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

Grand Grace Holdings, LLC,
Petitioner,

v

MTT Docket No. 435689

City of Novi,
Respondent.

Tribunal Judge Presiding
Victoria L. Enyart

OPINION AND JUDGMENT

Introduction

Petitioner, Grand Grace Holdings, LLC, appeals the ad valorem property tax assessment levied by Respondent, Township of Bloomfield, against the real property owned by Petitioner for the 2012, and 2013 tax years. Jerome P. Pesick, attorney at Steinhardt Pesick & Cohen, P.C., appeared on behalf of Petitioner. Stephanie Simon Morita, attorney at Johnson, Rosati, Schulz & Joppich, P.C., appeared on behalf of Respondent. Petitioner's valuation witness was Kevin Kernen, MAI; Respondent's witness was D. Glenn Lemmon, Michigan Master Assessing Officer (4).

The proceedings were brought before this Tribunal on December 12, 2013, to resolve the real property dispute.

Summary of Judgment

Petitioner contends the values should be as follows:

Parcel No. 50-22-23-151-022

	Petitioner		
Year	TCV	SEV	TV
2012	$1,500,000	$750,000	$750,000
2013	$1,400,000	$700,000	$700,000

The City of Novi has assessed the property on the tax roll as follows:

Parcel No. 50-22-23-151-022

	Respondent		
Year	TCV	SEV	TV
2012	$2,845,200	$1,422,600	$1,422,600
2013	$2,764,200	$1,382,100	$1,382,100

The Tribunal finds the values shall be:

Parcel No. 50-22-23-151-022

	Petitioner		
Year	TCV	SEV	TV
2012	$1,800,000	$900,000	$900,000
2013	$1,700,000	$850,000	$850,000

Background

At issue is the true cash value for the multi-tenant retail property ("subject property") located at 25750 Novi Road, Novi, Oakland County. The subject property is located on 3.67 acres with 23,731 square feet. The subject was constructed in 1998. The highest and best use is as a multi-tenant retail facility.

Petitioner's Arguments

Petitioner believes that the true cash value of the subject property, for the tax years at issue, should be reduced based on Petitioner's appraisal.

Petitioner's Exhibits:

P-1 Appraisal of subject property as of December 31, 2011, and December 31, 2012.
P-2 Photographs of the subject's parking lot.

Petitioner's only witness was Kevin Kernen, MAI. He prepared an appraisal of the subject property. The subject property has three one-story retail units and one two-story unit that is currently vacant, but housed a bar-restaurant.

Kernen testified that USPAP requires the last three years history of the subject property. In fact, there were no sales prior to tax day. The subject property is not listed, although a broker listed the property for six months at $4.5 million. The listing was pulled because of lack of interest and no offers. The property was listed for rent with no new tenants.

The subject property was described located on the east side of Novi Road, at the edge of a transitional area just south of the Main Street shopping area and a cemetery, close to rail road tracks. North of the subject is a commercial development, and east of the subject property is vacant land. The subject property has a retaining wall on the west side.

The highest and best use Kernen determined is for the current multi-tenant retail use.
The sales comparison approach and the income approaches were determined to be the most applicable by Kernen. Although some of the units were occupied, one was owner-occupied and two were related parties. They were not considered occupied for the purpose of determining occupancy. Actual occupancy was unstabilized at 22.1%. A potential purchaser would not consider the units occupied.

The location of the subject property at the south end of the commercial area was considered having some blocked visibility and required an adjustment for external factors.

Kernen used the five sales that spanned both tax years and applied similar adjustments for both years. The sales are:

2012	Subject	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5
Address	Novi Rd	NW Hwy	Wixom	Cooley Lk	Novi Rd	Orchard Lk
Sale Date		07-12	07-11	02-11	12-10	02-10
Sale Price		$1,500,000	$725,000	$1,500,000	$770,000	$2,600,000

Sq Foot	23,465	20,125	8,000	21,600	7,500	27,620
SP/SF		$76.52	$90.63	$69.44	$102.67	$94.13
Size			-15.00%		-15.00%	
Condition		5.00%		10.00%		5.00%
Gross Adj		32.50%	42.10%	44.60%	30.10%	29.40%
Adj SP/SF		$54.90	$66.54	$53.00	$73.07	$81.02

No adjustments were made for quality of construction or land-to-building ratio. Market conditions were made for each property. Kernen testified that Sale 1 was a Honey Tree Restaurant, art gallery and a vacant space. It is a good commercial location. Sale 2 is across the street from the former Wixom Ford Plant. It was constructed as a spec building and was vacant. It is on a primary road with access to the highway. Sale 3 is an O'Rielly Auto Parts and Dollar Tree. (Note, this resold December 2012 for $1,800,000). Sale 4 is closer to Nine Mile Road and sits perpendicular to the road with some visibility and access from Novi Road. It was 40% occupied at the time of sale. Sale 5 was vacant at the time of sale. Buyer had a lease with Gordon Foods in place at the time of sale.

Kernen concluded to $70 per square foot for tax year 2012 to equal $1,600,000 true cash. He used the same technique and sales for 2013. The only change in adjustments was for market conditions. The 2013 true cash value was $65 per square foot that equals $1,500,000.

Kernen testified that he found out after the appraisal that Sale 3 resold for $300,000 more. The owner signed an extension on the Dollar Tree lease and replaced the roof. The sale price is still within the range of other sales. It did not change the value.

The income approach with a direct capitalization analysis was also selected as appropriate. The subject was considered as not stabilized because of the owner-related tenants. Kernen used a discounted lease-up costs and entrepreneurial incentive to determine the lease up discount for the subject property.

Six rent comparables were found that reflect recent leasing transaction. The same rent comparables were utilized for both tax years. Rent was determined to be on a triple net basis.

2012	Subject	Rental 1	Rental 2	Rental 3	Rental 4	Rental 5	Rental 6
Address	Novi Rd	Gr River	Ford Rd	Gr River	Orchard Lk	Ford Rd	Ann Arbor Rd
Sq Foot	23,465	30,000	30,800	338,020	24,743	11,250	34,437
Tenant Size	7,822	1,300	1,126	5,500	2,967	1,300	1,471
Rent/SF		$15.51	$12.00	$17.00	$16.00	$15.61	$15.41
Location		-15.00%	-15.00%	-15.00%	-15.00%	-15.00%	-15.00%
Size		-10.00%	-10.00%		-5.00%	-10.00%	-10.00%
Condition		5.00%	5.00%		5.00%	-5.00%	-5.00%
Lease Terms		-2.00%		-2.00%	-2.00%	-2.00%	-2.00%
Gross Adj		25.50%	32.60%	19.20%	27.80%	32.90%	35.00%
Adj SP/SF		$12.52	$9.85	$14.42	$13.17	$10.52	$10.16

In addition to the above adjustments, Rental 2 included three months of free rent, similar to the subject property. The remaining comparables lacked concessions and were adjusted.
The adjustments for each year were unchanged, except for market conditions.

Adjustments were made for differences in location, size, condition, and lease terms. Market rent was $11.50 for tax year 2012 and $11.25 for tax year 2013.

The potential gross rent was determined and compared with the actual operating history. The income and expenses were not well maintained by the property owner. Gross income was solely rental income. Net operating expenses were positive in 2009 and negative in 2010 and 2011.

Kernen projected expenses. The stabilized occupancy for the subject was 15% with 2% credit loss. The only expenses are management fees at 4% of gross income and non-recoverable expenses are $0.10 per square foot. Total operating expenses are $0.48 per square foot of rentable area or $11,305. After the net operating expenses are calculated the proper capitalization rate is selected. Kernen considered overall rates extracted from investor surveys, band of investment, and rates extracted from sales. The subject property has a below average location within its submarket, with poor visibility and access, and is not stabilized. The higher end of the capitalization rate of 11.5% was selected. The effective tax rate is reduced by the vacancy and credit loss and is added to the capitalization rate. This results in an overall capitalization rate of 11.95%.

The 2012 income calculations are:

Gross Income	$269,848	
Stabilized Vacancy	$40,477	15.00%
Credit loss	$5,397	2.00%
Eff Gross	$233,973	
Mgt Fee	$8,959	4.00%
Expenses	$2,347	1.00%
Total Operating Exp	$11,305	
Net Operating	$212,668	
Cap Rate	11.95%	
TCV	$1,800,000	

The same technique was utilized for the 2013 income approach. The result is a TCV of $1,700,000.

Due to the subject property's lack of arms-length tenants, Kernen then determined the lease-up costs. A potential purchaser would consider that the related party leases would not continue.

The following are the assumptions made for the lease-up costs:

SF Vacant	Months to Lease	Lease Terms	Rent/SF	Unrecovered Expenses	Free Rent	TI/SF	Leasing Commission

1,600	6	60	$11.50	$1.50	1 Mo.	$5.00	$5.00
13,202	12	60	$11.50	$1.50	1 Mo.	$5.00	$5.00

Using the inputs above, the following is the calculation:

	Size	Rent Loss	Recovery Loss Exp	Free Rent	TI/SF	Leasing Commission	Total Cost	Discounted 5%
	1,600	$9,200	$1,200	$1,523	$8,000	$4,500	$24,533	$23,942
-	13,202	$151,823	$19,803	$12,652	$66,010	$37,956	$288,244	$274,518
TOTAL	14,802	$161,023	$21,003	$14,175	$74,010	$42,456	$312,777	$298,518

Kernen used a 5% discount rate to result in a deduction of $298,518 for lease-up costs for 2012. In addition, 5% entrepreneurial incentive of $14,923 was added for a total deduction of $310,000 for 2012 and 2013. After the deduction of the lease up costs from the income approach the conclusion of true cash value for tax year 2012 is $1,490,000. The true cash value via the income approach for 2013 is $1,390,000.

Petitioner, in closing, stated that the restaurant space has been vacant and in summary the subject property is not in a good location.

Respondent's Arguments

Respondent believes that the assessment properly values the subject property. Respondent asserts that the owners should not benefit from their own misfeasance. The subject property, despite Petitioner's contentions, is Class A with fireproof structural steel construction. The subject property has access from three roads. The three foot retention wall should not impact visibility. Regardless of Petitioner's contentions, the subject property does not have location issues.

Respondent's admitted exhibits are:

R-1 Valuation disclosure of subject property (2012 and 2013).
R-2 Petitioner's response to Respondent's First Set of Interrogatories.
R-8 Lease Information.

David Glenn Lemmon, Assessor for the township, is certified as a MMAO (4). He is the person responsible for the valuation disclosure. He testified that approximately 20% of the property within the city is commercial.

The valuation of the subject property includes a sketch, photographs, maps and the January 10, 2013 CoStar listing.

The building was classified as good construction and is costed in three sections. The north section is 24 feet high, the middle section is 16 feet high and the two-story section is 36 feet high. The land is costed at $5.00 per square foot with parking and a block retention wall. The subject property was calculated from the State Tax Commission Cost Manual. Each section is calculated for its occupancy. The cost for a restaurant may be higher than a retail space for the additional plumbing and electrical required.

The land value is based on sales in the general business district at $5.00 to $10.00 per square foot. The subject is located in the TCI, Central Business District. The Twelve Oaks Mall is located 1/3 of a mile north of the subject property, with the expressway 1/3 of a mile north. The Main Street Development is within a couple hundred feet from the subject property. One property sold on Main Street for $650,000 for 0.08 of an acre.

Lemmon testified that the subject has a rooftop space in the center section for a covered bar that was used in warm weather. There is also a basement with an elevator for the two story restaurant area. After the initial land is valued and the building is calculated, the proper county and local multipliers are applied. The Economic Condition Factor is also an annual calculation. This Economic Condition Multiplier changes from year to year, and is dependent upon the market sales and the level of the assessment at the time of a sale. The calculation adjusts the cost approach to reflect the level of assessment when compared to the market.

Lemmon explained that the subject property should not have visibility issues as a section of the road was altered and built over the railroad tracks. The subject property sits six to eight feet below the road. The building is 80-90 feet off the road with three access points.

Respondent explained that the Economic Development Coordinator gave him the CoStar listing of the subject property. The asking price was $4.5 million with asking rent of $16.00 for 6,500 square feet and $20.00 per square feet for 3,000 square feet. The CoStar listing was printed January 10, 2013. Lemmon stated that the smaller the size the higher the rents. Based on leases restaurants tend to lease at a higher rate than retail spaces.

Lemmon questioned Sale 1 as it appears to have deferred maintenance and a construction loan. It is not clear if this sale is arms-length. Sale 3 is a very rural area with minimal development, older unattractive buildings. This is located on a two-lane low traffic road. Sale 4 was the subject of a prior MTT appeal. It does have a less desirable location, south of the subject and removed from the Central Business District. This property is less visible as it sits back 200 feet with trees. The exterior is stained and needs repair; the parking lots are also in poor condition.

Lemmon noted that Kernen's income comparables were all adjusted for less than the unadjusted prices. The gross adjustments ranged 30% to 40% indicating that they were not very comparable.

The Novi area did experience a stagnant market in 2010 to 2011, with a downward trend in 2010. The market stabilized in 2011 and started to increase in 2012. When the Pheasant Run property on Grand River was appealed Lemmon went through each unit. It is L-shaped with 13 to 14 tenants and it does sit back on the lot. The property is older than the subject property but well-maintained with good rents. The owner-occupied commercial properties do not receive a tax break.

Lemmon testified on cross-examination that the two-story portion of the building has not been occupied since 2009.

Respondent upon closing summed up the following: Sale 1 is in a bad location and not easily accessible, Sale 2 is across from the closed Ford Plant and has never been occupied, Sale 3 is in a rural setting, Sale 4 is further South of the subject, Sale 5 in a higher density traffic area; Lease 1 is also away from the Central Business District, Lease 2 is perpendicular to the shopping center, Lease 3 in the West market Square sits too far back on the lot for a good location, Lease 4 is also Sale 5 in a higher density traffic area, and Leases 5 and 6 are both located in Wayne County with different marketing area.

<u>Tribunal's Findings of Fact</u>

1. The subject property is located at 2570 Novi Road, Novi, Oakland County.
2. 4. The parcel identification number is 50-22-23-151-022.

5. The subject property is a commercial building with three rental suites.
6. The subject property is a one and two-story building constructed in 1998 with 23,731 gross square feet.
7. The owner occupies or is related to two of the rental spaces.
8. The highest and best use of the subject property, as improved, is continued use.
9. The parties both agreed that the subject property is in good condition.
10. Petitioner states that the subject is not in a desirable area.
11. The subject's lease for the majority of the space was not determined to be arms-length as the owner or a relative occupies some of the space.
12. Petitioner determined that market rent is $11.25 and $11.50 per square foot.
13. Petitioner also utilized a sales comparison approach.
14. Respondent does not have the burden of proof, but the burden of defending the assessment and assuring that it does not exceed 50% of market value.
15. Respondent's valuation disclosure utilized the cost approach.

APPLICABLE 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 Comm*, 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 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 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.

CONCLUSIONS OF LAW

The Tribunal, having considered the testimony and evidence, finds that the appraisal submitted by Petitioner indicates that the subject property does have an issue that is negatively influencing the market value of the subject property. The subject property is located at the south edge of the major commercial shopping area. Petitioner was able to provide sufficient evidence to prove that the subject property is assessed in excess of 50% of market value.

Petitioner presented a sales comparison approach which included five sales that were used as adjusted for differences in amenities for both years under contention. Adjustments were made for market conditions which equaled 5% per annum. All five sales were adjusted a negative 5% to 15% for location. Kernen explained that the adjustment included frontage, corner exposure, setbacks, traffic counts, market area and visibility. His experience and opinion were the basis for the adjustments.

Respondent criticized the adjustments, as no visibility impairment with the subject property was noted. Respondent testified that the concrete barrier is eight feet from the parking lot and three feet from the road at the north end of the subject property. Sale 1 is not as visible and has access issues with it not being part of a strip center. This property also had construction and some tax liens as well as apparent deferred maintenance. Sale 3 has a rural location on a two-lane road and should not be considered as a superior location. Kernen did not include traffic counts as part of the report. Sale 4 is south of the subject and is not as visible as it sits 200 feet off the road with trees and is further south of the commercial area.

Respondent notes as does the Tribunal that the gross adjustments to the five sales in 2012 ranges from 25% to 40%. However, the only change is adjustments for market conditions only; they increase in 2013 from 32.5% to 49.6%. The high adjustments indicate that there is either an issue with the subject property as indicated by Kernen, or as Respondent indicates the sales are just not all that comparable.

The Tribunal, after considering all five sales, finds that the subject is not in an inferior location when compared to Sales 2, 3 and 4. The rebuttal testimony assisted the Tribunal in determining that Sale 2 is located across the street from the prior Ford Plant and is vacant. Sale 3 is located in a rural area with few commercial properties surrounding it. Sale 2 was not adjusted for condition as it is newer construction. Sale 4 is south of the subject with less traffic exposure and further away from the main shopping area. Therefore, those negative adjustments are not accepted.

Sales 2 and 4 were adjusted for size. Both were smaller than the subject property and smaller properties have a tendency to sell for a higher rate per square foot. Although Sale 5 has the largest amount of square footage of the comparable sales; it was the highest sale price per square foot. Kernen's information does not reflect the premise that the smaller the size the higher the sale price.

The end result is a downward adjustment for all of the sales. The unadjusted range of sale prices are Sales 3 and 4 $69.44 to $102.57. The range of adjusted sale prices per square foot is $53.00 to $81.02. Kernen selected $70.00 per square foot for the subject property. This falls at the lower end of the unadjusted range and midpoint of the adjusted sale price per square foot range.

The rent comparables were all adjusted for location along the superior commercial corridor. The subject is just south of Grand River Avenue and is surrounded by small office and industrial buildings. The visibility and access per Kernen is inferior to the comparables, a 15% negative adjustment was applied to all six rentals. The potential income is projected at $11.50 per square foot. The unadjusted rent for 2012 ranged from $12.00 to $17.00 with extremes removed to a tighter range of $15.41 to $16.00. Rental 2 included three months free rent for the 36 month term. None of the six rental comparables included tenant improvement. The conclusion of rent is below the average adjusted rent for both tax years at issue.

The subject's income is triple net. The operating expenses are therefore, minor with 4% for management and $0.10 per square foot for non-recoverable expenses. The result is a below the market rent estimate, a 17.0% vacancy and credit loss. This results in a net operating income of $212.668 for 2012 and $207,994 for 2013 tax years.

Petitioner's overall capitalization rate also reflected Kernen's below average location within the submarket, poor visibility and access with unstabilized rent. The unrecoverable expense percentage was applied to the effective millage rate. The resulting overall rate is 11.95% for both tax years. The resulting true cash value is further reduced for "lease-up costs."

The Tribunal finds that after utilizing a reduced rate for the income basis, an increased vacancy and credit, as well as an amount for unreimbursed expenses, Kernen decreases the income approach again for some of the same issues.

The Tribunal finds that the rent loss and expense recovery loss are already deducted in the income approach. One rental property (out of six) received a month's rent for each year of the contract. None of the rent comparables included tenant improvements ("TI"). The Tribunal finds that in addition, an owner would not require an additional incentive of 5% to lease up the subject property. This results in the Tribunal finding that deductions for free rent and leasing commissions are for the subject property appropriate "below the line deductions." The deductions are market driven and therefore are deducted when found in the market. The below the line deductions would reduce the income approach by $53,900 and $52,700, respectfully.

Respondent presented the property record cards, listings for some of Petitioner's sales and lease information. Respondent attempted to prove that the subject property has no visibility or access issues. However, after testimony and exhibits, the fact remained that the subject property's two-story restaurant space has not been occupied since 2009. Therefore, for the past two or three years, that portion of the subject property was vacant. The cost new less depreciation indicates that the subject has above average quality construction. However, the market does not reflect an above average value for the quality of the construction. Petitioner does not receive additional income for the quality of the building.

Respondent's cost approach indicates that the building's three sections were costed out individually, with one land value applied. After the cost, the appropriate multipliers for County and Local, as well as ECF's, are applied. The ECF adjusts the cost approach to reflect the increase or decrease in sale prices and the level of assessment at the time of the sales. The sales utilized by Respondent may lag the actual time period by several years.

Respondent's property record is based on a mass assessment with annual adjustments based on sales and the assessments of the sale property at the time of sale. The basis may be stale depending upon the number of sales deemed appropriate by county equalization.

Respondent commented on the sales as found in Respondent's Arguments. However, did not offer a sales comparison approach or adjustments with some type of basis.

This Tribunal is aware that the burden of proof is on Petitioner and that Respondent does not have the burden of proof, but to defend the assessment. The issue is that it is difficult at best to rebut an appraisal with testimony and some documents. An example is Sale 1; Respondent found some construction liens and testified that he may not include Sale 1 in the calculation of an ECF. However, construction liens and foreclosures in and of themselves do not automatically make an inappropriate comparable sale.

The comments made by Respondent were considered. However, the Tribunal agrees with Petitioner that the sales approach is secondary to the income approach. While all of the adjustments do not appear to be appropriate, Petitioner is the only party to provide sales information. Respondent added some rebuttal to the sales. However, after placing the sales on a ranking basis, the sale price at $70.00 and $65.00, respectfully, do not fall outside of the range of adjusted sale prices. The Tribunal cannot make adjustments without documentation. The resulting adjusted sale prices per square foot do have a large percentage of gross adjustments.

The income approach with a below the line deduction for free rent and leasing commissions leads the Tribunal to determine that the market value of the subject property is based on Petitioner’s income approach.

The Tribunal having considered the evidence, testimony and documentation finds that Petitioner met its burden of proving that the assessment exceeds 50% of True Cash Value.

JUDGMENT

IT IS ORDERED that the property’s assessed and taxable values for the tax year at issue shall be as set forth in the *Summary of Judgment* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year 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 the Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. 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 this Final Opinion and Judgment. Pursuant to MCL 205.737, 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 and Judgment resolves the last pending claim and closes this case.

By: Victoria L. Enyart

Entered: February 6, 2014