Best Storage of Oceola, LLC,
Petitioner,

v

Oceola Township,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 21-000802

Presiding Judge
Victoria L. Enyart

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Best Storage of Oceola, LLC, appeals ad valorem property tax assessments levied by Respondent, Oceola Township, against parcel number 4707-27-200-031 for the 2021 tax year. Michelle Silvey, Attorney, represented Petitioner, and Bonnie L Moore, Assessor represented Respondent.

A hearing on this matter was held on July 27, 2022. Petitioner's sole witness was Steven Krause. Respondent's sole witness was Bonnie L Moore.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (TCV), state equalized value (SEV), and taxable value (TV) of the subject property for the 2021 tax year is as follows:

Parcel Number: 4707-27-200-031

Year	TCV	SEV	TV
2021	$3,746,400	$1,873,200	$1,599,352

PETITIONER'S CONTENTIONS

Petitioner contends that the property is overvalued. It should be based on Petitioner's actual cost for a 2020 addition. Petitioner's contention of value is $2,692,400 resulting in an Assessed and Taxable Value of $1,481,200.

PETITIONER'S ADMITTED EXHIBITS

P-1 Petitioner's "Valuation Disclosure"
P-2 Stipulation for 20-003777
P-3 March 9, 2022, Email detailing 2020 Cost Spread
P-4 Hartland Septic Invoice
P-5 Livingston Concrete Invoice
P-7 McDowell & Associates Structural Steel Verification
P-8 Certificate of Zoning Compliance
P-9 Livingston County Receipt
P-10 Livingston County Building Permit
P-11 R & R Pavement Proposal
P-12 Smede-Son Steel Invoices
P-13 Trachte Building Systems Proposal

PETITIONER'S WITNESS(ES)

Steven Krause, owner was Petitioner's only witness

Petitioner states that the crux of the appeal lies with the increase in taxable value from tax year 2020 to tax year 2021. The parties filed a stipulation in 2020 for $2,757,500 in MTT Docket No. 20-003777. The taxable value increased more than 15% when it should have only been increased 7%.

Petitioner requests the true cash value be reduced to $2,962,400 from $3,746,400.

Petitioner testified that the actual costs for the 2020 new addition of 9,000 square foot to the storage units is $212,872. Petitioner's exhibits are the cost of the building materials equal $204,834.99. The building material costs presented are as follows.

Trachte, pre-engineered mini-storage building	$73,850.00	P-13
Livingston Concrete, footing and slab	$31,671.74	P-5
Smede Son Steel rerod and wire mesh for slab	$ 2,589.93	P-12
Livingston County Permits	$ 2,647.00	P-8-10
McDowell Assoc 3rd Party Testing	$ 1,584.00	P-7
Mark Smith Footing, Slab Building Erection	$ 36,810.00	
Hartland Septic Grading, Sand, Road Stone	$ 23,482.00	P-4
R & R Paving	$ 41,015.00	P-11

Petitioner testified that the total of the work is $204,834.99.

Petitioner in closing states:

> Petitioner has stated its case in support of a reduction in true cash value from $3,746,400 to $2,962,400. However, if the Tribunal is not inclined to change the original true cash value based on the evidence submitted by Petitioner should indicate a reduction at a minimum in the taxable value increase from 2020 to 2021.
>
> …the increase in taxable value in corresponding tax bills are excessive and they exceed actual costs spent.[1]
>
> Therefore, the Tribunal can rely on the taxable value formula by taking the 2020 taxable value of $1,378,750, multiplying that number by the CPI increase of 1.014 and adding the taxable value of the additions in the amount of $102,417….
>
> This amount is half of the total amount spent of $204,834.99 and this would indicate a revised taxable value of $1,500,469.

RESPONDENT'S CONTENTIONS

Respondent contends that Petitioner's construction cost does not equal market value. Respondent states that no appraisal or supporting evidence that indicates the market value exceeds fifty percent was presented. Petitioner owns three other storage parcels and was the General Contractor. It is noted that no costs were allocated for the

[1] Transcript at 49.

General Contractor. Respondent requests the Tribunal to conclude that Petitioner has presented no evidence of market value.

Respondent testified that there are approximately 74,000 square feet of buildings for the 2021 tax year.[2] The buildings are on 18.6 acres with 9.5 acres developed and approximately 3.5 acres of wetland leaving close to 5.5 acres for future development.

RESPONDENT'S ADMITTED EXHIBITS

Exhibit A – Five Sales from 2016 forward
Exhibit B – Sales that occurred September 2021
Exhibit C - 5 Square Box Storage Sales
Exhibit D - Article on the classification of self-storage facilities.

RESPONDENT'S WITNESS(ES)

Bonnie Lee Moore, Assessor

Respondent represented Oceola Township, as the assessor. She testified that Petitioner provided no market data, just the cost to construct the latest addition. Petitioner's cost does not equal market value, and in addition it lacked an estimate for the general contractor.

Respondent presented five sales that took place from September 2016 to April 2018 with an average of $53.07 per square foot. An additional three sales that took place in 2021 ranged in sale price per square foot of $118.48, $28.79, and $117.43. The eight sales were averaged at $66.25 per square foot.

Respondent utilizing the actual 72,158 total square footage of the subject at $66.25 per square foot equals an indicated value of $4,762,428.

[2] Respondent testified later that the actual square footage of the subject is 72,158.

Respondent's second exhibit is a list of five sales that were sold in bulk from U-Haul to Spare Box Storage. While the sale date is after the assessment date in 2021, the properties are in close proximity to the subject. They sold from $58.46 to $118.48 per square foot.

Respondent testified that the subject property for 2021 tax year is at $51.92 per square foot, less than the average sale. The sales are all storage facilities, older than the subject property.

Upon cross examination Respondent was questioned on the State Tax Commission's sales study period (April 1, 2019, to March 31, 2021). The sales submitted are not within the sales period. However, Respondent did not agree that the sales should be excluded. The averaging of the sales prices was questioned if that was a standard methodology for assessment purposes. The answer was no. Generally, the land plus the building priced out and then adjusted to the market.

Respondent did not make any adjustments to the comparable properties for differences in financing, time, location, physical condition, size, or quality. The differences in number of units vacant were also not considered.

Respondent was questioned on the stipulation for tax year 2020 that resulted in a reduction in taxable value to $1,378,750 as compared to the 2021 increase in taxable value of was $220,502 or $441,004 true cash. Respondent testified that the building and land value costed out per the STC manual for the quality of construction, multipliers and the type of building costed out. No consideration was given for the actual amount spent for construction.

Respondent was asked.

> Are you aware—and you may not be--there's a statute that states that the purposes for determining taxable value under section 27a, the value of new construction is the true cash value of the new construction multiplied by .5. This would be MCL 211.24d.
>
> Am I aware? I don't – I don't know. [3]

Respondent's true cash value of $441,000 exceeds the $205,000 spent by Petitioner making it possible that the amount added to the tax roll exceeds the amount that should be calculated. Respondent testified no, but anything is possible.

Respondent's closing argument is that Petitioner is not contending the true cash value of the property exceeds market value. Petitioner is appealing the value added for the new construction based on Petitioner's cost, without a general contractor fee which is not market based. Petitioner did not utilize any market data to support a reduction in the market value of the subject property.

FINDINGS OF FACT

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusion and has rejected evidence contrary to those findings.

1. The subject property is located at 5800 East Highland, Howell, Livingston County.
2. The subject property is classified commercial.
3. The subject property is 72,158 square feet of storage units on 18.6 acres.
4. Petitioner contends that Respondent's cost new for the 2020 construction is not consistent and appears to be incorrect.
5. Petitioner submits the cost for constructing the 9,000 square foot addition at $204,834.99.
6. Respondent's sales both current and previous years for storage facilities indicate that the current value per square foot at $51.92, is less than the average sales.

[3] Transcript at 44.

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 TCV.[4]

> 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.[5]

The Michigan Legislature has defined TCV 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.[6]

The Michigan Supreme Court has determined that "[t]he concepts of 'true cash value' and 'fair market value' . . . are synonymous."[7]

"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."[8] The Tribunal is not bound to accept either of the parties' theories of valuation.[9] "It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case."[10] In that regard, the Tribunal "may accept one theory and reject the other, it may

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[4] See MCL 211.27a.
[5] Const 1963, art 9, sec 3.
[6] MCL 211.27(1).
[7] *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).
[8] *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).
[9] *Teledyne Continental Motors v Muskegon Twp,* 145 Mich App 749, 754; 378 NW2d 590 (1985).
[10] *Meadowlanes Ltd Dividend Housing Ass'n v Holland,* 437 Mich 473, 485; 473 NW2d 636 (1991).

reject both theories, or it may utilize a combination of both in arriving at its determination."[11]

A proceeding before the Tax Tribunal is original, independent, and de novo.[12] The Tribunal's factual findings must be supported "by competent, material, and substantial evidence."[13] "Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence."[14]

"The petitioner has the burden of proof in establishing the true cash value of the property."[15] "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."[16] 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."[17]

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.[18] "The market approach is the only valuation method that directly reflects the

[11] *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).
[12] MCL 205.735a(2).
[13] *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).
[14] *Jones & Laughlin Steel Corp, supra* at 352-353.
[15] MCL 205.737(3).
[16] *Jones & Laughlin Steel Corp, supra* at 354-355.
[17] MCL 205.737(3).
[18] *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).

balance of supply and demand for property in marketplace trading."[19] 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 TCV of the property, utilizing an approach that provides the most accurate valuation under the circumstances.[20] Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.[21]

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner's "actual" costs submitted did not include a cost for a general contractor. There was no discussion of any additional costs for a general contractor or that the cost submitted is equivalent to market value.

The basis for Petitioner's appeal was a stipulation that resulted in a reduced value.[22] The 2020 tax year resulted in a stipulation for $2,757,500 or $43.66 per square foot. However, for tax year 2021 Petitioner added an additional 9,000 square feet of storage. Petitioners cost estimate without a contractor was $204,834.99 or $22.75 per square foot.[23]

Respondent argues that the total cost for the addition was not disclosed, that a fee for the general contractor should be included as part of the total cost new. Respondent's sales from 2016 to 2018 are too far removed from the 2021 tax year. No adjustments to any of the sales were made for differences in age, amenities, location, or

[19] *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).
[20] *Antisdale, supra* at 277.
[21] See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).
[22] MTT Docket 20-003777 September 14, 2020.
[23] The current true cash value is $48.17 per square foot.

number of storage units. The sales are given minimal weight in determining the value of the subject property.

The Tribunal finds that without the actual property records it is impossible to parse out the individual addition for the 2021 tax year. Respondent's true cash value of $3,476,400 is divided by the total 72,158 square feet results in $48.17 per square foot. Every year sales are considered that determine the economic condition factor (ECF) utilized to adjust the individual class of property. The difference in ECF from 2020 to 2021 is unknown. The value of the land from 2020 to 2021 is also a factor that should have been considered.

The Tribunal finds that Petitioner's "actual" costs which did not include an amount for a General Contractor are incomplete. They do not indicate the market value of the new construction. When considering the cost approach, the actual market value of the storage units should be considered. Petitioner's stipulation for the prior tax year was $43.66 per square foot, the current request to lower the new construction to $22.75 per square foot is found to be baseless. Petitioner's basic construction cost was incomplete and not market based.

Therefore, this Tribunal finds that Petitioner fails to meet the burden of proof. The current value of the subject with the addition for new construction based on Respondent's cost approach is found to be appropriate for the 2021 tax year.

The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's SEV and TV for the tax year(s) at issue are AFFIRMED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2013,

through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, and (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%.

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

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a

principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By Victoria K. Enjart

Entered: November 28, 2022

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk