

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

Dorian Loucin Trustee (a.k.a. “Dorian Ford”)
Petitioner,

v

MTT Docket No. 455503

Clinton Township,
Respondent.

Administrative Law Judge Presiding
Thomas A. Halick

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Dorian Loucin Trustee (a.k.a. “Mike Dorian Ford” or “Dorian Ford”), appeals ad valorem property tax assessments levied by Respondent, Clinton Township, against Parcel Nos. 16-11-27-426-001¹, 16-11-27-427-001², and 16-11-27-451-001³, for the 2013 and 2014 tax years. Attorneys, Mark Metrie and Edward Blanchard represented Petitioner. Attorney Timothy Tomlinson represented Respondent.

A hearing was held on August 27, 2015. Petitioner’s sole witness was David Bur, MAI. Respondent’s witnesses were the township’s assessor, James Elrod, CMAE Level IV, and appraiser, John S. Widmer, Jr., MAI.

Based on the evidence and testimony, the Tribunal finds that the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property for the 2013 and 2014 tax years are as follows:

Parcel No.	Year	TCV	SEV	TV
16-11-27-426-001	2013	\$3,500,000	\$1,750,000	\$1,178,561
16-11-27-426-001	2014	\$3,600,000	\$1,800,000	\$1,197,417

Parcel No.	Year	TCV	SEV	TV
16-11-27-427-001	2013	\$210,000	\$105,000	\$28,988
16-11-27-427-001	2014	\$215,000	\$107,500	\$29,451

Parcel No.	Year	TCV	SEV	TV
16-11-27-451-001	2013	\$500,000	\$250,000	\$180,900
16-11-27-451-001	2014	\$515,000	\$257,500	\$183,794

¹ Also referred to herein as the “main parcel” or “parcel 426.”

² Also referred to herein as the “Glenwood parcel” or “parcel 427.”

³ Also referred to herein as the “corner parcel” or “parcel 451.”

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property's highest and best use as though vacant is for future commercial use. The highest and best use as improved is its current use as an auto dealership. The subject consists of three parcels. Parcel number 16-11-27-426-001⁴ has 7.241 acres of land and the dealership buildings with frontage on Gratiot Avenue. There are two parcels each approximately two acres in size located across Glenwood Avenue that are used for vehicle storage, one is located on the corner of Gratiot and Glenwood (16-11-27-451-001)⁵ and the other has frontage only on Glenwood (16-11-27-427-001).⁶ All three parcels are required for the purposes of the Dorian Ford automobile dealership. Petitioner's appraiser determined the value of the entire dealership based on his opinion that a buyer would desire all three parcels, which combined constitute 11.55 acres. Petitioner asserts that it is meaningless to value the three parcels separately.

On cross examination of Respondent's expert witness, Petitioner explored the size differences between Respondent's comparable sales and the subject property. Respondent's appraiser admitted that size adjustments should have been applied to comparable sales R4 and R5. It was further established that Respondent's comparable sale R1 had a gross adjustment of 57% for 2013 and 68% for 2014, which includes a 20% upward adjustment for "conditions of sale," based on Respondent's opinion that R1 was an REO sale and below market.

In addition, the CoStar report for R2 stated the building square footage to be 26,993, which differs from Respondent's reported square footage of 28,868. It was also established that the sale of R2 was likely not arm's-length because it was a sale of a Lincoln dealership to a Ford dealership, which was controlled by Ford Motor Company – there were no brokers involved in the transaction and the property was never actively listed on the market. Respondent's appraisal states the square footage of R3 to be 35,992 but the CoStar report indicated 33,007. Assuming the actual sale price of R3 was \$1,850,000, the unadjusted unit price would be \$51.40 per square foot (not \$97.24 as stated in Respondent's appraisal⁷). There was also a slight discrepancy in the square footage for R4, as listed by CoStar, and Respondent's appraisal. Sale R5 was a tenant

⁴ Parcel No. 16-11-27-426-001 is also referred to herein as the "main parcel."

⁵ Parcel No. 16-11-27-451-001 is also referred to herein as the "corner parcel."

⁶ Parcel No. 16-11-27-427-001 is also referred to herein as the "Glenwood parcel."

⁷ Respondent's appraiser testified that his adjusted prices per square foot for R3 should be revised to \$65.85 for 2013 and \$67.50 for 2014.

acquisition that was not on the open market, which suggests the price was above-market. Again, with R5, the CoStar data does not agree with Respondent's appraisal report on the square footage of the building.

PETITIONER'S ADMITTED EXHIBITS

P-1 Appraisal of Dorian Ford Auto Dealership (Revised), by David Bur, MAI.⁸

P-2 CoStar Information for Comparable Sale #1 from Respondent's Appraisal.

P-3 CoStar Information for Comparable Sale #2 from Respondent's Appraisal.

P-4 [Not offered.⁹]

P-5 CoStar Information for Comparable Sale #4 from Respondent's Appraisal.

P-6 CoStar Information for Comparable Sale #5 from Respondent's Appraisal.

PETITIONER'S WITNESS

Petitioner presented appraiser David Bur as its only witness. Bur testified that he has practiced as a professional real estate appraiser for 29 years and has appraised approximately 50 automobile dealerships in his career. He inspected the subject property on March 6, 2015, and prepared an appraisal of the subject property, which includes his expert opinion of value for the tax years 2013 and 2014, utilizing the cost approach and the sales comparison approach. He placed most weight on the sales approach.

Bur identified the subject property as the Dorian Ford Auto Dealership, located on Gratiot Avenue in Clinton Township. Gratiot Avenue is a divided highway with three lanes in each direction. The subject is a fairly typical auto dealership in the Metro Detroit area. It consists of three parcels, with a total land area of 11.55 acres, with a new car dealership building (48,451 square feet) and a used car dealership building (2,668 square feet). The two buildings contain a total of 51,119 square feet. The new car dealership building was constructed in 1975, with an addition to the service area built a few years later. The used car building was constructed in 1985. The economic life of an auto dealership is 40 years. The highest and best

⁸ Respondent objected to the admissibility of documents on the grounds that they had not been timely exchanged in accordance with the Tribunal's Order of Procedure. The documents are corrected pages to Petitioner's original valuation disclosure. The ALJ overruled the objection, and admitted P-1, the Revised Valuation Disclosure, in place of the original valuation disclosure. The documents offered were not separately marked as exhibits but are incorporated into P-1. See T. p. 21.

⁹ Although not offered or admitted into evidence, Petitioner's counsel used this Costar document for purposes of cross-examination of Respondent's appraisal expert.

use of the property as vacant is for future commercial use. The highest and best use as improved is an auto dealership. Bur testified that all three parcels are needed for the current highest and best use as an auto dealership and that “there is insufficient land on [the main] parcel to be a functional dealership.”¹⁰ Two of the parcels are located across the street from the main dealership parcel. In Bur’s opinion it does not make sense to value the two parcels separately because without them there would not be enough land area to park all the inventory of vehicles. If valued separately, the highest and best use of those parcels cannot be an auto dealership because there are no buildings on those parcels (only a parking lot and some fencing).

Bur testified that during the last five years the automobile industry experienced a reduction in the number of auto dealerships from 22,000 to 18,000 (nationally). “There weren’t new dealerships coming in, at least not new car dealerships coming in to purchase these dealerships. So they were purchased by used car dealers or other types of vehicle dealers or other types of uses or demolished and torn down. So it was a difficult time for the automotive industry.”¹¹

Bur testified that there were ample sales of automobile dealership properties, which enabled him to select very reliable sales for use as comparables. He also used and relied upon the cost approach, although it is less reliable due to the age of the buildings and the difficulty in estimating all forms of depreciation. The income approach was not used due to lack of market data on arm’s-length leases of automobile dealerships.

As part of the cost approach, Petitioner examined sales of land in order to arrive at an opinion of the subject’s land value. In the cost approach, Petitioner’s land comparables sold for \$2.07 per square foot, \$6.04 per square foot, and \$3.98 per square foot.

Land Sale #1 is a commercial property (217,800 square feet) located in an inferior location on Gratiot Avenue, north of the subject. Bur adjusted the sale upward for the inferior location and downward because it is smaller.

Land Sale #2¹² (915,631 square feet) sold for the highest price. It was purchased by Menards and had special value to that purchaser, for which the appraiser adjusted the price downward by 25% (as a component of functional utility). Bur stated that the buyer was willing

¹⁰ Transcript (“T”) p. 11.

¹¹ T. p. 12-13.

¹² P3, also referred to as the Van Dyke property, is the same sale as Respondent’s land sale R3.

to pay for the golf driving range business and the restaurant building, even though it only needed the raw land. The purchaser demolished the existing structures immediately after the purchase. Bur adjusted for the cost to demolish those buildings (an indoor golf facility and a restaurant). An upward adjustment of 2% was applied for costs to demolish the existing structures, using the Marshal Swift Valuation Services Manual. Petitioner did not research the actual demolition costs. Originally, Petitioner adjusted Sale #2 downward by 10% for size and 5% for zoning, but later revised the appraisal to eliminate those adjustments after determining that it was necessary to adjust the sale downward by 25% for functional utility. The adjusted price is \$4.62 per square foot.¹³

Land Sale #3 is a commercial parcel (301,871 square feet) in Auburn Hills that was adjusted only for its smaller size. Land Sale #3 was sold by Huntington Bank. The appraiser testified that the bank adequately marketed the property and received ten offers. Land Sale #3 is located in a commercial area of Auburn Hills, with similar traffic and higher income. The adjusted price is \$3.58 per square foot.

Petitioner concluded to a land value \$3.50 per square foot, or \$1,760,000 for the entire 11.55 acres (503,118 square feet), for each tax year at issue. Petitioner did not arrive at a land value for the vacant parcels standing alone.

Bur used Marshal Valuation Services to determine that the replacement cost new (“RCN”) for a class “C” complete auto dealership building is \$83.79 per square foot for both years at issue. That base cost was adjusted for sprinklers (\$.10) and HVAC (\$2.00). He claimed that only a small portion of the building has a sprinkler system. After applying multipliers for story height, perimeter, current, and local, and also indirect costs and site improvement costs, the total cost new was determined to be \$6,973,075. The site improvements are estimated at \$2.00 per square foot, which is a weighted average for items such as parking, fencing, lighting, sidewalks, and landscaping.

The depreciation was based on the age/life method, with the building having a useful life of 40 years and the effective age being 25 years, for physical depreciation of 62.5%. The site

¹³ Respondent’s adjusted price for the Van Dyke property is \$4.72 per square foot.

improvements were also depreciated using the age/life method, for physical depreciation of 66.7%. Bur testified that “It is an old property, there is a lot of depreciation on it.”¹⁴

Bur estimated functional obsolescence of 10%, due to the older design, with a smaller showroom than a more modern dealership, and also because it has “cut-up service areas and shop areas that create some functional problems for the building.”¹⁵

The economic obsolescence of 20% was based on the appraiser’s opinion that the dealership industry was in a period of decline and consolidation during the years at issue. Bur further testified that economic obsolescence must be applied in the cost approach, not in the reconciliation process. The total depreciation from all sources was determined to be \$6,492,600, which was subtracted from the RCN (\$6,937,045), for a depreciated cost new of \$480,475.

Adding the land value to the depreciated cost of improvements indicates a true cash value of \$2,240,000 for 2013 and \$2,100,000 for 2014.

Sales Approach

For the sales approach, Bur examined 25 to 50 sales of automobile dealerships. The subject, with 51,119 square feet is a very large dealership, and most of the sales were in the range of 10,000 to 30,000, which were too small to be good comparables (smaller properties tend to exhibit higher prices per square foot as compared to a similar, larger property). In this regard, Bur testified that, “[i]n looking through all the market data, the majority of sales during this time period were buildings in the 10 to 30,000 square feet size. It’s a much more functional size for a dealership, and there was much higher demand at that time period for buildings in that size, 10 to 30,000 square feet. Prices per square foot were significantly higher than the larger buildings, like the subject property. Then there were a number of larger sales like the subject property, and in speaking with dealership properties, it was clear to me that if you go significantly below the size of the subject property, you’re going into a completely different property type. A very highly demanded auto dealership in comparison to the subject property based on the size would not be so highly demanded.”¹⁶

¹⁴ T. p. 28.

¹⁵ T. p. 29.

¹⁶ T. p. 32.

The properties located closer to the subject were too small to be used as reliable comparables. Bur also opined that the demand for larger dealerships was weaker. The value conclusion by the sales approach is \$1,940,000.

Petitioner's Sale Comparable 1 ("Sale P1") was an auto dealership with a gross building area of 39,260 square feet that was converted to an industrial use after the sale. This property was hard to sell as an auto dealership due to its inferior location, for which Petitioner adjusted 15%, based on his experience. The property is located in a lower traffic area, but the average household income is higher in this area. Sale P1 was also adjusted upward for its inferior land to building ratio (it has less land in comparison to the building area). The gross and net adjustment was 20%. It sold for \$700,000, or \$17.83 per square foot, which was adjusted to \$21.40 per square foot.

Petitioner's Sale Comparable 2 ("Sale P2") was an auto dealership (40,464 square feet) that was sold to a dealer of heavy equipment. The location in Lyon Township is overall superior to the subject. Sale P2 is newer, is located in a higher income area, has exposure to Interstate 96, has access from the Milford Road exit, and has much more land area, all requiring downward adjustments. This was an REO sale, but the broker indicated to the appraiser that it was on the market for 7 to 8 months, it received many offers, and that the sale price was fair. It sold for \$1,700,000, or \$42.01 per square foot, which was adjusted to \$37.81 per square foot.

Petitioner's Sale Comparable 3 ("Sale P3") was a former Dodge auto dealership that sold for use as a used car dealership (CARite). It was on the market for 3 years. The property is an older dealership that was in rough condition. The new owner spent \$650,000 to renovate the business for its own use, but this was not deferred maintenance – the price was not adjusted for an expenditure after the sale. Petitioner made a negative adjustment of 10% for the superior location and a 5% adjustment for the inferior land to building ratio. This property sold for \$51.40 per square foot for an adjusted price of \$48.83.

Petitioner's Sale Comparable 4 ("Sale P4") is a former Saturn auto dealership (49,832 square feet) located in Southgate that is overall inferior to the subject. It sold for \$1,300,000, or \$29.55 per square foot. It was adjusted upward for the inferior condition, location, and land to building ratio, for an adjusted price of \$35.47 per square foot.

Petitioner's Comparable 5 ("Sale P5") was a Chevy dealership (49,832 square feet) located in Dearborn. It was on the market for three years and sold for \$1,300,000, or \$29.55 per square foot. With adjustments for the quality of improvements (-5%) and for the land to building ratio (+5%), the adjusted price is \$29.55 per square foot.

Bur testified that he determined the adjustments based on his experience in appraising over 50 auto dealerships in his career. The range of adjusted prices is \$21.40 to \$48.43, with a simple average of \$37.93. Bur concluded to a value of \$38.00 per square foot for the subject, or \$1,940,000, for tax years 2013 and 2014.

In rebuttal to Respondent's Sale No. 1 ("Sale R1"), Petitioner's appraiser testified that this property located at 35235 Mound Road is much smaller than that subject at only 17,080 square feet. This was a former Nissan dealership in Sterling Heights that sold for \$76.17 per square foot. Petitioner asserts that this smaller building is not a reliable comparable sale for the subject and that is why he excluded it from his analysis.

In rebuttal to Respondent's Sale No. 2 ("Sale R2"), Bur testified that he considered this sale but did not use it because he could not verify that it was an arm's-length transaction. This was a former Lincoln dealership that was sold to a Ford dealership. It was financed through Ford Motor Company, "So it seemed like it wasn't arm's-length to me, and the property was never exposed to the open market. It was never put up for sale. It was just the deal that happened corporately."¹⁷

In rebuttal to Respondent's Sale No. 4 ("Sale R4"), Petitioner's appraiser testified that he considered it but did not use it because it was too small, at only 12,427 square feet.

In rebuttal to Respondent's Sale No. 5 ("Sale R5"), Petitioner's appraiser testified that he considered it but did not use it due to its smaller size (10,898 square feet).

In the final reconciliation, Petitioner placed most reliance on the sales approach and concluded to a true cash value for 2013 of \$2,000,000. He allocated this value to the three parcels in the same proportion as the current assessed values bear to the combined assessed values, such that the 2013 true cash values are \$1,753,641 (main parcel), \$160,657 (corner parcel) and \$85,702 (Glenwood parcel). For the 2014 tax year, the true cash value conclusion is

¹⁷ T. p. 43.

\$1,990,000, and the allocations are as follows: \$1,743,846 (main parcel), \$160,524 (corner parcel) and \$85,631 (Glenwood parcel).

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property's assessments do not exceed 50% of true cash value and that the taxable values are correct. Respondent's appraisal supports the current true cash values that were established by the cost approach and confirmed by the board of review for the years at issue.

The subject property is currently operated as the Mike Dorian Ford dealership, and consists of three separate tax parcels. For each parcel, the highest and best use as vacant is for future commercial development. As improved, the HBU is for continued use as an automobile dealership, with the maximum utility to retain the two smaller parcels for the purpose of inventory storage. There is a benefit to a car dealership to store the inventory near the customers. Although the dealership could still function if Petitioner sold the corner parcel and the Glenwood parcel, it may need to acquire additional, off-site storage areas.

Respondent determined the true cash value for each parcel. The main parcel consists of 7.241 acres¹⁸ (315,404 square feet) and is improved by a 48,451 square foot new car showroom, offices, service buildings, and a 2,748 square foot used car building, for total gross building area of 51,119 square feet.

The parcel located on the corner of Gratiot Avenue and Glenwood ("corner parcel") consists of 2.292 acres (99,840 square feet).

The parcel located on Glenwood (the "Glenwood parcel") consists of 2.019 acres (87,964 square feet). The corner parcel and the Glenwood parcel each have asphalt paving, fencing, and 15 light poles.

There are eight automobile dealerships on Gratiot Avenue within a few miles of the subject, and all of them have lower land to building ratios than the subject (6.17 to 1 for the main dealership only).

¹⁸ Acreages are reported by Respondent as approximate ("plus or minus.")

Respondent's Cost Approach

In the cost approach, Petitioner estimated the land value based on four sales, which included the sale of the Van Dyke Sports Center, which sold for \$6.04 per square foot, which is the same as P2 (21.020 acres that sold for \$5,530,000). Respondent determined that there was an expenditure after the sale to demolish the existing structures, which required an adjustment to the price by 4% (\$.21 per square foot). Respondent applied a 25% negative adjustment for overall utility for an adjusted price of \$4.72 per square foot (as compared to Petitioner's adjusted price of \$4.62 per square foot) for the land value as vacant.

The range of adjusted prices is \$2.35 to \$4.75 per square foot, from which Respondent chose the average value of \$3.80 per square foot or \$1,200,000 for the main parcel as though vacant.

For the Glenwood parcel, which has no frontage on Gratiot Avenue, adjustments were needed for the lack of frontage, and the atypically high depth to width ratio. Respondent's cumulative adjustment for the Glenwood parcel resulted in an indicated land value of \$1.71 per square foot (\$150,000).

For the corner parcel, an adjustment of "15% to 25%" was necessary to account for the smaller, corner parcel, for a land value of \$4.41 per square foot, or \$440,000.

Respondent estimated the reconstructed cost new ("RCN") of the improvements on the main parcel to be \$3,042,410, and the site as vacant to be \$1,200,000 for an indicated 2013 value of \$2,245,000 (rounded).

The cost approach value for the Glenwood parcel is the depreciated RCN of the site improvements of \$62,352, plus the land value \$150,000, for a rounded value of \$210,000. The price per square foot as improved is \$2.39.

The Corner parcel has a 2013 depreciated RCN of \$61,838, and land value as vacant of \$440,000, for a total value of \$500,000 rounded. The price per square foot as-improved is \$5.01.

For 2014, Respondent trended the 2013 value for each parcel to December 31, 2013, (Tax Year 2014), based on a review of land pricing, and adjustments to cost indices, and determined that the 2014 true cash values were as follows: the main parcel was \$4,350,000, the Glenwood parcel was \$215,000, and the corner parcel was \$515,000.

Respondent's Sales Approach

Respondent's value conclusion relies 100% on the sales approach. Respondent's sales approach analyzed sales of five improved properties, which were chosen based on their highest and best use as automobile dealerships. That is, all the properties were purchased for continued use as automobile dealerships. Respondent asserts that four of Petitioner's sales comps were converted to a different use, which means they have a different highest and best use than the subject, and therefore are not reliable indicators of value.

The main parcel has a land to building ratio of 6.17 to 1, which is consistent with other comparable automobile dealerships in the subject's market.

The corner parcel was acquired in 2010 for \$675,000 (\$6.76 per square foot). At the time of acquisition, the corner parcel was improved with hotel, which was demolished after the purchase, and the current owner improved it with a parking lot, fencing, and lighting, for purposes of storage and display of new vehicles. The Corner parcel has 99,840 square feet. The Glenwood parcel has 87,964 square feet. The Main parcel has 315,404 square feet. The Main parcel has no surplus or excess land.

Respondent selected five comparable properties ranging in size from 11,710 square feet to 35,992 square feet of gross building area, with unadjusted prices ranging from \$69.46 to \$138.33 per square foot. The land to building ratios varied from 5.69:1 to 17.75:1. The adjusted values ranged from \$65.85 to \$81.18 per square foot.

Respondent's Sale No. 1 ("R1"), is a former Nissan automobile dealership located in Sterling Heights. The building area is 17,080 square feet, the land area is 307,466 square feet (7.058 acres), with a LB ratio of 18:1. It sold for \$1,301,000. It was an REO sale. The purchaser operates it under the name Price Right Auto Group (a used car dealership).

Respondent's Sale No. 2 ("R2") is the former Krug Hilltop Lincoln dealership in Genoa Township, which sold for \$3,275,000 or \$113.45 per square foot. It was purchased for use as a new automobile dealership (Bob Maxey Ford of Howell). It has a gross building area of 28,868 square feet and land area of 490,921 square feet (11.27 acres), with a land to building ratio of 17:1. The unit price is \$113.45 per square foot of gross building area.

Respondent's Sale No. 3 ("R3") is the former Oakland Dodge dealership, which sold for \$3,499,862 (\$97.24 per square foot). It was purchased for use as a "CARite" used automobile

dealership. It has a gross building area of 35,992 square feet, land area of 4.7 acres (204,732 square feet), with a land to building ratio of 5.69 to 1. This property had significant deferred maintenance, which required expenditure after the sale of \$650,000 due to lack of electrical and mechanical systems, which indicates a sale price of \$2,500,000, taking into account the expenditure after the sale. The adjusted sale price of R3 is \$65.85 per square foot of gross building area.

Respondent's Sale No. 4 ("R4") is the former Victory Toyota dealership in Van Buren Township, which sold for \$1,200,000 or \$90.91 per square foot. It was purchased for use as a new automobile dealership by Atchinson Ford. It has a gross building area of 13,200 square feet, land area of 155,945 square feet (3.580 acres), and the land to building ratio is 11.81 to 1. The unit price is \$90.91 per square foot of gross building area.

Respondent's Sale No. 5 ("R5") is located in Canton Township, which sold for \$1,200,000 or \$102.48 per square foot. It was purchased for use as a new automobile dealership. It has a gross building area of 11,710, land area of 99,317 square feet (2.280 acres), with a land to building ratio of 8.48 to 1. The unit price is \$90.91 per square foot of gross building area.

On cross-examination of Petitioner's appraiser, Respondent explored the difference between Petitioner's values allocated to the corner parcel and the Glenwood parcel and the land values determined by Petitioner's land sales analysis (as part of the cost approach). Petitioner determined that the land value of the 11.55-acres was \$3.50 per square foot. Petitioner determined that the allocated value of the corner parcel was \$160,657, or \$1.61 per square foot and the value of the Glenwood parcel was \$.97 per square foot.

RESPONDENT'S ADMITTED EXHIBITS

R-1 Appraisal of Dorian Ford, by John R. Widmer, Jr., MAI.

R-2 Sales Comparable, Dealership Purchase from Ford Motor Company by Erhart BMW. R-2 was not admitted into evidence. Petitioner objected to its admission on the grounds that it was not timely disclosed along with Respondent's Valuation Disclosure.

R-3 Not offered or admitted.

R-4 Addendum to Respondent's Appraisal.

RESPONDENT'S WITNESSES

Respondent's assessor, James Elrod is the Level 4 Assessor for Respondent who prepared the assessments for the subject property based on the cost less depreciation approach, adjusted for market conditions, pursuant to the State Assessors Manual. He testified in support of the current true cash, assessed, and taxable values that appear on the property record cards for each parcel at issue. Elrod testified on cross-examination that he did not examine the subject property for functional obsolescence. The current assessments do not assign any functional obsolescence to the subject properties. Neither did he apply any economic obsolescence to the subject properties. When questioned by the ALJ, Elrod stated that for all commercial and industrial properties, an economic condition factor ("ECF") is applied in the mass-appraisal, cost approach. He stated that, for property types for which there are few or no sales in the township, the assessor uses an ECF developed by the county equalization department. However, upon further questioning, Elrod testified that the effective ECF is one, meaning that there is no adjustment for economic conditions in the cost approach.

Respondent's final witness was appraiser, John R. Widmer, Jr., MAI. He testified in support of the appraisal report that he prepared for the subject property. For the main parcel, he relied upon the sales comparison approach as the most reliable approach to value. He examined the highest and best use of each parcel as though vacant, and determined the fair market value of each parcel as though vacant as a foundation for determining whether the properties would sell based on their current use as-improved, or whether demolition of the structures would be appropriate. Widmer concluded that the value of the whole property as improved is greater than the value of the underlying land value for each parcel, and therefore, demolition is not appropriate. "The highest and best use as improved for the subject property is for an auto dealership property being the main parcel with a maximum utilization of the other sites to accommodate inventory storage."¹⁹ Widmer testified that the land to building ratio of the main parcel is 6.17 to 1, which is consistent with the average land to building ratio of nearby automobile dealerships (6.9 to 1). Therefore, the main parcel, standing alone, could be operated as an automobile dealership, which can be valued separately. He further concluded that the

¹⁹ T. p. 141.

Glenwood and corner parcels “enhance the utility of the primary parcel.”²⁰ Widmer testified regarding data from the National Automobile Dealer Association (NADA) that the “optimism index” had improved in 2010, over the period spanning from 2007, 2008, and 2009. This was offered in rebuttal to Petitioner’s opinion regarding the reduced demand for automobile dealership properties in the period following the recession of 2008.

Widmer testified in support of the cost less depreciation approach, including land values for each parcel, and the depreciated cost of structures and improvements.

He also testified in support of the sales comparison approach, and emphasized that he used comparables sales that sold based on the same highest and best use as the subject. He valued the main parcel separately from the other parcels, treating the main parcel as a stand-alone automobile dealership with a land to building ratio of 6.17 to 1. By comparison to sales of similar automobile dealerships, the main Dorian Ford dealership parcel was determined have a fair market value of \$4,000,000 for the 2013 tax year and \$4,200,000 for the 2014 tax year.

In the cost approach, Widmer disagreed with Petitioner’s cost adjustment for HVAC (\$2.00 per square foot), and determined that according to Marshal Valuation Service the appropriate adjustment was \$4.40 per square foot.

He also disagreed with Petitioner’s adjustment for fire suppression (\$.10 per square foot for sprinklers), noting that he observed sprinkler heads in most if not all of the building, contrary to Bur’s testimony that sprinklers were present only in the boiler room. The fire suppression adjustment is \$2.49 per square foot, which is applied to the entire building area.

Widmer also testified that there should be no perimeter multiplier or ceiling height multiplier when using replacement costs, because the cost manual takes into account the market standard for that building type.

Widmer examined the specific components of land improvements on the subject parcels and applied the costs indicated from the cost manual for those components. He determined that the property was in very good condition, with an effective age of 20 years with a useful life of 40 years (physical depreciation of 50%). He found no functional obsolescence for the main parcel, but 33% for the corner parcel and the Glenwood parcel, based on his opinion that the existing

²⁰ T. p. 145.

site improvements contribute value as currently used but “may offer limited contribution to a market oriented buyer.”²¹

With regard to external (economic) obsolescence, Widmer testified that “I do not measure external obsolescence. I let the market measure external obsolescence, so there is none quantified.”²²

In the sales approach, Widmer selected five comparable properties and applied adjustments for differences. In the final reconciliation process, he weighted the sales approach 100%, which was supported by the cost approach. He testified that in his expert opinion, the main parcel had a true cash value of \$4,000,000 for 2013 and \$4,200,000 for 2014.

For the Glenwood parcel, Widmer relied solely upon the cost approach, with an opinion of value of \$210,000 for 2012 and \$215,000 for 2014.

For the corner parcel, Widmer relied solely upon the cost approach, with an opinion of value of \$500,000 for 2013 and \$515,000 for 2014.

In rebuttal to Petitioner’s appraisal report, Widmer testified that “with regard to the highest and best use – you cannot opine to a conclusion of value for a whole yet say that part of that is worth significantly more and then maintain that highest and best use.” He also noted that Petitioner’s revised estimate of land value for the entire dealership was \$1,760,000, which was an increase of \$250,000 over the original valuation disclosure. However, Petitioner’s appraiser did not make correlating changes to his adjustment for land-to-building ratio.

In rebuttal to Petitioner’s land valuation in the cost approach, Widmer testified that Petitioner’s Land Sale P1 was not a good choice for a comparable because of its significantly inferior location. He also rebutted Petitioner’s claim that the subject property would require a retention pond, such that Land Sale P1 should have been adjusted upward for this inferior characteristic.

In rebuttal to Petitioner’s Land Sale P3 (sold by Huntington Bank) Widmer learned that the buyer believed “he got a steal” as compared to other properties located in the area of “the University, Squirrel, Five Points, I-75 area.”²³ He also testified that Land Sale P3 was not

²¹ T. p. 160.

²² T. p. 163.

²³ T. p. 185.

adequately exposed to the market, and questioned the reliability of the information that Petitioner learned from the broker that the property received many offers and brought a fair price.

In rebuttal to Petitioner's Comparable Sale P1, Widmer testified that he was very familiar with the property that is located on Van Dyke Avenue in Sterling Heights, and testified that it was difficult for the seller to secure a similar auto dealership use for this property and that "hence, the acquisition by an alternative or adaptive use, being industrial. I have not applied that sale in any dealership property I've appraised."²⁴ He stated further that, "If you conclude to highest and best use as an automobile dealership and you start integrating properties that were partly demolished, redeveloped, readapted for industrial use, it's inconsistent. It's not even remotely similar to what was in place as of 12/31/2012 for the subject, nor 12/31/2013"²⁵

With regard to Petitioner's Comparable Sale P4, Widmer rebutted Petitioner's testimony that the property was purchased for use as an auto dealership, stating that it was actually purchased by "MVS . . . to convert it to its application or aftermarket customization shop. It's not a dealership property."²⁶

With regard to Petitioner's Comparable Sale P5, Widmer testified that it was the former Wink Chevrolet dealership that was converted to use under the name "Ford Road Cars." At the time he inspected the property, only ten percent of the property was a used car dealership, which indicates a different highest and best use.

FINDINGS OF FACT

1. The subject parcels, commonly known as Mike Dorian Ford (or, Dorian Ford), were used as a new and used automobile dealership during the years at issue.
2. The subject parcels consist of 11.55 acres (315,404 square feet), which is divided into three separate parcels for tax purposes.
3. The main dealership parcel (16-11-27-426-001) has a land area of 7.241 acres (315,404 square feet) and is improved with a new vehicle dealership building (48,451 square feet) with a showroom, offices and service areas. It also has a smaller used vehicle dealership building (2,668 square feet).

²⁴ T. p. 186.

²⁵ T. p. 187.

²⁶ T. p. 187.

4. For 2013 the main dealership parcel (16-11-27-426-001) had a TCV of \$3,494,600, based on the assessed value of \$1,974,600. The 2013 taxable value was \$1,178,561. For 2014, the true cash value was \$3,930,400, the assessed value was \$1,965,200, and the taxable value was \$1,197,417.
5. The main dealership parcel is located on Gratiot Avenue, a major, six-lane thoroughfare with a median.
6. The “corner parcel” (16-11-27-451-001) is located across the street from the main dealership parcel, on the southeast corner of the intersection of Gratiot Avenue and Glenwood. It consists of 2.292 acres (99,840 square feet). The corner parcel was purchased in 2010 for \$675,000 (\$6.76 per square foot). At the time of purchase it was improved by a hotel building, which was torn down in order to convert the property into an area for storage and display new vehicle inventory. The property has 376.35 feet of frontage on Gratiot Avenue. It is improved with paving, fencing, and 15 light poles. The corner parcel had a true cash value (based on the SEV) of \$361,800 (\$3.62 per square foot), the SEV was \$180,900, and the taxable value was \$180,900 for 2013 and 2014.
7. The “Glenwood parcel” (16-11-27-427-001) is located across from the main dealership on Glenwood Street. It is contiguous with the corner parcel. It does not have frontage on Gratiot Avenue. It consists of 2.019 acres (87,964 square feet). It is improved with paving, fencing, and 15 light poles. It has been used by Dorian Ford for many years for vehicle inventory storage. It has a TCV (based on the SEV) of \$193,000 (\$2.19 per square foot) for 2013 and 2014. The state equalized and taxable values for 2013 and 2014 are \$96,500.
8. Immediately to the south of the subject properties, adjacent to the Glenwood parcel and the corner parcel, is a Chevrolet automobile dealership.
9. The buildings on the main parcel have a total of 51,119 square feet. The new vehicle dealership building is 48,451 square feet, it was constructed in 1974, an addition was constructed in 1980, and includes a showroom, offices, service areas, and a body shop. The building has been well-maintained, is in good condition, and has an attractive appearance from the exterior and interior.

10. The used vehicle building has 2,668 square feet. It was built in 1985 and is in good condition.
11. The main parcel's highest and best use as vacant is for commercial development.
12. The main parcel's highest and best use as improved is its current use as an automobile dealership.
13. The highest and best use of the corner parcel and the Glenwood parcel as vacant is for future commercial development.
14. The highest and best use of the corner parcel and the Glenwood parcel as improved is for vehicle inventory storage and display adjunct to the main dealership parcel.
15. In determining the true cash value of the three subject parcels for the 2013 and 2014 tax years, Petitioner's appraiser relied primarily upon the sales approach and also considered the cost approach.
16. In determining the true cash value of the main parcel for the 2013 and 2014 tax years, Respondent's appraiser relied upon the sales comparison approach to value, with support from the cost approach.
17. In determining the true cash value of the corner parcel and the Glenwood parcel for the 2013 and 2014 tax years, Respondent's appraiser relied upon the cost approach (which incorporates the sales comparison approach to determine the land value as-vacant).
18. Petitioner's claim that the number of new automobile dealerships declined from 22,000 to 18,000 during the years relevant to this case is based on national data.
19. Petitioner selected five comparable sales,²⁷ one of which sold based on its highest and best use as a used car dealership ("Sale Comparable P3" or "P3"), and the other four were adapted for commercial uses other than vehicle dealerships. P5 was used partially (approximately 10%) for used car sales.
20. Respondent's sales comparables were all sold for continued use as new or used car dealerships, which is consistent with the current use of the subject property.²⁸

²⁷ To distinguish a comparable sale used to value the land in the cost approach from a comparable sale used in the sales comparison approach, the latter shall be referred to herein as a Sale Comparable and designated as "P1, P2, P3, P4, or P5" and "R1, R2, R3, R4, or R5".

²⁸ Unless otherwise specified, the term "the subject property" refers to the three subject parcels that constitute the Dorian Ford automobile dealership.

21. Three of Petitioner's sales comparables are overall inferior to the subject. Petitioner's appraiser considered the location of P5 (located in Dearborn) to be equal to the subject. Only Sale P3 (Madison Heights), which is located near the subject in the northern suburbs of Detroit, was considered to be superior, for which the appraiser applied a qualitative, 10% negative adjustment. Respondent's appraiser applied no adjustment for the location of R3, which is the same property as P3.
22. P1 is located closest to the subject in Sterling Heights, but in an inferior area, for which Petitioner's appraiser applied an upward, 15% adjustment.
23. Respondent's appraiser credibly testified that he is familiar with other dealerships that have off-site locations for vehicle inventory storage. Dorian Ford operated for many years prior to acquiring use of the corner parcel in 2010.
24. Petitioner's appraiser was unable to testify from personal knowledge as to the cost or date that substantial renovations were made to the subject property. In fact, in 2006 and 2010, the showrooms, offices, and bathrooms were renovated.
25. Petitioner's Land Sale P1 is located on Gratiot Avenue, approximately 20 miles north of the subject in Lenox Township, which is much less populated and has much less traffic than the subject site in Clinton Township.²⁹
26. Petitioner's Land Sale P1 has a retention pond that covers approximately one third of the land area. The land area is five acres (217,800 square feet).
27. The subject property is served by a municipal storm sewer and would not require a retention pond if redeveloped.
28. Petitioner's appraiser failed to adjust Land Sale P1 for the existence of the retention pond.³⁰
29. Initially, Petitioner's Valuation Disclosure (appraisal) reported the price of Land Sale P2 to be \$2.85 per square foot, and later corrected it to \$6.04 per square foot after reading Respondent's appraisal. Petitioner's appraiser did not verify Land Sale P2 with any parties involved in the transaction when preparing the initial Valuation Disclosure.³¹

²⁹ See T. p. 67-68.

³⁰ Although, in the final analysis, the party's respective estimates of land value differed by only \$30,000, this omission by Petitioner's appraiser undermines the overall credibility of the appraisal.

³¹ This is another fact that affects overall credibility of the witness.

30. Petitioner's appraiser adjusted Land Sale P2 (the property purchased by Menards) upward by 2% (\$.12 per square foot, or \$109,875) for the cost to demolish existing structures immediately after the sale. He did not research the actual cost of demolition, but based the estimate on Marshal Valuation Services. Petitioner's appraiser indicated that the structure on the property was a canvas golf dome. However, Respondent's appraiser credibly testified that the property also included a building related to the dome and a restaurant building.³²
31. Respondent adjusted its Land Sale R2 (same sale as Land Sale P2) for demolition costs by 4% (\$.21 per square foot, or \$192,282), based on actual costs incurred by the purchaser.
32. Petitioner's initial Valuation Disclosure included an upward adjustment of 5% to Land Sale P2 for zoning, under the mistaken assumption that the purchaser incurred costs after the sale to rezone the property. The appraiser later eliminated that adjustment in the Revised Appraisal after learning that no such costs were required for rezoning.
33. Petitioner's Land Sale P3 was sold by Henry Acquisitions on behalf of Huntington Bank, which had acquired it several years prior to the sale. The property was adequately exposed to the open market prior to the sale.
34. In the cost approach, Petitioner's appraiser estimated the subject's effective age at 25 years.
35. In the cost approach, Respondent estimated the subject's effective age at 20 years, which is found to be more accurate than Petitioner's estimate, based on photographic evidence and supporting testimony.
36. In the cost approach, Petitioner's appraiser estimated economic obsolescence of 20%, based on his opinion that the reduction in the number of automobile dealerships nationally reduced demand for new automobile dealerships in the subject's market. The Tribunal finds Petitioner's testimony lacks credibility because it is based on national data regarding the reduction in the number of automobile dealerships. Further, the estimate of economic obsolescence is not adequately supported by testimony or narrative in the appraisal report demonstrating any quantitative analysis of the sales data. The sales data

³² See footnote 30 and 31.

indicates that automobile dealerships were sold for continuing use as automobile dealerships.

37. Petitioner's Comparable Sale P1 was the former Noonan Pontiac dealership property. Petitioner's appraiser testified that "They had a difficult time selling this to a dealership because of the industry consolidation . . . it's not quite the right spot for a dealer . . . it's in a section of Van Dyke [Avenue] that is less desirable than Dorian Ford."³³ P1 was originally marketed for use as a new car dealership. However, there was insufficient demand for such a use *at that location*. The property was initially placed on the market for \$3.5 million for a period of two years, and it ultimately sold for \$700,000. The new owner utilized the existing building and also constructed a new building on the site at a cost of \$700,000, in order to adapt it to the desired use as an industrial property.
38. Petitioner's Sale P2 was a former new car dealership that was purchased for use by a dealer of heavy equipment. This property was sold by a receiver after it had been on the market for approximately eight months. It had initially been placed on the market for an asking price of \$3.1 million and sold for \$1,700,000.
39. P1 and P2 demonstrate that a dealership property that no longer is in demand for that use results in a lower than anticipated sale price when sold to be adapted to a commercial or industrial use.
40. Petitioner's Sale P3 (the same property as R3) was a former new car dealership that was purchased for use as a used car dealership. It was on the market for approximately three years. As noted above, none of Petitioner's comparable sales were purchased for their highest and best use as a *new* car dealership. P3 is the only property offered by Petitioner that was sold based on its highest and best use as a car dealership (CARite, located at 101 W. 14 Mile Road in Madison Heights). It sold for \$1,850,000 on December 12, 2012 (\$51.40 per square foot). The gross building area is 35,992 square feet, the land area is 4.7 acres (204,732 square feet), with a land to building ratio of 5.69:1. Petitioner adjusted the price for location (-10%) and land to building ratio (5%), for an adjusted sale price of \$48.83 per square foot. The land to building ratio adjustment is based on Petitioner's methodology of comparing P3 to the entire Dorian Ford dealership property

³³ T. p. 102.

(three parcels consisting of approximately 11.55 acres) as opposed to Respondent's methodology of comparing R3 to the main dealership parcel only.

41. Petitioner's Sale P4 was on the market for approximately three years. It was an automobile dealership that was sold to Michigan Vehicle Solutions Pro ("MVS"), which obtained a rezoning of the property from commercial to manufacturing. MVS is engaged in the business of aftermarket vehicle customization. The property is not used as a vehicle dealership.
42. Petitioner's Sale P5 was the former Wink Chevrolet dealership that was sold for use by a company that repairs trucks and trailers. Approximately ten percent of the property is used for sales of used vehicles. This property has a different highest and best use than the subject property.
43. Respondent's Comparable Sale No.1 ("R1"), is a former Nissan automobile dealership located in Sterling Heights. The building area has 17,080 square feet, the land area is 307,466 square feet (7.058 acres), and the land to building ratio is 18:1. It sold for \$1,301,000. It was an REO sale. The purchaser operates it under the name Price Rite Auto Group, which is a vehicle dealership that specializes in the sale of recreational vehicles. With adjustments for market conditions, conditions of sale, land to building ratio, building size, condition, and quality, the adjusted sale price is \$75.33 per square foot.
44. Respondent's Comparable Sale No. 2 ("R2") is the former Krug Hilltop Lincoln dealership in Genoa Township, which sold for \$4,000,000 (\$148.18 per square foot). It was purchased to be used as a new automobile dealership (Bob Maxey Ford of Howell). It has a gross building area of 26,993, land area of 490,921 square feet (11.27 acres), with a land to building ratio of 17:1. Based on information from CoStar presented by Petitioner, this sale was not adequately exposed to the market. Respondent adjusted the sale price to \$79.22 per square foot.
45. Respondent's Comparable Sale No. 3 ("R3") is the same as P3. It is the former Oakland Dodge dealership property that was sold for use as a CARite used car dealership. Respondent compared R3 to the main dealership property only (not including the Glenwood and corner parcels). Respondent indicated that the main parcel's land area is

7.241 acres, or 315,404 square feet, the gross building area is 51,119 square feet, which indicates a land to building ratio of 5.8 to 1. R3 has a land to building ratio of 5.69 to 1, requiring no adjustment for this difference, when compared to the main dealership property. R3 has a gross building area of 33,007 square feet, which is 18,112 square feet smaller than the subject, for which a 10% adjustment was applied. R3 sold for \$1,850,000 (\$56.05 per square foot). R3 has land area of 4.7 acres (204,732 square feet). This property had significant deferred maintenance, which required expenditure after the sale of \$650,000, due to lack of electrical and mechanical systems, which indicates a sale price of \$2,500,000. The adjusted sale price of R3 is \$65.85 per square foot of gross building area for 2013 and \$67.50 per square foot for 2014.

46. Respondent's Comparable Sale No. 4 ("R4") is the former Victory Toyota dealership in Van Buren Township, which sold for \$1,200,000 or \$90.91 per square foot. It was purchased for use as a new automobile dealership by Atchinson Ford. It has a gross building area of 13,200 square feet, land area of 155,945 square feet (3.580 acres), and the land to building ratio is 11.81 to 1. The unit price is \$90.91 per square foot of gross building area. Respondent adjusted the price to \$84.46 per square foot. However, this property has a gross building area of only 13,200 square feet, which is 37,919 square feet smaller than the subject. Respondent failed to make an adjustment for this difference, but admitted on the witness stand that a size adjustment is required. Respondent adjusted other properties by -10%, for much less significant size differences. It is found that a 15%, negative adjustment is appropriate, which results in an adjusted sale price of \$70.88 for 2013 and \$72.66 for 2014. This 15% adjustment is consistent with qualitative adjustments for size applied by both parties in this case. For example, Petitioner applied a 15% adjustment for location for P1.
47. Respondent's Comparable Sale No. 5 ("R5") sold for \$1,200,000 or \$125.13 per square foot of gross building area. It was purchased for use as a new automobile dealership. It has a gross building area of 9,950 square feet, land area of 99,316 square feet (2.280 acres), with a land to building ratio of 8.48 to 1. Respondent adjusted other properties by 10%, for much less significant size differences. The Tribunal finds that a 15% adjustment is appropriate, which results in an adjusted sale price of \$61.35 for 2013 and

\$62.76 for 2014. R5 was purchased by Kia of Canton (auto dealership) from the lessor.

The property was never actively exposed to the market.

48. There has been a new automobile dealership operating on the main parcel for more than 30 years.

49. There are six dealerships of new automobiles located on the Gratiot Avenue corridor from 13 Mile Road to north of 16 Mile Road.

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.³⁴

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. 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 percent. . . .³⁵

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.³⁶

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”³⁷

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”³⁸ The Tribunal is not bound to accept either of the parties' theories of valuation.³⁹ “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most

³⁴ See MCL 211.27a.

³⁵ Const 1963, art 9, sec 3.

³⁶ MCL 211.27(1).

³⁷ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

³⁸ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

³⁹ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

accurate valuation under the individual circumstances of each case.”⁴⁰ In that regard, 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.”⁴¹

A proceeding before the Tax Tribunal is original, independent, and de novo.⁴² The standard for appellate review of findings of fact is that the Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”⁴³ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”⁴⁴

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁴⁵ “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.”⁴⁶ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments 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.”⁴⁷

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.⁴⁸ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁴⁹ 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.⁵⁰

⁴⁰ *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁴¹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁴² MCL 205.735a(2).

⁴³ *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁴⁴ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

⁴⁵ MCL 205.737(3).

⁴⁶ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

⁴⁷ MCL 205.737(3).

⁴⁸ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff’d* 380 Mich 390 (1968).

⁴⁹ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁵⁰ *Antisdale*, *supra* at 277.

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁵¹ The Tribunal finds that the most reliable approach to value for the main parcel is the sales comparison approach. The most reliable approach to value for the Glenwood parcel and the corner parcel is the cost approach (which relies upon the sales approach to determine the land value as vacant).

“Highest and best use is shaped by the competitive forces within the market where the property is located, and it provides the support for a thorough investigation of the competitive position of the property in the minds of market participants.”⁵² Highest and best use analysis strongly influences the choice of comparable sales in the sales approach. Only properties with the same or similar highest and best uses are suitable for use as comparable sales. “The specificity of the ideal improvement affects the comparable properties that might be analyzed in the application of the approaches to value.”⁵³

In our case, both parties concluded that the highest and best use for all three parcels is their current use. This presumes that a buyer would have likely purchase them together for use as an automobile dealership on the relevant tax days. In a hypothetical sale on each of the tax days, the corner parcel and the Glenwood parcel likely would have sold as an assemblage with the main parcel as currently used. However, in order to determine the highest and best uses of the parcels the land values must be determined as though vacant. This will facilitate a determination of the contributory value of each parcel in relation to the entire dealership property.

In the cost approach, Respondent estimated the value of the corner lot based on a highest and best use for commercial development. The corner location and the physical characteristics of the land at one time made it most suitable for use as a hotel. It continued to have utility for commercial development on the relevant tax days. In 2010, the corner parcel was purchased for \$675,000 for the purposes of converting for use as a vehicle storage lot by the Dorian Ford dealership. The existing hotel building was demolished immediately after the purchase, which indicates that the property sold solely on the basis of its land value. This demonstrates strong demand for such use at that time (while the automobile dealership industry at large was

⁵¹ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁵² *The Appraisal of Real Estate*, Appraisal Institute, 2013, 14th ed at 331.

⁵³ *The Appraisal of Real Estate*, Appraisal Institute, 2013, 14th ed at 345.

downsizing). This information, as well as other land sales, would be relevant to a prospective purchaser in determining the contributory value of the corner parcel on the relevant tax days. A knowledgeable and prudent market participant would want to know the relative value of potentially excess land.⁵⁴

Both parties performed a sales comparison analysis to determine the land value as part of the cost approach. Petitioner valued the entire 11.55-acre dealership land area, whereas Respondent determined the land value separately for each parcel. However, the resulting opinions of land value for the entire dealership property are very close. Respondent determined that the sum of the land values of the three parcels was \$1,790,000 and Petitioner determined the land value to be \$1,760,000, a difference of only \$30,000 (less than 2%). Given this substantial agreement on the land value, this Opinion will devote little time to that issue, other than to determine the values of the individual parcels.

With regard to the building values in the cost approach, there was substantial agreement with regard to the base cost and the replacement cost new. It is evident that the major disagreement in the cost approach is the estimation of depreciation from all sources, with significant disparities in physical, functional, and economic obsolescence. Due to the fact that the subject property (main parcel) has buildings with a useful life of 40 years and an effective age of 20 to 25 years, the Tribunal finds that the difficulty in estimating physical depreciation, standing alone, is good reason to place little reliance upon the cost approach for the main parcel. Furthermore, the determination of economic depreciation is dependent upon the sales approach. Here, where adequate sales data exists, the sales approach is the most reliable approach to value for the main parcel.

For the other two parcels, the lion's share of market value is attributable to the land. The cost of improvements (pavement, fencing, and lighting) can be determined with reasonable accuracy by reference to Marshal Valuation Services. Given that the useful life of the site improvements is 15 years, the effective age can be estimated with reasonable accuracy. The site improvements to the corner parcel are relatively new. Furthermore, because those improvements

⁵⁴ Excess land is a portion of a property that may have a different highest and best use and that could be split from the property and sold separately. This is not to be confused with surplus land, which cannot be split and sold separately.

contribute relatively little value to the parcels, any lack of precision in estimating depreciation will not significantly undermine the reliability of the value conclusions.

With regard to the land value of the corner parcel, the current owner was willing to pay \$675,000 to acquire it in 2010, plus the cost of demotion and new site improvements, in order to assemble it with the other parcels to expand the car dealerships new car inventory storage capacity. Although the corner lot could support other types of commercial development, it is particularly suited for its current use, given its proximity to the main dealership and the exposure to Gratiot Avenue. This suggests that the sale price in 2010 may have been influenced by its value in use to the current owner. Often an adjacent property owner is willing to pay a price greater than other market participants would pay, because the property represents a use distinct to the adjacent owner. Therefore in order to determine the HBU of the corner parcel as-vacant, one must consider the probable uses under the assumption that it would sell as a single parcel for commercial development in the open market. If the demand for such use was strong enough on the relevant tax days, the current owner might have decided to sell it and find alternative land for vehicle inventory storage.

In the cost approach, Respondent determined that the true cash value of the corner parcel, as though vacant, was \$440,000 (\$4.25 per square foot). This is supported by the land sale data submitted by both parties. Respondent determined that the corner parcel has a fair market value of \$500,000 including the site improvements. The Tribunal finds this analysis to be sound and concludes that the TCV of the corner parcel is \$500,000 for 2013 and \$515,000 for 2014.

Respondent determined the true cash value of the Glenwood parcel, as though vacant, to be \$150,000 (\$1.71 per square foot). This lower value is attributable largely to the lack of frontage on Gratiot Avenue, and the small amount of frontage on Glenwood in relation to its depth (it has an unfavorable width to depth ratio). Respondent determined that the fair market value of the land area of the Glenwood parcel is \$150,000, or \$210,000 including the site improvements. The Tribunal finds this analysis to be sound and concludes that the TCV of the corner parcel is \$210,000 for 2013 and \$215,000 for 2014.

Respondent determined the true cash value of the main parcel, as though vacant, to be \$1,200,000 (\$3.81 per square foot). Respondent determined that the fair market value of the main parcel is \$4,245,000, including the buildings and site improvements. Respondent

concluded that the fair market value of the main parcel by the cost approach is \$4,245,000 for 2013 and \$4,350,000 for 2014.

With regard to the building values in the cost approach, Petitioner estimated the replacement cost new less depreciation to be \$480,475, for a total value of improvements and land of \$2,240,000 for the 2013 tax year. However, the Tribunal finds insufficient support for Petitioner's subjective estimate of external obsolescence of 20%, which was based solely on the appraiser's judgment, and his opinion that the demand for automobile dealership properties was in decline during 2013 and 2014. With the 20% economic adjustment backed out, the cost approach value is increased by \$1,394,615, for an indicated value of \$3,177,782. Stated in terms of "percent good" the total depreciation from all sources is approximately 7% good, meaning that according to Petitioner, the buildings' contributory value is only 7% of the replacement cost new. It is not credible that the structures and land improvements, which would cost approximately \$7 million to construct, suffer from this degree of depreciation such that their fair market value is less than \$500,000. Furthermore, the sales data, as analyzed herein, indicates that the buildings are not so substantially depreciated.

The appraiser also applied a 10% adjustment for functional obsolescence, due to the design (the service areas are "cut up" into separate areas, which reduces the utility, and because he believed that the showroom is smaller than modern standards would demand.) Petitioner's appraisal report does not indicate whether replacement costs or reproduction costs were used or whether the appraiser applied the calculator method or the unit in place method. There is no evidence that Petitioner's appraiser applied the cost approach to reproduce the "cut-up" service areas, and it is reasonable to presume that he did not. On the other hand, Respondent's costs were based on "replacement costs" using the calculator method from the MVS (Marshal Valuation Service) which would tend to cure most functional obsolescence.

Sales Comparison Approach

Petitioner's appraiser stated the highest and best use of the three subject parcels was an auto dealership. Respondent's conclusion of highest and best use is more specific in that the property is currently used as an automobile dealership, which necessitated that the sales comparables selected for the sales approach have the same highest and best use. Because

Petitioner selected four sales comparables that had a different highest and best use, the Tribunal finds that Petitioner's sales approach is less reliable than Respondent's.

Petitioner based its selection of sales comparables upon the premise that there was a significant reduction in the number of new automobile dealerships in the last five years and that "there weren't . . . new car dealerships coming in to purchase" the dealerships were closing, but rather they were purchased for use as used car dealerships or other purposes. This assertion, which underlies Petitioner's theory of the case, lacks credibility because Respondent presented sales comparables that *did* sell for use as new automobile dealerships: R5 (Kia of Canton) R2 (Bob Maxey Ford), and R4 (Atchinson Ford). Also, Respondent's other sales comparables sold for used vehicle dealerships, whereas only one of Petitioner's sales comparables was used as a used vehicle dealership after the sale. While it is not seriously disputed that there was substantial consolidation in the industry prior to the years at issue, Petitioner's appraiser cited national data only, and did not provide data regarding the market in Metro Detroit, or more importantly, he did not relate the national data to the subject's sub-market in Metro Detroit. Because the subject dealership (and others in the vicinity) survived the downsizing, it is evident that demand existed for a dealership of new automobiles at the subject's location during the years at issue. This finding and conclusion is consistent with the opinion of Respondent's appraiser. Furthermore, there is a Chevrolet dealership immediately to the south of the subject property. In total, there are six new vehicle dealerships located within a few miles of the subject along the Gratiot Avenue corridor.

In the selection of sales comparables, Petitioner excluded certain properties that were considered to be too small and thus would exhibit higher prices per square foot. While it is generally true that a similar but smaller property will sell for a higher unit price, the exclusion of these properties overlooks the locational differences and also resulted in exclusion of properties that retained their highest and best use as a new or used automobile dealership. It would have been preferable to include comparable sales with a similar location and highest and best use as the subject.

For example, three of Petitioner's sales comparables admittedly had inferior locations, and one located in Dearborn was deemed to be equal to the subject. Only Sale P3 (Madison Heights) was considered superior, for which the appraiser applied a qualitative, 10% negative

adjustment. More significantly, Petitioner's sales P1, P2, P4, and P5 all sold under a different highest and best use, and therefore, are not reliable indicators of value. Petitioner suggested that these properties sold at higher prices than if they had been sold as car dealerships. However, the evidence does not support this assertion. For example, Petitioner's appraiser testified that the sellers of Comparable Sale P1 "had a difficult time selling this to a dealership because of the industry consolidation . . . it's not quite the right spot for a dealer . . . it's in a section of Van Dyke that is less desirable than Dorian Ford."⁵⁵ P1 was originally marketed for use as a new car dealership for an asking price of \$3.5 million for a period of two years. It ultimately sold for \$700,000 and was adapted for use as an industrial property. Petitioner's P3, which sold for use as a used car dealership, had the highest adjusted price per square foot as compared to Petitioner's other comparables. All of Respondent's comparable sales sold for higher unadjusted prices per square foot than Petitioner's non-automobile dealership properties. Even with reasonable adjustments for size, the automobile dealership properties had higher unit prices.

On cross-examination of Petitioner's appraiser, Respondent explored the difference between Petitioner's allocation of values to the corner parcel and the Glenwood parcel and the land values determined by Petitioner's land sales analysis (as part of the cost approach). Petitioner's appraiser developed his value conclusion for the entire 11.55-acre dealership, including the structures and land improvements, and allocated a portion of that value to the corner parcel and Glenwood parcel, which do not include any buildings. The allocation was based on the ratio of assessed value of each parcel to the sum of the assessed values. Petitioner determined that the *land value* of the 11.55-acres was \$3.50 per square foot. Petitioner's allocated value of the corner parcel is \$160,657, or \$1.61 per square foot. It would be reasonable to expect the unit land value of the smaller, corner parcel to be greater than the unit value of the larger main dealership parcel.

The result of Petitioner's allocation method is that a portion of the contributory value of the buildings on the main parcel was allocated to the other parcels even though they have no buildings. Although this practice may be acceptable in some cases, here it does not produce a credible value for the corner parcel or the Glenwood parcel. Although one would expect that this methodology would result in an inflated value for the unimproved parcels, the opposite occurred.

⁵⁵ T. p. 102.

That is the resulting values were less than the indicated price per square foot of the land alone. According to Petitioner's evidence, the land value alone (11.55 acres) is \$3.50 per square foot. This would indicate that the corner parcel (99,839 square feet) had a true cash value of \$350,000 (rounded) not including land improvements (parking lot, fencing, and lighting). The land improvements may contribute some value to a prospective purchaser who acquired it for commercial development. Yet Petitioner's value for the corner parcel based on the allocation method results in a value as-improved of \$160,657, which is substantially less than the likely market value of the land alone. A similar critique applies to the Glenwood parcel, which Petitioner values at approximately \$85,000 (including land improvements), which equates to \$.97 per square foot. This value is not supported by any of the land comparables in evidence.

Respondent's questioning on cross-examination also casts doubt on Petitioner's claims that the demand for automobile dealerships was diminished during the years at issue. This is highlighted by the fact that the corner parcel was purchased in 2010 in order to expand the subject dealership. This suggests that while there was a contraction in the number of new automobile dealerships at that time, this is not proven to be true with regard to the location of the subject property. The fact that the corner parcel was acquired for \$675,000 (\$6.77 per square foot) in 2010 indicates that overall contraction in the number of dealerships nationally was not a negative value influence for the subject. While this price may not have reflected fair market value (having been purchased by the adjacent land owner) it supports a conclusion that the land alone has a fair market value equal to or greater than \$350,000, based on the sales data in this case.

Further, the Tribunal finds no persuasive evidence to support Petitioner's position that the subject automobile dealership would not be functional without the corner parcel and the Glenwood parcel. Respondent's appraiser testified that he is familiar with other dealerships that have off-site locations for vehicle inventory storage. Further, the land to building ratio of the main parcel alone is within the range of land to building ratios exhibited by competitive dealership properties. Dorian Ford operated for many years prior to acquiring the corner parcel in 2010. Finally, when asked whether the dealership could function without the two parcels, Petitioner's appraiser answered, "I don't know. This is their business model."⁵⁶

⁵⁶ T. p. 64.

Petitioner's appraiser was unable to testify from personal knowledge as to the cost or date of substantial renovations to the subject property, including the showrooms, offices, and bathrooms.⁵⁷ This undermines the credibility of his estimate of effective age which contributed to an excessive estimate of physical depreciation.

Petitioner's appraiser failed to adjust Land Sale P1 for the existence of the retention pond. During cross-examination, the appraiser admitted that an adjustment would be appropriate, but speculated that "if the subject were vacant now and somebody had to go in and develop it, I'm guessing that Clinton Township would make them put in some kind of retention on the property."⁵⁸ Here, where the witness is admittedly guessing about the need for a retention pond, the testimony is found to lack credibility. Further, the witness testified that a Kroger grocery store was located near Land Sale P1, as evidence of the market conditions, but he did not know whether the store was in existence on the date that Land Sale P1 was sold (August 3, 2011). Clearly, the existence of the Kroger store would influence the market values of vacant parcels in the vicinity.

It was further exposed on cross-examination that Petitioner's appraiser first discovered the errors with regard to the land area and sale price of Land Sale P2 when he reviewed the data regarding that same sale set forth in Respondent's Valuation Disclosure.⁵⁹ Initially, Petitioner reported the price of \$2.85 per square foot, and later corrected it to \$6.04 per square foot after reading Respondent's appraisal.

At the hearing, there was substantial inquiry regarding economic obsolescence, if any, in the cost approach. Petitioner's appraiser estimated it to be 20%. Petitioner's appraiser also testified that the dealerships that were closing were less profitable and had inferior locations. There is no evidence that any new car dealership closed in the immediate area surrounding the subject, and in fact, there are six new car dealerships within a few miles of the subject that did not close during the contraction. This indicates that despite the overall downsizing in the industry, demand remained relatively strong in the subject's immediate area. Petitioner's witness related the closure of dealerships to the decrease in auto sales. Naturally, when determining which dealerships were to close, those with poor sales would be targeted for closure. It follows

⁵⁷ See T. p. 66 - 67.

⁵⁸ T. p. 71.

⁵⁹ See T. p. 74.

that the remaining dealerships, such as the subject, would benefit from an increase in market share. It cannot be concluded that the surviving dealerships would suffer from economic obsolescence due to the fact that other dealerships were closed. The subject property was a viable new car dealership on the tax days at issue and was not in competition with defunct new car dealerships that were being sold based on a different highest and best use.

There is evidence that an existing new car dealership would bring a higher price where there is demand at that location for either a new or used car dealership. For example, Petitioner's Sale P1 was the former Noonan Pontiac dealership property. Petitioner's appraiser testified that "They had a difficult time selling this to a dealership because of the industry consolidation . . . it's not quite the right spot for a dealer . . . it's in a section of Van Dyke [Avenue] that is less desirable than Dorian Ford."⁶⁰ From this it can be inferred that the property was originally marketed for use as a new car dealership, and would bring the highest price based on that use. This is logical considering that the purchaser would need to make few changes to the property to adapt for use as another new car dealership. However, it is evident that there was no demand for such a use at that location. P1 was sold under a different highest and best use. The property was initially placed on the market for \$3.5 million for a period of two years, and it sold for \$700,000. The new owner utilized the existing building and also constructed a new building on the site at a cost of \$700,000 in order to adapt it to the desired use as an industrial property. This evidence, along with other sales data in this case, supports the conclusion that properties with a highest and best use as a car dealership sell for more than similar properties that sell based on their highest and best use as industrial or commercial property.

Petitioner's appraiser indicated that the difference between "cost value" and sale prices demonstrates the existence of economic obsolescence.⁶¹ The replacement cost new less all physical and functional depreciation, minus the indicated value by the sales approach, equals the economic obsolescence. The calculation of economic obsolescence is taken directly from the sale comparison approach. When reliable sales data exists there is good reason to rely primarily or completely on the sales approach, and to use the cost approach for support. The cost approach is also useful to obtain an estimate of the land as though vacant. This is especially true in our

⁶⁰ T. p. 102.

⁶¹ See T. p. 97.

case where the land value is a significant component of the overall value of the property. In the final analysis of Petitioner's estimate of economic obsolescence, to the extent that the appraiser's judgment was informed by the difference between the sales approach values and the cost approach values, and where the sales approach understated the subject's fair market value, the cost approach is likewise flawed because it is dependent on the sales approach.

In evaluating the totality of the evidence, including the appraisals and expert testimony, Respondent's evidence and testimony is found to be more credible. This determination is based upon the proper selection of sales comparables with the same highest and best use as the subject property, the completeness and accuracy of data and information pertaining to the sales comparables, and other factors set forth in the Findings of Fact and Conclusions of Law.⁶²

Respondent's Comparable Sale No.1 ("R1"), is a former Nissan automobile dealership located in Sterling Heights. The building area is 17,080 square feet, the land area is 307,466 square feet (7.058 acres), with a LB ratio of 18:1. It sold for \$1,301,000. It was an REO sale. The purchaser operates it under the name Price Rite Auto Group (a vehicle dealership that specializes in the sale of recreational vehicles). According to a CoStar report for this property, R1 was listed for \$1,500,000 and was on the market for only 49 days before it sold for \$1,301,000. The CoStar report indicates that the transaction was handled by brokers for both the buyer and seller. The fact that the seller was "Special Services Asset Management Co. that sold the property for Bank of America Corporation, together with the relatively short time on the market supports the 20% upward adjustment for conditions of sale. With adjustments for market conditions, conditions of sale, land to building ratio, building size, condition, and quality, the adjusted sale price is \$73.52 per square foot 2013 and \$75.33 per square foot for 2014.

Respondent's Comparable Sale No. 2 ("R2") is the former Krug Hilltop Lincoln dealership in Genoa Township, which sold for \$4,000,000 (\$148.18 per square foot). It was purchased to be used as a new automobile dealership (Bob Maxey Ford of Howell). It has a gross building area of 26,993, land area of 490,921 square feet (11.27 acres), with a land to building ratio of 17:1. Based on information from CoStar presented by Petitioner, this sale was

⁶² For example, Petitioner's appraiser was unable to testify from personal knowledge as to the cost or date that substantial renovations were made to the subject property. In fact, in 2006 and 2010, the showrooms, offices, and bathrooms were renovated. Nevertheless, in his cost approach, Petitioner's appraiser depreciated the buildings to approximately "7% good."

not adequately exposed to the market. Respondent adjusted the sale price to \$79.22 per square foot. Petitioner established that this sale was not an arm's-length transaction. It sold for the highest unadjusted and adjusted prices. The unadjusted sale price of \$138.33 per square foot indicates that this sale is an outlier. (Based on the square footage reported on the CoStar report, the indicated price was \$148.19 per square foot). Therefore, R2 is entitled to considerably less evidentiary weight.

Respondent's Comparable Sale No. 3 ("R3") is the same as P3, the former Oakland Dodge that was sold for use as a CARite used car dealership. As with all of the comparable sales, Respondent compared R3 to the main dealership property only (not including the Glenwood and corner parcels). Respondent indicated that the main parcel's land area is 7.241 acres, or 315,404 square feet, the gross building area is 51,119 square feet, which indicates a land to building ratio of 5.8 to 1. P3 has a land to building ratio of 5.69 to 1, requiring no adjustment for this difference, when compared to the main dealership property. R3 has a gross building area of 33,007 square feet, which is 18,112 square feet smaller than the subject. R3 sold for \$1,850,000 (\$56.05 per square foot). R3 has land area of 4.7 acres (204,732 square feet). This property had significant deferred maintenance, which required expenditure after the sale of \$650,000 due to lack of electrical and mechanical systems, which indicates a sale price of \$2,500,000, taking into account the expenditure after the sale. The adjusted sale price of R3 is \$65.85 per square foot of gross building area for 2013 and \$67.50 per square foot for 2014.

Respondent's Comparable Sale No. 4 ("R4") is the former Victory Toyota dealership in Van Buren Township, which sold for \$1,200,000 or \$90.91 per square foot. It was purchased for use as a new automobile dealership by Atchinson Ford. It has a gross building area of 13,200 square feet, land area of 155,945 square feet (3.580 acres), and the land to building ratio is 11.81 to 1. The unit price is \$90.91 per square foot of gross building area. Respondent adjusted the price to \$84.46 per square foot. However, this property has a gross building area of only 13,200 square feet, which is 37,919 square feet smaller than the subject, and Respondent failed to make an adjustment for this difference. Respondent adjusted other properties by -10%, for much less significant size differences. The Tribunal finds that a -15% adjustment is appropriate, which results in an adjusted sale price of \$70.88 for 2013 and \$72.66 for 2014.

Respondent's Comparable Sale No. 5 ("R5") is located in Canton Township, which sold for \$1,200,000 or \$125.13 per square foot. It was purchased for use as a new automobile dealership. It has a gross building area of 9,950 square feet, land area of 99,316 square feet (2.280 acres), with a land to building ratio of 8.48 to 1. Respondent adjusted other properties by 10%, for much less significant size differences. The Tribunal finds that a 15% adjustment is appropriate, which results in an adjusted sale price of \$61.35 for 2013 and \$62.76 for 2014. This property (R5) was purchased by Kia of Canton (auto dealership) from the lessor. The property was never actively exposed to the market. R5 is considered to be generally supportive of the value conclusions reached herein, but is not given weight in the reconciliation process.

Respondent determined that the indicated price per square foot for the main parcel was \$82.16, for a TCV of \$4,200,000. However, upon further analysis of the comparable sale and adjustments to the sale prices, and placing greater weight on the most reliable comparable sales, the Tribunal finds that the fair market value of the main dealership parcel is in the range of \$65.85 per square foot to \$73.52 per square foot (2013). This is based on R1 (\$73.52), R3 (\$65.85), and R4 (\$70.88). R3 is most similar in terms of gross building area and is also located physically closest to the subject. Both parties selected this property as a reliable comparable sale. Therefore it is given double weight in the reconciliation process. R1 is the next closest in gross building area and is considered equally as reliable as R4, which actually sold for use as a new car dealership. The Tribunal's conclusion of value for 2013 for the main parcel "426" is \$69.25 per square foot, or \$3,539,990, or \$3,500,000, rounded. Applying this same calculation to the 2014 tax year, the indicated prices per square foot are R1 (\$75.33), R3 (\$67.50), and R4 (\$72.66), for a weighted price per square foot of \$70.74 per square foot, or \$3,616,541, rounded to \$3,600,000, for the main parcel.

The Tribunal finds Respondent's cost approach to be sound and concludes that the TCV of the corner parcel is \$500,000 for 2013 and \$515,000 for 2014.

For the Glenwood parcel, the Tribunal finds Respondent's cost approach to be sound and concludes that the TCV is \$210,000 for 2013 and \$215,000 for 2014.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

PROPOSED JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are AFFIRMED/MODIFIED as set forth in the Introduction section of this Proposed Opinion and Judgment.

IT IS FURTHER ORDERED that the parties have 20 days from date of entry of this POJ to notify the Tribunal in writing, by mail or by electronic filing, if available, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions). Exceptions are limited to the evidence submitted prior to or at the hearing and any matter addressed in the POJ. There is no fee for filing exceptions. The opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions. Exceptions and responses filed by e-mail or facsimile will not be considered in the rendering of the Final Opinion and Judgment. A copy of a party's written exceptions or response must be sent by mail or electronic service, if agreed upon by the parties, to the opposing party and proof must be submitted to the Tribunal that the exceptions or response were served on the opposing party.

By: Thomas A Halick

Date Entered by the Tribunal: November 16, 2015