

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

Sage Terrace Apartments, LLC,
Petitioner,

v

MTT Docket No. 310526

Charter Township of Kalamazoo,
Respondent.

Tribunal Judge Presiding
John S. Gilbreath, Jr.

OPINION AND JUDGMENT

INTRODUCTION

This real property tax valuation case came before the Michigan Tax Tribunal for hearing on Wednesday, March 8, 2006, in Lansing, Michigan. David Marmon and Julia Rosen, Attorneys at Law, represented Petitioner, Sage Terrace Apartments, LLC. James Porter and Robert Thall, Attorneys at Law, represented Respondent, Charter Township of Kalamazoo.

At issue is the true cash value of the subject property, known as the Sage Terrace Apartments, a 132 unit apartment complex in the Charter Township of Kalamazoo. The tax years at issue are 2004 and 2005. In this proceeding, AV refers to assessed value, SEV refers to state equalized value, TV refers to taxable value, and TCV refers to true cash value. The property is classified for taxation purposes as Commercial Real property. The average level of assessment in effect for the subject property's classification for each tax year in question is 50%.

Each party offered testimony and documentary evidence. Petitioner's Exhibits P-1 through P-7 were admitted into evidence.¹ Respondent's Exhibits R-1 through R-5, R-8 and R-9 were admitted into evidence.² Each party filed a post hearing brief and Petitioner filed a reply brief.

Based on the findings of fact and conclusions of law, the Tribunal relies on the cost-less-depreciation method. The Tribunal concludes that the true cash value and revised assessments of the subject property are as follows:

2004

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,084,400	\$2,084,400	\$2,084,400	\$4,168,800

2005

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,119,600	\$2,119,600	\$2,119,600	\$4,239,200

¹ Petitioner's exhibits consisted of the following:

- Exhibit 1 Valuation disclosure.
- Exhibit 2 Rent Roll for December 31, 2003.
- Exhibit 3 Rent Roll for December 31, 2004.
- Exhibit 4 Sage Terrace 2004 Operating Statement.
- Exhibit 5 Sage Terrace 2003 Operating Statement.
- Exhibit 6 Floor Plan.
- Exhibit 7 2006 Assessment Notice.

² Respondent's exhibits consisted of the following:

- Exhibit 1 Commercial Assessment Record.
- Exhibit 2 Valuation Statement for 2004.
- Exhibit 3 Valuation Statement for 2005.
- Exhibit 4 2005 Property Record Card.
- Exhibit 5 Kalamazoo County Equalization Document regarding land values.
- Exhibit 8 Transfer Affidavit.
- Exhibit 9 Educational Background for Ruth Blake.

PROCEDURAL HISTORY

The 2004 property tax assessments were based on Respondent's estimate of the TCV of the subject property as of December 31, 2003. Petitioner appeared before the March 2004 Board of Review for the Charter Township of Kalamazoo to protest the TCV, SEV, AV, and TV of the subject property. The Board of Review denied the relief requested and affirmed the tax assessments. On June 30, 2004, Petitioner filed a Petition with the Tribunal alleging that Respondent erred in its assessment of true cash value, state equalized value, assessed value and taxable value for the 2004 tax year. Respondent filed a timely answer. The Tribunal granted Petitioner's motion to amend its original Petition to add the subsequent tax year 2005.

PARTIES' CONTENTIONS OF ASSESSED AND TRUE CASH VALUE

Petitioner contends that the property is assessed in excess of 50% of its true cash value and that the actual state equalized values, assessed values, taxable values and true cash values for the tax years 2004 and 2005 are as follows:

2004

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$1,806,272	\$1,806,272	\$1,806,272	\$3,612,543

2005

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$1,806,272	\$1,806,272	\$1,806,272	\$3,612,543

Respondent contends that the property is assessed at 50% of its true cash value and that the state equalized values, assessed values, taxable values and true cash values for tax years 2004 and 2005 are as follows:

2004

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,084,400	\$2,084,400	\$2,084,400	\$4,168,800

2005

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,119,600	\$2,119,600	\$2,119,600	\$4,239,200

(Respondent's final values are as set forth in Respondent's 2005 Property Record Card, Exhibit R-4.)

PETITIONER'S EVIDENCE, APPRAISAL AND EXPERT TESTIMONY

Petitioner claims that the true cash value should be based on the income capitalization method described in the appraisal report prepared by its expert witness Myles B. Hoffert.

Petitioner's first witness was Frank Gucker, President of Renken Management Company, the management agent of the subject property. Renken Management Company has managed the subject property, for various owners, for approximately the last eighteen years. (Trial Transcript, p. 17). The target market for the subject property is a growing percentage of Western Michigan University students, in addition to young singles and married couples.

Mr. Gucker claimed that there was a decrease in the number of students who leased apartments due to Western Michigan University entering the student housing market by constructing approximately 600 units. (Trial Transcript, p. 20). In addition, the recent announcement of the "Kalamazoo Promise"³ will not be a "major influx in [the subject property's] business." (Trial Transcript, p. 22). In response to the decrease in demand, the

³ The "Kalamazoo Promise" essentially grants partial or total college tuition relief to grammar and high school students who reside in Kalamazoo. (Trial Transcript, p. 21).

subject property, as well as other apartment complexes in the area, have offered concessions ranging from one month's free rent, referral fees, and discounts off the initial few months of the lease period. (Trial Transcript, pp. 23, 24). The subject property was sold during 2002. In determining the purchase price for the property at that point, an appraiser was hired to determine the return on investment the property could produce. The historical cost of the building was a non-factor in determining the price. (Trial Transcript, pp. 27-29).

Rent rolls for December 31, 2003 (Ex. P-2) and 2004⁴ (Ex. P-3) were admitted into evidence and show an increase in vacancy rate from 11.4% at December 31, 2003 to 15.2% at December 31, 2004. Also, income statements prepared by Mr. Gucker for 2003 (Ex. P-5) and 2004 (Ex. P-4) were admitted into evidence showing net income of \$348,959 in 2003, and \$355,105 in 2004.

On cross-examination, Respondent's attorney questioned Mr. Gucker regarding the rent rolls and income statements entered into evidence. Mr. Gucker acknowledged that the rent rolls are essentially a "snapshot" of rented units on one specific date throughout the entire year. (Trial Transcript, pp. 44-46). As for the income statements, Mr. Gucker explained that the miscellaneous income increased from \$15,010 in 2003, to \$43,903 in 2004. This was due to an initial up-front payment of approximately \$27,000 for entering into a new laundry contract. (Trial Transcript, p. 49).

⁴ While Exhibit P-3 was described by Mr. Gucker and labeled December 31, 2005, rent roll; it is apparent that it is actually the December 31, 2004, rent roll because all of the leases on the roll expire during 2005 and it is represented in the Petitioner's Valuation Disclosure (Ex. P-1) as the December 31, 2004 rent roll. The Tribunal recognizes that this is merely an error in labeling a document that is prepared typically for internal purposes of managing the property and gives this error no weight in determining the reliability of the figures contained in the document.

Petitioner's expert appraiser, Myles B. Hoffert, C.P.A., J.D.⁵, testified regarding an appraisal report prepared by his firm, Hoffert & Associates, P.C., which concluded that the subject property's TCV was \$3,612,543. (Ex. P-1). Mr. Hoffert calculated his income approach value estimate by taking net income, subtracting property taxes expense and laundry income, and applying a 12.7% capitalization rate. The capitalization rate was determined by using a "rule of thumb of 10 percent, and then add[ing] back the tax-half of the tax cap rate." (Trial Transcript, p. 63).

Mr. Hoffert relied upon the income method because apartment properties are typically purchased by investors based on their income producing potential. Mr. Hoffert determined the income based off the 2002, 2003, and 2004 income statements provided by Mr. Gucker and his management company. Mr. Hoffert testified that he excluded laundry income because the laundry equipment (which is owned by a third party) was being assessed and taxed as personal property. Including the laundry income in determining the taxable value of the property would result in double taxation.

On cross-examination, Mr. Hoffert indicated that in preparing the report, he felt that the 2002 actual income and expense numbers would be a good, conservative synopsis of the income expectation. Mr. Hoffert did this as a "basis of attempting to settle the case, so [he] didn't go into as much detail as [he] subsequently [has] gone into." (Trial Transcript, p. 97). Mr. Hoffert also testified that he is testifying in this case on a contingency fee basis.

⁵ Mr. Hoffert is not an MAI, but an Attorney and CPA. Mr. Hoffert stated that he has litigated in the area of property values since 1982 and has performed around 400 estimations of value. Respondent's

RESPONDENT'S EVIDENCE, APPRAISAL AND EXPERT TESTIMONY

Respondent's case was presented through the testimony of Ruth Blake, the assessor for the Charter Township of Kalamazoo and a Level III assessor. Respondent relied solely upon the original assessment of Ms. Blake as its contention of TCV of the property and Ms. Blake's evaluation of Mr. Hoffert's valuation.

Respondent admitted into evidence a copy of the original property record card from Respondent's Assessor's Office, showing an assessed value of \$2,084,400 for 2004 and \$2,119,600 for 2005. (Ex. R-1). The card also shows the 2002 transfer of the property to Sage Terrace, LLC, for \$4,050,000⁶. (Ex. R-1). Respondent then admitted the valuation statement from Ms. Blake's "BS & A software package," which has been approved by the State Tax Commission. (Ex. R-2). The software uses the cost-less-depreciation method of valuation.

Ms. Blake enters the original assessed value (and also the 2002 sales price of \$4,050,000), and the software calculates the subsequent yearly changes in value to arrive at a TCV of \$4,168,874 for 2004. (Ex. R-2). Respondent's Exhibit R-3 is the valuation statement for 2005. It was calculated the same way as the 2004 statement and arrived at a TCV of \$4,239,163. Finally, all of this information was used to compile the 2005 property record card, which shows TV for 2004 and 2005 of \$2,084,400 and \$2,119,600, respectively. Ms. Blake testified that while the cost method was used to determine the TCV for 2004 and 2005, she did compare the values to the 2002 sale. In this regard, she testified that she learned as much about the actual sale

attorney questioned Mr. Hoffert's ability and objectivity to qualify as an expert witness; this issue will be addressed later in the opinion.

as possible to rule out creative financing. After this was done she could compare the actual sales price assessment to make sure she was “in the ballpark.” (Trial Transcript, p. 165).

In preparing to testify, Ms. Blake examined Mr. Hoffert’s income capitalization method valuation and recalculated her own value using Mr. Hoffert’s capitalization rate of 12.7%. She calculated net operating income for years ended 2003 and 2004, by taking the gross rent potential and backing out 10% for vacancy loss; then Ms. Blake subtracted expenses, with the exception of property taxes⁷. Ms. Blake’s recalculations on the income capitalization method, using the income numbers and capitalization rate provided in Mr. Hoffert’s report, resulted in 2004 and 2005 TCVs of \$4,082,189 and \$4,011,653, respectively. (Trial Transcript, pp. 172, 173).

On cross-examination, Ms. Blake indicated that while she used the cost approach in determining the TCV of the subject property, the income capitalization approach tends to be the best method for valuating income-producing properties such as this one. (Trial Transcript, p. 177). While Ms. Blake admits that the income capitalization approach would be the most accurate method that could be used, her office performs mass appraisals and uses the cost approach. Ms. Blake could consider data from other methods such as the income capitalization approach or comparables sales if it were available. (Trial Transcript, p. 168). However, performing a mass appraisal using the income capitalization method would be inefficient for a township and there were no sales of properties in the area that would compare to the subject property. (Trial Transcript, pp. 177, 182). Petitioner then presented Ms. Blake with the 2006 tax

⁶ Also see the property transfer affidavit showing a sales price of \$4,050,000 on 3/27/2002. (Ex. R-8).

⁷ The key differences between Mr. Hoffert’s and Ms. Blake’s calculations were that Mr. Hoffert used actual income while Ms. Blake used gross rent potential, less vacancy rate, and Mr. Hoffert subtracted laundry income.

notice, whereby Ms. Blake lowered the AV of the subject property by \$29,600 from 2005. (Ex. P-7). Ms. Blake could not explain the change in value without the information for the 2006 assessment in front of her, but it is possible that it is due to an over-assessment in 2005 or economic downturn in the area. (Trial Transcript, p. 189).

FINDINGS OF FACT⁸

The parties stipulated to the following facts in paragraphs 1 through 10 below.

1. The subject property involves real, commercial property located in the Township of Kalamazoo, Kalamazoo County at 328 North Sage Street.
2. The property is designated on the assessment roll as parcel number 3906-18-330-090.
3. The subject property is an apartment complex, consisting of one hundred thirty-two (132) garden apartment type rental units in eleven (11) buildings, and three (3) stories on approximately five (5) acres of land.
4. There is no excess land.
5. The 2004 assessed and taxable values were on the tax roll at \$2,084,000 resulting in a true cash value of \$4,168,000.
6. The 2005 assessed and taxable values were on the tax roll at \$2,119,600 resulting in a true cash value of \$4,239,163.
7. The property was built in 1965.
8. The property is zoned “B-3” Residence Business District.

⁸ This section is a “concise, separate, statement of facts” within the meaning of MCL 205.751; and, unless stated otherwise, the matters stated or summarized are “findings of fact” within the meaning of 1969 PA 306, MCL 24.285.

9. The Township assessor used the cost less depreciation approach in determining the true cash value of the building in 2004 and 2005, and considered Petitioner's purchase price of \$4,050,000 in 2002.
10. The market area serves students attending Western Michigan University as well as non-student rentals.

In addition to the stipulated facts above the Tribunal finds the following facts. The subject property is commonly known as the Sage Terrace Apartments. The site includes driveways, parking areas, sidewalks, carports, and landscaping. Gas and electric and all public utilities are available to the property, including municipal water, sanitary and storm water sewers. The property is classified for taxation purposes as Commercial Real property. The average level of assessment in effect for the subject property's classification for each tax year in question is 50%. The affected school district is Kalamazoo Public Schools.

Both parties, in their post-hearing briefs, addressed the reliability and expertise of the other parties' "experts." As for Mr. Hoffert, while he does have approximately 35 years of experience practicing in the area of ad valorem tax, he is not a licensed appraiser. He also is providing his opinion to value on a contingency fee basis and testifying as a witness in a hearing in which his law firm is operating as counsel. This taints his testimony.

As for Ms. Blake, she is a Level III assessor and licensed by the State of Michigan, and has a certain level of expertise in the cost-less-depreciation method of valuation. She has limited

experience in using the income capitalization method of valuation or the sales comparison approach.

Therefore, while the Tribunal will not bar any testimony or related valuation disclosures on the basis of lack of proficiency or expertise from either Mr. Hoffert or Ms. Blake, the Tribunal has considered the factors delineated above, both for and against the proponent of the testimony, in determining the reliability and accuracy of any related evidence.

The most effective method for determining the value in an income-producing property, such as the subject property, is the income capitalization method. The Appraisal of Real Estate, 12th Ed., page 471. However, the Tribunal finds that the values derived both from Mr. Hoffert's income capitalization approach valuation and Ms. Blake's recalculated income capitalization approach derived in part from Mr. Hoffert's valuation, to be unreliable indicators of true cash value due to the lack of support from other valuation methods and the lack of objective documentary evidence in the first place. First, the capitalization rate of 12.7% used by Mr. Hoffert lacks even the slightest documentation and is described by Mr. Hoffert as "a rule of thumb." The Appraisal of Real Estate, 12th Edition, states "[r]ate estimation requires appraisal judgment and knowledge from prevailing market and attitudes and economic indicators." This "rule of thumb" rate reflects no "prevailing market and attitudes and economic indicators" as suggested in The Appraisal of Real Estate. Further, the income statements used by Mr. Hoffert in his valuation were prepared internally, and lack any form of independent assurance, given that they were prepared by Mr. Gucker, whose company is an agent of the Respondent. Finally, the documentation used to show an increase in vacancy consists of only two samples of the vacancy

rate over a two-year period. This sample is too small to show a trend of increased vacancy, especially considering the ease at which additional rent rolls could have been provided. (Ex. P-1).

In considering Mr. Hoffert's effort, it is clear that he has put all of his eggs in one basket inasmuch as he relied solely on the income capitalization approach to derive his true cash value. No effort was made to corroborate this value through the use of the cost and market approaches. This was his prerogative. But in so doing, in relying exclusively on the income approach, the better practice would have been at the very least to have provided more complete and independent supportive evidence. This he did not do. On the other hand, if Mr. Hoffert would have developed his approach "as is," he should have at least supported this approach by providing support through values derived from the cost-less-depreciation and comparable sales valuation methods. In fact, utilizing these three methods in valuing an income-producing property valuation case is tacitly if not explicitly required. See *Meadowlands Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 483-484; 473 NW2d 363 (1991). Since Petitioner did neither of these, the Tribunal finds the values arrived at by Mr. Hoffert from the income capitalization approach unreliable indicators of value.

Ms. Blake, in assessing the value of the property, used a mass valuation approach, which in turn utilized the cost-less-depreciation method. As admitted by Ms. Black, the income capitalization approach is a better valuation method for this property. However, due to practicality, Respondent's Assessor's Office cannot do an income capitalization valuation on every income-producing property in its jurisdiction. While the cost-less-depreciation method

was used, Ms. Blake does compare and utilize other evidence of the actual purchase price to determine whether her assessed values are adequate. In fact, the difference between 2003 TCV⁹ determined by Ms. Blake and the 2002 sales price was only \$42,400 or 1%. Of course the values for 2004 and 2005 both subsequently increased, but by no more than 3.6%¹⁰ since 2003.¹¹

Since there is inadequate evidence before the Tribunal to arrive at an accurate value using the income capitalization method, or the comparable sales approach for that matter, the cost-less-depreciation method must be used. The property was sold, in an arm's-length transaction during 2002, for \$4,050,000. (Ex. R-8). While this price in and of itself is not determinative of TCV, it can be an indicator of whether an AV is "in the ballpark." With the close correlation between the 2002 sales price and the 2003 TCV, and with the lack of evidence contending the factors used to increase the annual value of the property by Respondent, the Tribunal feels the SEV, AV and TV, as determined by Respondent, are the most accurate indicators of value presented. Therefore, the Tribunal adopts the values as determined by Respondent.

⁹ This was actually the 2003 TCV, which was the TCV as of December 31, 2002, of \$4,092,400. (Ex. R-4).

¹⁰ 2003 AV of \$2,046,200, less 2005 AV of \$2,119,600, is \$73,400. This is an increase of 3.6%.

¹¹ It should also be noted that Respondent could not assess the property by using the actual purchase price. Regarding the actual purchase price of a property and the effect this has on an assessment, MCL 211.27(5) provides:

“[T]he purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction. As used in this subsection, "purchase price" means the total consideration agreed to in an arms-length transaction and not at a forced sale paid by the purchaser of the property, stated in dollars, whether or not paid in dollars.”

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that property shall not be assessed in excess of 50% of its true cash value, as equalized, and that increases in the taxable value are limited by statutorily determined general price increases, adjusted for additions and losses. Michigan Constitution of 1963, Article IX, Sec. 3.

As used in the General Property Tax Act, “cash value” means 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. MCL 211.27(1).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735(1). “The petitioner has the burden of establishing the true cash value of the property.” MCL 205.737(3); MCL 211.27(1); *Meadowlands Limited Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 483-484; 473 NW2d 363 (1991). “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 and Laughlin Steel Corp v City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992), citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77 (1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

“True cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

The Michigan Supreme Court, in *Meadowlanes, supra*, held that the goal of the assessment process is to determine “the usual selling price for a given piece of property.” In determining a property’s true cash value or fair market value, Michigan courts and the Tribunal recognize the three traditional valuation approaches as reliable evidence of value. See *Antisdale v Galesburg*, 420 Mich 265; 362 NW2d 632 (1984).

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. *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); *Antisdale*, at 276. 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. *Antisdale*, at 277.

Under MCL 205.737(1), the Tribunal must find a property’s true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal may not automatically accept a respondent’s assessment but must make its own finding of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d

566 (1979). The Tribunal is not bound to accept either of the parties' theories of valuation.

Teledyne Continental Motors v Muskegon Twp, 145 Mich App 749, 754; 377 NW2d 908 (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. *Meadowlanes*, at 485-486;

Wolverine Tower Associates v City of Ann Arbor, 96 Mich App 780; 293 NW2d 669 (1980);

Tatham v City of Birmingham, 119 Mich App 583, 597; 326 NW2d 568 (1982).

When determining whether to admit testimony, the fundamental inquiry of the Tribunal is whether the information will “assist the trier of fact to understand the evidence or to determine a fact at issue.” *Bass Pro Outdoor World v Auburn Hills*, MTT Docket No. 275731 (2003), 25-26. From *Bass Pro Outdoor World*, the Tribunal concluded that “[t]he licensing of a real estate appraiser does not guarantee ... the ability to credibly testify.” *Id.* at 27. “Those who choose not to receive state ... certification will surely be asked ... to explain the particulars and they are left to their proofs.” *Id.* at 27. In essence, licensure matters. Both parties failed to hire an independent appraiser as an expert witness in this case due apparently to the amount in contention and the related expense of hiring an appraiser. As such, they have put in less than ideal proofs. Nevertheless, as stated in the finding of fact, the Tribunal will admit the testimony of both Mr. Hoffert and Ms. Blake. And while the level of expertise of both witnesses is in question, the Tribunal has considered this fact, as well as others, when weighing the reliability and accuracy of the evidence offered.

Finally, Petitioner has failed to meet the “the burden of establishing the true cash value of the property.” MCL 205.737(3); MCL 211.27(1). But the inquiry does not end there, because, as

stated above, the Tribunal must find a property's true cash value in determining a lawful property assessment. MCL 205.737(1). In this case, the Tribunal concludes that the law and appraisal practice favor the application of the income approach to this income-producing rental property. *Northwood Apartments v City of Royal Oak*, 98 Mich App 721; 296 NW2d 639 (1980); *Eversdyk v City of Wyoming*, 10 MTT 664 (1999), MTT Docket No. 195925. "The capitalization-of-income method has been described as the most appropriate method for evaluating the TCV of income-producing property." *First City Corp v Lansing*, 153 Mich App 106, 116 (1986). However, due to the lack of reliable evidence, the Tribunal cannot make an independent determination of value using the income capitalization method. Overall, the cost-less-depreciation method is found to be the most reliable method under the circumstances.

As stated above, based on the foregoing findings of fact and conclusions of law, the Tribunal relies on the cost-less-depreciation method. The Tribunal concludes that the true cash value and revised assessments of the subject property are as follows:

2004

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,084,400	\$2,084,400	\$2,084,400	\$4,168,800

2005

<u>ID Number</u>	<u>SEV</u>	<u>AV</u>	<u>TV</u>	<u>TCV</u>
3906-18-330-090	\$2,119,600	\$2,119,600	\$2,119,600	\$4,239,200

JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the 2004 and 2005 tax years are those shown on the 2nd page of this Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the assessed and taxable values in the amounts as finally shown in the “Final Values” section of this Opinion and Judgment, subject to the processes of equalization, within 20 days of the entry of this Order. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 20 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Order. As provided by 1994 PA 254 and 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods (i) after December 31, 2002 at the rate of 2.78% for calendar year 2003; (ii) after December 31, 2003, at the rate of 2.16% for calendar year 2004; (iii) after December 31, 2004, at a rate of 2.07% for the calendar year 2005; and after December 31, 2005, at a rate of 3.66% for the calendar year 2006.

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

MICHIGAN TAX TRIBUNAL

Entered: August 30, 2006
mgs

By: John S. Gilbreath, Jr., Tribunal Judge