and not on the number of vacant spaces in the park (Transcript, Vol. 1, p. 115), (ix) in applying the income approach, securing and using actual income and expense information for a mobile home park being appraised is more important than relying on market information because prospective purchasers rely on actual information including occupied home sites, (x) in applying the sales comparison approach, he identified seven arms-length sales of comparable mobile home parks that sold during the period March 2010 to December 2010, (xi) the subject property was identified as a comparable sale because the sale was an arms-length transaction, (xii) in applying the income approach, emphasis was given to 2008 and 2011 actual expenses at the subject property because incomplete information was available for 2009 and 2010, (xiii) both market and actual rents were reviewed to determine a rental rate of $350 per month in applying the income approach, (xiv) a stabilized vacancy rate was determined based on actual occupancy information because "that's what buyers are willing to pay for," (Transcript, Vol. 1, p. 135) (xv) a capitalization rate was developed using the sales extraction method, national surveys, and a band of investment technique, with the most emphasis given to the sales extraction method, and (xvi) a gross income multiplier methodology was also applied because it eliminates variations in expenses resulting from variables such as management and taxes and focuses solely on a property's in-place income. (Transcript, Vol. 1, pp. 101 – 183; Vol. 2, pp. 93 – 123)

Van Zeilstra

Van Zeilstra is the owner of the subject property. Mr. Zeilstra testified that (i) in addition to the subject property, he owns two other mobile home parks within a short distance from the subject, (ii) his first purchase of a mobile home park in Michigan was the Crockery Mobile Home Park in 2006, (iii) he purchased the subject property and the Country Estates Mobile Home Park ("Country Estates") as protection against his investment in Crockery, (iv) at the time of his purchase of the subject property, it was bank-owned, (v) he paid $1,050,000 for the subject property in late 2010, (vi) of the 221 available lots at the subject property, approximately 88 were occupied in April 2010, approximately 78 were occupied in August 2010, approximately 81 were occupied at the end of 2010, and approximately 93 are occupied as of the date of the hearing, and (vii) because financing of mobile homes is very difficult for potential homeowners, vacant lots at the subject property are filled only if Petitioner purchases a mobile home to occupy a space and leases both the home and the lot to the individual. (Transcript, Vol. 1, pp. 8 - 45)

Heather Singleton

Heather Singleton, a Level 3 assessor, is currently the assessor for Respondent and has been the assessor for more than five years. Ms. Singleton was called as an adverse witness by Petitioner. Ms. Singleton testified that (i) Petitioner provided her with certain financial information relating to the subject property, (ii) she was in possession of certain information that concluded that market vacancy rates for mobile home parks in the county were approximately 35% and that actual vacancy rates for the subject property were 45%, and (iii) Petitioner's purchase of the subject property was not an arm's-length transaction because it was purchased from a bank selling under duress. In response to a request from the Tribunal, Ms. Singleton also provided the SEVs and TVs for the four subject parcels for the 2013 tax year. (Transcript, Vol. 1, pp. 46 – 101)

Christopher Nortley

Christopher Nortley is a licensed real estate broker specializing in the buying and selling of mobile home communities and was qualified as an expert witness. Mr. Nortley testified that (i) he has represented either buyers or sellers of mobile home parks in approximately 70% of such sales transactions occurring in Michigan, Indiana, Ohio and Pennsylvania, (ii) he compiles information on all 1,100 mobile home parks located in Michigan, (iii) financing of mobile homes during the tax years at issue was extremely difficult to obtain; as a result, prospective tenants of spaces in the mobile home parks were unable to purchase mobile homes; thus, operators were forced to purchase the mobile homes using their own capital in order to fill vacant spaces in the mobile home park, (iv) occupancies at mobile home parks located in West Michigan were adversely affected by the economy, high unemployment, and declining tourism, (v) virtually all of the mobile home park transactions in Michigan during the period 2009 through 2011 were cash sales and arms-length sales, (vi) during the tax years at issue, "buyers only paid for occupied spaces," (Transcript, Vol. 2, p. 142) (vii) capitalization rates for mobile home parks during the tax years at issue ranged from 11% to 15%, with rates lowering at the end of 2012 due to increased liquidity in the market, and (viii) the sale of Country Estates was not a distressed sale because the property was extensively marketed for four to six months prior to its purchase by Mr. Zeilstra. (Transcript, Vol. 2, pp. 123 - 185)

RESPONDENT'S CONTENTIONS

Respondent contends that its appraiser has properly determined the true cash values of the subject property to be $2.21 million for 2011, $2.4 million for 2012 and $2.6 million for 2013. Specifically, Respondent contends that: (i) Petitioner purchased the subject property at a "fire sale," (Transcript, Vol. 1, p. 7) (ii) market conditions in the mobile home park industry improved during 2012 and 2013, (iii) issues of high occupancy at the subject property resulted from poor management of the property, (iv) the capitalization rate derived by Petitioner's appraiser in applying the income approach is overstated given Mr. Zeilstra's capitalization rate expectation and the appraiser's use of 2008 expenses and 2010 sales prices, (v) market vacancy rates should be reflected in applying the income approach, and (vi) by submitting an appraisal of the subject property only for the 2011 tax year, Petitioner failed to reflect improving market conditions during 2012 and 2013.

As determined by Respondent's appraiser, the TCV, SEV, and TV for the subject property for the tax years at issue should be:[3]

Parcel Number	Year	Respondent's TCV	Respondent's SEV	Respondent's TV
70-03-13-300-033	2011	$20,350	$10,175	$10,175
70-03-13-300-039	2011	$504,300	$252,150	$252,150
70-03-13-300-045	2011	$1,569,780	$784,890	$784,890
70-03-13-300-046	2011	$115,570	$57,785	$57,785
70-03-13-300-033	2012	$22,090	$11,045	$10,450
70-03-13-300-039	2012	$547,660	$273,830	$258,958

[3] Respondent's appraiser did not attempt to allocate his true cash value determinations to the respective parcels under appeal. As discussed above, the parties agreed at the hearing to proportionally allocate their determination of total true cash value to the four parcels at issue based on assessed values on the assessment roll.

70-03-13-300-045	2012	$1,704,740	$852,370	$806,082
70-03-13-300-046	2012	$125,510	$62,755	$59,345
70-03-13-300-033	2013	$26,070	$13,035	$10,700
70-03-13-300-039	2013	$593,160	$296,580	$265,172
70-03-13-300-045	2013	$1,843,390	$921,695	$825,427
70-03-13-300-046	2013	$137,380	$68,690	$60,769

RESPONDENT'S ADMITTED EXHIBITS

R-1 Appraisal dated February 28, 2013 prepared by Adams & Associates for tax years 2011, 2012, and 2013.

R-10 Housing Shipments.

RESPONDENT'S WITNESSES

Douglas C. Adams

Douglas Adams is a licensed appraiser in the State of Michigan and was qualified as an expert in the appraisal of real estate. Mr. Adams testified that (i) Petitioner's purchase of the subject property in 2010 for $1.05 million was not an arms-length transaction because the property was bank-owned, (ii) the manufactured housing market began to significantly decline in the early 2000s, continued through 2009 and 2010, but then began to rebound, (iii) as evidenced by Respondent's Exhibit R-10, shipments of manufactured homes to Michigan were approximately 6,800 in 2002, declining each year to approximately 350 in 2010, and then increasing in 2011 to approximately 800 and further increasing to approximately 1,200 in 2012; (iv) in applying the income approach, he determined market rents to be $360 per month based on several comparables, (v) he determined a market vacancy rate of 40% based on compiled information, JLT Associates surveys, and the Marcus and Millichap report, (vi) he did not rely on historical vacancies because he concluded that the subject property was mismanaged, (vii) he developed a capitalization rate of 11% (not loaded for property taxes) based on internal market research and professional surveys, (viii) he did not have access to historical income and expenses of the subject property, (ix) he gave minimal weight to the sales comparison approach because he found limited data for sales in the region and it was difficult to adjust for differences between the subject property and the comparable sales that were identified, (x) in identifying comparable sales he looked at date of sale, location, quality, and occupancies, and avoided, where possible, bank properties, foreclosed properties and receivership properties, (xi) his initial analysis of the subject property focused on determining its true cash value for the 2013 tax year, and (xii) vacant spaces at the subject property add value. (Transcript, Vol. 1, pp. 183 - 207; Vol. 2, pp. 3 - 92)

FINDINGS OF FACT

1. The subject property consists of four parcels, comprising the Lake Forest Estates Mobile Home Park, located at 17147 148th Avenue, Spring Lake Township, Ottawa County, Michigan.
2. The subject property site is approximately 54.49 acres, improved with a 2,766 square foot community clubhouse, fitness room and garage, and 221 mobile home sites.
3. The subject mobile home park was constructed in 1989, 1991 and 1997.
4. Petitioner purchased the subject property in September 2010 for $1,050,000 from Fifth Third Bank in a foreclosure transaction.
5. The subject property was assessed for the tax years at issue as follows:

Parcel Number	Year	TCV	SEV	TV
70-03-13-300-033	2011	$24,400	$12,200	$12,200
70-03-13-300-039	2011	$604,800	$302,400	$302,400

70-03-13-300-045	2011	$1,882,600	$941,300	$941,300
70-03-13-300-046	2011	$138,600	$69,300	$69,300
70-03-13-300-033	2012	$24,400	$12,200	$12,200
70-03-13-300-039	2012	$604,800	$302,400	$302,400
70-03-13-300-045	2012	$1,882,600	$941,300	$941,300
70-03-13-300-046	2012	$138,600	$69,300	$69,300
70-03-13-300-033	2013	$26,400	$13,200	$12,595
70-03-13-300-039	2013	$600,600	$300,300	$300,300
70-03-13-300-045	2013	$1,867,000	$933,500	$933,500
70-03-13-300-046	2013	$138,600	$69,300	$69,300

6. The appraisers for both parties determined the highest and best use of the subject property as improved to be its current use as a manufactured home community.
7. As of December 31, 2010, 81 of the 221 usable sites[4] were occupied. As of the date of the hearing, 93 sites were occupied. Fifteen of the sites are not currently improved with pads, drives, or off-street parking areas.
8. The subject property is zoned MH, Mobile Home District
9. Petitioner's appraiser considered the sales comparison, income, and cost approaches to value for the tax years at issue.
10. Petitioner's appraiser did not rely upon the cost approach to value the subject property because (i) economic obsolescence makes it difficult to estimate total depreciation and (ii) there were no relevant land sales available to determine the value of the subject land.
11. Petitioner's appraiser gave equal weight to the sales comparison approach and the income approach in concluding to a true cash value of the subject property of $1.1 million for the 2011 tax year.
12. In applying the income approach to value, Petitioner's appraiser used both

[4] Although Petitioner's appraiser contends that site 184 does not comply with zoning side yard setbacks and is, therefore, unusable, Petitioner failed to present credible evidence to support such contention. The Tribunal finds that the subject property contains 221 sites.

a direct capitalization methodology and a gross income multiplier approach to conclude to a true cash value for the subject property for the 2011 tax year of $1,110,000.

13. Petitioner's appraiser developed a range of market rents of $296 per month to $362 per month, by identifying five rent comparables and adjusting actual rents for quality/condition, project amenities, cable, water/sewer, trash, and school taxes, and concluded that the asking rent for the subject of $350 per month was consistent with the market.
14. Petitioner's appraiser also included as income (i) pet fees estimated at $53 per home site and (ii) miscellaneous income of $12 per home site.
15. Vacancy rates for the subject property have ranged from 45.9% as of December 31, 2004 to 63.2% as of December 31, 2010, and 60.5% as of December 31, 2011. Petitioner's appraiser concluded that "current purchasers rely upon the current vacancy to determine the stabilized occupancy." (Petitioner's appraisal, p. 35)
16. Petitioner's appraiser determined operating expenses for the subject property by relying on historical expenses from year-end 2007 through 2011, with primary reliance on 2008 and 2011 expenses as they represent entire fiscal year financial information.
17. Petitioner's appraiser determined a capitalization rate of 14% based on comparable sales, investor surveys and the band of investment technique. The capitalization rate was increased by 2.08% to reflect the property tax rate.
18. Petitioner's appraiser also determined the true cash value of the subject property for 2011 using an effective gross income multiplier ("EGIM")

analysis,[5] whereby the EGIM was calculated for each of Petitioner's seven comparable sales, an overall EGIM was determined based on the comparables, and then the EGIM was applied to effective gross income to conclude to a true cash value of $1,150,000.

19. In applying the sales comparison approach to value, Petitioner's appraiser identified seven comparable sales occurring during 2010, including the September 2010 sale of the subject property.
20. Before adjustments, the average sale price per home site ranged from $3,694 to $10,456, vacancy rates ranged from 24.8% to 63.2%, and average monthly rents per home site ranged from $271 to $483.
21. Petitioner's appraiser adjusted the comparable sales for age/condition, number of home sites, sewer/water, and economic characteristics to conclude to an average value per home site of $5,000, yielding a true cash value of $1.1 million.
22. Respondent's appraiser considered the sales comparison, income, and cost approaches to value for the tax years at issue.
23. Respondent's appraiser did not rely upon the cost approach to value the subject property because (i) it was difficult to estimate the subject's accrued depreciation and (ii) reliable sales and rental data was not available.
24. Respondent's appraiser gave strongest consideration to the income capitalization approach in determining the true cash value of the subject property, and gave minimal consideration to the sales comparison approach.

[5] The ratio of the sale price and its effective gross income.

25. Respondent's appraiser developed a range of market rents of $340 to $389 per month by identifying eight rent comparables and adjusting actual rents for age, utilities, amenities and location, concluding that a market rent of $360 per month was appropriate for the subject property for 2013, $355 per month for 2012, and $350 per month for 2011.
26. Respondent's appraiser also included miscellaneous income equal to 1% of potential rental income per space.
27. For the 2013 tax year, Respondent's appraiser determined vacancy rates of 40% and collection losses of 2% based on market extracted information, factoring in the subject property's historical performance. Similarly, Petitioner's appraiser determined vacancy and collection loss of 44% for the 2012 tax year and 46% for the 2011 tax year.
28. Respondent's appraiser determined operating expenses for the subject property for 2013 by relying on market information for insurance, utilities, management fees, administrative costs, advertising, maintenance, repairs and replacement reserves equal to 39% of effective gross income excluding property taxes. Similarly, operating expenses of 41% and 43% of effective gross income excluding property taxes were determined for 2012 and 2011, respectively.
29. Respondent's appraiser determined a capitalization rate of 11% for 2013 based on comparable sales, investor surveys and the band of investment technique. The capitalization rate was increased by 2.07% to reflect the property tax rate. Similarly, a capitalization rate of 13.06% was developed for 2012 and 2011.
30. In applying the sales comparison approach to value, Petitioner's appraiser identified seven comparable sales and two listings, with sale dates ranging

from March 2010 to June 2012.

31. Before adjustments, the average sale price per home site ranged from $4,845 to $20,313, vacancy rates ranged from 55% to 89.9%, and average monthly rents per home site ranged from $248 to $380.

32. Petitioner's appraiser adjusted the comparable sales for location, age, condition, number of home sites, amenities, and density per acre.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value. See MCL 211.27a.

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50% . . . . Const 1963, art 9, sec 3.

The Michigan Legislature has defined "true cash value" to mean:

> the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1).

The Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value." See *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588 (1974).

Under MCL 205.737(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. See *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept either of the parties' theories of valuation. See *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985). The Tribunal may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination. See *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 485-486; 473 NW2d 636 (1991).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735a(2). The Tribunal's factual findings are to be supported by competent, material, and substantial evidence. See *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990). "Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence." *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

"The petitioner has the burden of proof in establishing the true cash value of the property." MCL 205.737(3). "This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party." *Jones & Laughlin* at 354-355. However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question." MCL 205.737(3).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. See *Meadowlanes* at 484-485; *Pantlind Hotel Co v State*

Tax Comm, 3 Mich App 170; 141 NW2d 699 (1966), aff'd 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. See *Antisdale*. The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances. See *Antisdale* at 277.

Both parties agree that the cost approach should not be applied in valuing the subject mobile home park, essentially concluding that the cost approach is less reliable given the accuracy of calculating depreciation, the amount of obsolescence in the market, and the lack of comparable land sales. The Tribunal agrees and finds that the cost approach will be given no consideration in determining a value for the subject for the tax years under appeal.

Both parties prepared a sales comparison and income approach in determining the true cash value of the subject property for the tax years at issue.[6] In comparing and contrasting the income and market approaches to value, The Appraisal Institute states:

> Typically, the sales comparison approach provides the most credible indication of value for owner-occupied commercial and industrial properties, i.e., properties that are not purchased <u>primarily for their income-producing characteristics.</u> These types of properties are amenable to sales comparison because similar properties are commonly bought and sold in the same market. Buyers of income-producing properties usually concentrate on a property's economic characteristics and put more emphasis on the conclusions of the

[6] Petitioner gave equal weight to the sales comparison approach and the income approach for the 2011 tax year only. Respondent relied on the income approach for each of the tax years at issue, but provided detailed analysis for the 2013 tax year only.

> income capitalization approach. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed (Chicago, 2008) p. 300. [Emphasis added.]

Consistent with *The Appraisal of Real Estate,* and because the subject property is the type of property that is bought and sold in the marketplace, the Tribunal generally agrees with Respondent's appraiser that the income approach is the most appropriate method to use to determine the true cash value of an income-producing property such as the subject for the tax years at issue. To some extent, this view is supported by Mr. Nortley, who testified that mobile home parks are bought and sold based on an anticipated income approach that takes into consideration rent rates, occupancy, and capitalization rates.

However, the Tribunal finds that some consideration should be given to the sales comparison approach for the 2011 tax year,[7] with primary reliance given to Petitioner's identification of seven sales during 2010 of mobile home parks located in West Michigan. While the Tribunal recognizes that Respondent's appraiser gave only "minimal consideration" to the sales comparison approach, the Tribunal has concerns regarding Respondent's appraiser's reliance on two listings, three sales of Ohio properties, three sales of properties located outside of West Michigan, and only one West Michigan sale. Further, the Tribunal finds that Respondent's appraiser failed to adequately and credibly support or explain adjustments made to the comparable sales. Although Respondent contends that the comparable sales identified by Petitioner's appraiser are all "bank sales" and therefore should not be considered to be arms-length transaction, the Tribunal finds that the testimony and

[7] Because Petitioner's appraiser failed to identify comparable sales occurring after 2010 and failed to prepare a sales comparison approach for the 2012 and 2013 tax years, the Tribunal gives no weight to such approach to determine the true cash value of the subject property for 2012 and 2013.

evidence submitted by Mr. Genzink supported by the testimony of Mr. Nortley, support a finding by the Tribunal that the comparable sales identified by Petitioner's appraiser were arms-length transactions and, therefore, credible comparable sales. Specifically, the Tribunal accepts Mr. Nortley's testimony that virtually all sales of mobile home parks in West Michigan during the tax years at issue were bank sales and therefore established the market for such properties (e.g. Petitioner's comparable #2, Country Estates, was marketed for four to six months, it was listed on numerous web sites, the seller was not compelled to sell and therefore, the sale was not a distressed sale). The Tribunal, however, has some concern that the comparable sales identified by Petitioner's appraiser as the best comparables (i.e., comparables #2, #4, and #5) were either purchased by Mr. Zeilstra (comparables #2 and #4) or received purchase offers from Mr. Zeilstra (comparable #5). Further, the Tribunal questions the reliability of Petitioner's appraiser's large economic adjustments which include NOI, average rent, vacancy, and EGI. Given the above, the Tribunal finds that a value per home site of $5,000, as determined by Petitioner's appraiser, is not adequately supported; but, a value per home site in the range of $5,000 to $6,000 is supported by the sales comparison approach. Thus, the Tribunal finds that a true cash value for the subject property in the range of $1.1 million to $1.32 million for the 2011 tax year is supported applying the sales comparison approach.

Both parties also prepared, and relied on, an income approach to determine the true cash value of the subject property for the tax years at issue. However, Petitioner's appraiser utilized the income approach to determine the true cash value of the subject property for the 2011 tax year only. Although Petitioner's appraiser did not include the 2012 and 2013 tax years in his appraisal, he testified that the value determined for 2011 should also apply to the 2012 and 2013 tax years.

Respondent's appraiser applied an income approach to determine the true cash value of the subject property for the 2013 tax year, and then adjusted those values to determine true cash values for the 2011 and 2012 tax years. Further, although both parties offered a direct capitalization analysis[8] in applying the income approach, the assumptions made by the respective parties varied greatly, as is indicated by the information listed below:

2011	Respondent	Petitioner
Base Rental Income	$350/month[9]	$350/month[10]
Potential Gross Income[11]	$928,200	$924,000
Less: Vacancy/Collection[12]	(431,242)	($583,800)
Plus: Other Income	$9,282[13]	$14,300[14]
Gross Income	$506,240	$354,500
Operating Expenses	($217,520)[15]	($183,986)[16]

[8] Simply, a direct capitalization analysis is "a method used to convert an estimate of a single year's income expectancy into an indication of value in one direct step, either by dividing the net income estimate by an appropriate capitalization rate or by multiplying the income estimate by an appropriate factor." *The Appraisal of Real Estate*, p. 499.

[9] Using 2013 as a base, Respondent's appraiser reduced his rental rate from $360/month to $355/month for 2012 and to $350/month for 2011 based on market information.

[10] Petitioner's appraiser identified five rent comparables and adjusted the comparables for quality/condition, amenities, and utilities to conclude to a market rental rate which was consistent with actual rent rates at the subject property.

[11] Because Petitioner's appraiser concluded that one space was not useable, Petitioner's appraiser assumed 220 available spaces, while Respondent's appraiser assumed 221 useable spaces.

[12] Petitioner assumes a vacancy loss of 63.2% based on actual experience at the subject property. Respondent assumes a vacancy and collection loss of 46% based on his determination of vacancy and collection loss of 42% for 2013 adjusted 2% per year.

[13] Miscellaneous income was estimated to be 1% of rental income based on market observations.

[14] Petitioner's appraiser assumes other income of $53 per home site for pet fees and $12 for miscellaneous based on information provided by Petitioner.

[15] Respondent's appraiser estimated expenses (including utilities, management, payroll, administrative, advertising, maintenance and repairs) to be 43% of Adjusted Gross Income, based on market information.

[16] Expenses including administrative, management, utilities, payroll, maintenance, insurance, and taxes were estimated to total 51.7% of Effective Gross Income, or $833 per home site, based on actual expenses incurred by Petitioner during the period 2007 – 2011, as well as expenses incurred by the comparable rent properties identified by Petitioner's appraiser.

Net Operating Income	$288,721	$171,304
Capitalization Rate[17]	13.06%	16.08%
True Cash Value	$2,210,000	$1,070,000
2012	Respondent	Petitioner
Base Rental Income	$355/month[18]	No Change[19]
Potential Gross Income	$941,460	
Less: Vacancy/Collection[20]	($418,385)	
Plus: Other Income	$9,415	
Gross Income	$532,490	
Operating Expenses	($218,570)[21]	
Net Operating Income	$313,920	
Capitalization Rate[22]	13.06%	
True Cash Value	$2,400,000	
2013	Respondent	Petitioner
Base Rental Income	$360/month[23]	No Change
Potential Gross Income	$954,720	
Less: Vacancy/Collection[24]	($404,992)	

[17] A capitalization rate of 14% was determined by Petitioner's appraiser based on comparable sales, as well as information derived from RealtyRates.com, and by the band of investment technique. Petitioner's appraiser added a tax rate of 2.08 to the capitalization rate to determine an overall capitalization rate. Respondent determined a capitalization rate of 11% based on nine comparables, and market information from RealtyRates.com and Marcus & Millichap Manufactured Housing Report. Respondent's appraiser added a tax rate of 2.07% to the capitalization rate to determine an overall capitalization rate.

[18] Using 2013 as a base, Respondent's appraiser reduced his rental rate from $360/month to $355/month for 2012 and to $350/month for 2011 based on market information.

[19] Petitioner's appraiser did not prepare a separate analysis or appraisal for the 2012 tax year.

[20] Respondent assumes a vacancy and collection loss of 44% based on his determination of vacancy and collection loss of 42% for 2013 adjusted 2% per year.

[21] Respondent's appraiser estimated expenses (including utilities, management, payroll, administrative, advertising, maintenance and repairs) to be 43% of Adjusted Gross Income, based on market information.

[22] Respondent determined a capitalization rate of 11% based on nine comparables, and market information from RealtyRates.com and Marcus & Millichap Manufactured Housing Report. Respondent's appraiser added a tax rate of 2.07% to the capitalization rate to determine an overall capitalization rate.

[23] Respondent's appraiser identified eight rent comparables, adjusting for location, age, utilities, and amenities.

[24] Respondent assumes a vacancy loss of 40% and a collection loss of 2%, based on extracted vacancy rates from market surveys and historical performance.

Plus: Other Income	$9,547[25]	
Gross Income	$559,275	
Operating Expenses	$219,641[26]	
Net Operating Income	$339,634	
Capitalization Rate	13.07%[27]	
True Cash Value	$2,600,000	

Based on the testimony and evidence presented in this matter, the Tribunal finds that the appropriate method of determining the true cash value of the subject property for the tax years at issue is the income approach[28], with some support from the sales comparison approach. In reviewing the above comparisons of each party's income approach, it is evident that the respective appraisers generally agree with respect to gross income and expense assumptions, but differ substantially in their quantification of appropriate vacancy and collection losses and a capitalization rate. In this regard, the Tribunal finds that Petitioner's conclusions regarding vacancy loss and capitalization rate are better supported and generally more credible. With respect to vacancy rate, Respondent's appraiser essentially concludes that Petitioner's actual vacancy rate is not reflective of the market's occupancy levels and overall trends, specifically attributing the high vacancy rate at the subject property to mismanagement. The Tribunal finds that Respondent's appraiser fails to provide any support for his conclusion that the subject property is

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[25] Miscellaneous income was estimated to be 1% of rental income based on market observations.
[26] Respondent's appraiser estimated expenses (including utilities, management, payroll, administrative, advertising, maintenance, and repairs) to be 39% of Adjusted Gross Income, based on market information.
[27] Respondent's appraiser determined a capitalization rate of 11% based on market information, Realtyrate.com surveys and the Marcus & Millichap Manufactured Housing Report. Respondent's appraiser increased the capitalization rate by 2.07% to reflect property taxes.
[28] The Tribunal gives no weight to Petitioner's application of a gross income multiplier approach because the reliance of this method on comparable sales information when the Tribunal has concluded that valuation of the subject should be based on actual information rather than market information.

mismanaged or that vacancy rates reflected at other mobile home parks should necessarily apply to the subject property. Further, Respondent's appraiser erroneously relies on occupancy information supplied by JLT & Associates, which was discredited by testimony from Mr. Zeilstra. The Tribunal finds that vacancy rates of 63.2% for 2011, 60.5% for 2012 and 58% for 2013 are supported by the evidence and testimony presented, including rent rolls for 2011 and 2012, and testimony from Mr. Zeilstra regarding 2013. (see Transcript, Vol. 1, p. 19)

With regard to capitalization rates, Respondent's appraiser determined a rate of 11% was appropriate based on comparable sales information, as well as Marcus & Millichap information for the Midwest region and RealtyRate.com national information. Petitioner's appraiser determined a capitalization rate of 14% based on market information, as well as information from RealtyRates.com. Based in part on the testimony of Mr. Nortley, the Tribunal finds that the mobile home park market in the Midwest region and nationally was not reflective of the West Michigan market. Therefore, the Tribunal finds that reliance by both appraisers on regional or national information is not appropriate when determining a capitalization rate for the subject property. As has been discussed above, the Tribunal finds that the testimony of Mr. Nortley regarding the mobile home park industry in Michigan and, in particular, West Michigan, was compelling. Thus, the Tribunal accepts Mr. Nortley's testimony that capitalization rates during the tax years at issue ranged from 11% to 15%, with rates moderating at the end of 2012. Considering all of the testimony and evidence presented by the parties, the Tribunal finds that a capitalization rate of 13% for the 2011 and 2012 tax years is appropriate, with the rate lowered to 12% for the 2013 tax year. The Tribunal further finds that the capitalization rate should be increased by 2.08% for each of the tax years at issue to reflect the property tax liability. Upon careful review of the appraisals and testimony presented by the parties, the Tribunal finds the following in applying the income approach to determine the true cash value of the subject property for the tax years at issue:

2011		Comments
Potential Gross Rent Income	$928,200	$350/month rent; 221 units
Other Income	$12,000	Equal weight given to both appraisers' conclusions.
Less: Vacancy/Collection	($594,206)	63.2%
Gross Income	$345,994	
Less: Operating Expenses	($166,077)	48% of Effective Gross Income. Equal weight given to both appraisers' conclusions.
Net Operating Income	$179,917	
Capitalization Rate	15.08%	
True Cash Value	$1,193,100	
2012		Comments
Potential Gross Rent Income	$928,200	$350/month rent; 221 units
Other Income	$12,000	Equal weight given to both appraisers' conclusions.
Less: Vacancy/Collection	($568,821)	60.5%
Gross Income	$371,379	
Less: Operating Expenses	($178,262)	48% of Effective Gross Income. Equal weight given to both appraisers' conclusions.
Net Operating Income	$193,117	
Capitalization Rate	15.08%	
True Cash Value	$1,280,600	
2013		Comments
Potential Gross Rent Income	$928,200	$350/month rent; 221 units
Other Income	$12,000	Equal weight given to both appraisers' conclusions.
Less: Vacancy/Collection	($545,316)	58%
Gross Income	$394,884	
Less: Operating Expenses	($189,544)	48% of Effective Gross Income. Equal weight given to both appraisers' conclusions.
Net Operating Income	$205,340	
Capitalization Rate	14.08%	

True Cash Value	$1,458,400	

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner proved by a preponderance of the evidence that the properties are assessed in excess of 50% of market value. The subject property's TCVs, SEVs, and TVs are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax year at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of the Tribunal's order. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012, and (iv) after June 30, 2012, and prior to January 1, 2014, at the rate of 4.25%.

This Opinion resolves all pending claims in this matter and closes this case.

By: Steven H. Lasher

Entered: August 06, 2013