



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Dicastal North America, Inc,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-003825

City of Greenville,
Respondent.

Presiding Judge
Victoria L Enyart

FINAL OPINION AND JUDGMENT

ORDER OF PARTIAL DISMISSAL

INTRODUCTION

Petitioner, Dicastal North America, Inc., appeals the 2020 ad valorem property tax assessment levied by Respondent, City of Greenville, against parcel number 59-052-693-035-20. Petitioner also appeals parcel numbers 59-052-910-117-00, 59-052-910-120-00, 59-052-910-123-00, 59-052-910-124-00, 59-052-910-142-00, and 59-052-910-143-00, which were subject to tax abatements under the Plant Rehabilitation and Industrial Development Districts Act, (known as the Industrial Facilities Exemption) Public Act 198 of 1974, for the 2020 tax year. Thomas M. Amon, Attorney, represented Petitioner, and Laura M. Hallahan and Seth A. O’Loughlin, Attorneys, represented Respondent.

A hearing on this matter was held on June 13, 14, 15 and 16, 2022. Petitioner’s witnesses were Michael Lewis, Vice President of Dicastal North America and Jeffrey Genzink, MAI. Respondent’s witnesses were Michael John Beach, MAAO and John R Widmer, Jr., MAI.

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 ad valorem subject property, for the 2020 tax year, is as follows:

Parcel Number: 59-052-693-035-20 (Ad Valorem Parcel)

Year	TCV	SEV	TV
2020	\$1,134,000	\$567,000	\$48,200

For the reasons explained in the conclusions of law, the Tribunal finds that Petitioner has not met the burden of going forward regarding the Industrial Facilities Tax Abatement (IFT) parcels. Therefore, parcel numbers 59-052-910-117-00, 59-052-910-

120-00, 59-052-910-123-00, 59-052-910-124-00, 59-052-910-142-00, and 59-052-910-143-00 are dismissed.

PETITIONER'S CONTENTIONS

Petitioner contends that the subject properties, combined, are worth \$23,100,000. In its opening statement, Petitioner gave the history of the subject property and an outline of Mr. Genzink's appraisal. "At the end of the day Dicastal simply wants the assessment of its facility to reflect the fair market value and the evidence will show that fair market value is consistent with Petitioner's valuations."¹

Parcel Number: Combined Parcels

Year	TCV	SEV	TV
2020	\$23,100,000	\$11,550,000	\$11,550,000

PETITIONER'S ADMITTED EXHIBITS

- Exhibit P-1 Valuation Disclosure
- Exhibit P-3 Vesting Deed for the Subject
- Exhibit P-4 Inspection Sheet
- Exhibit P-5 Photos (161 pages)
- Exhibit P-7 Land Title Survey
- Exhibit P-8 Outline of Subject Exits
- Exhibit P-9 MVS Excerpts
- Exhibit P-10 MLS SW Michigan
- Exhibit P-12 IFT Application for 143-00
- Exhibit P-13 IFT Application for 142-00
- Exhibit P-15 December 21, 2021, Respondent's Answers to Discovery
- Exhibit P-16 December 22, 2021, Respondent's Answers to Discovery
- Exhibit P-17 Rebuttal Supplemental
- Exhibit P-18 Sales from Widmer Work File
- Exhibit P-19 USPAP Excerpt

PETITIONER'S WITNESS(ES)

Michael Lewis, Vice President of Dicastal North America.
Jeffrey G. Genzink, MAI appraiser.

Michael Lewis was the Vice-President of Central Motor Wheel and left after 24 years. He came to Dicastal in 2015 and is currently Vice President of its North America operations. Dicastal manufactures aluminum wheels for the automotive industry.

¹ Transcript (Tr) 1 at 21.

Mr. Lewis testified that he joined the company after the design was completed. He was there while demolition occurred, during the construction phase, the installation of equipment, start-up, and opening for operation. It took about two years to complete the construction. The facility has about 450 employees. He explained the manufacturing process as follows:

So we start with the aluminum ingot, we then melt that aluminum ingot to a liquid form. It's moved to our casting operation where we actually cast the wheel. After completion of the casting process, we go through some trimming and quality checks, from there it then moves into our heat treat process. After heat treating it moves to our machining area where we machine the rough cast to the finished dimensions.

Upon completion of that, again, we go through some finishing work to prepare it for painting. We have some quality checks such as balance checks, leak checks before it moves into our paint operation where we apply the final painted colors to the wheel and then moves into our shipping area to be shipped out.²

Mr. Lewis was questioned about the purchase price of \$8 million. He affirmed that Dicastal acquired the property in 2014 through a bankruptcy proceeding. Mr. Lewis explained that the building was a shell with the walls, floor, and roof intact. There was a trench running north and south between the two buildings. A rough drawing (without measurements) of the outline of the subject buildings identifies the various processes within the plant; this is depicted on admitted Exhibit P-8.³ New additions included a tunnel because the two buildings were not connected, and the area labeled "melt." Also, the equipment required additional height. A wastewater treatment plant, (12,070 sf) for treating the water for the paint process before releasing it to the city, was also added between the two original buildings.

Dicastal's manufacturing process did not require the trenches. The processing requires substantial concrete floors which, in some areas, lay over the existing trenches. Before Petitioner took over, the electrical control distribution equipment was gutted with the copper removed. The electrical was additional time and money.

When questioned on the 2015 IFT, Mr. Lewis testified that he was aware that it was granted. However, he could not confirm the parcel numbers.

Mr. Lewis testified that the subject's location makes it difficult to hire employees. Petitioner explained that Dicastal competes with Grand Rapids businesses for employees and that the subject property is approximately a 45-minute commute from Grand Rapids. Also, Interstate 31 is 20-minutes away. Petitioner considered an expansion; however, the lack of workers has made this impossible.

² Tr 1 at 27.

³ Tr 1 at 30.

Upon cross-examination, Mr. Lewis explained that at the time of purchase the electrical for the larger distribution equipment was not operational, but the lights worked. The trenches that ran between the north to south of each building were about 20-feet wide. Some of the trenches still exist but some were capped, while others were filled in completely. Mr. Lewis further explained that that because the subject property is a machining operation, the equipment is sensitive to vibration that requires a very solid foundation. Mr. Lewis estimated the foundation is about twelve inches thick.

The trenches also had an area where there was sand, dirt and concrete. He believes there are metal supports and steel columns with approximately eighteen inches of concrete on the top filling the gap.

Mr. Lewis oversaw the construction of the melt area which was constructed after the plant was acquired. However, Mr. Lewis could not give an estimate of the cost of construction. Mr. Lewis testified that the equipment height was a concern. "The equipment itself has a very large tower that we load ingots into so the height of that equipment and then the necessary ductwork for the exhaust above that is what required additional height."⁴

Jeffrey G. Genzink is a Real Estate Appraiser who holds a certified general appraiser license and a real estate broker license. He also has a MAI designation from the Appraisal Institute. He explained the requirements for the MAI, which include the certified general appraiser license, bachelor's degree, 4,500 hours of specialized experience, and five additional classes. In addition, the designation requires the completion of a demonstration report and the passage of a two-day comprehensive exam.

Mr. Genzink explained that the subject property was inspected twice, first on June 17, 2020, and then on May 23, 2022. The 2020 inspection sheets are included in Exhibit P-4, with handwritten notes on pages (002) and (003). These notes include some written measurements.⁵ The pre-inspection questions on page (007) include the following: "Gross building area: 558,417 SF Does this seem correct? This number is based on the sketch you provided, so if there were additions after this sketch was done, those wouldn't be included. We will also measure the buildings at our inspection. 640,000 ft squared."⁶

Sales of vacant land were sought to determine the value of the subject's 95.29 acres, however only one sale was found within Montcalm County, where the subject property is located. This sale, sale 1, contained 10.50 acres and sold for \$3,095 per acre. Two listings in Greenville were considered, containing 7.3 and 12.98 acres. A total of twelve sales of industrial property were considered, located in Montcalm, St. Joseph, Kent, Muskegon, and Allegan Counties. These sales included property ranging in size

⁴ Tr 1 at 55-56.

⁵ The Tribunal notes for the reader that 591,317 sf was utilized as the basis for Petitioner's appraisal.

⁶ Exhibit P-4 at (007).

from 1.61 to 12.98 acres. The sales in Kent County ranged from \$3,095 to \$23,659 per acre. 6071 Fitzer Road, located across the street from the subject property, contained 98 acres and sold in 2017 for \$1,152,000 (\$11,755 an acre). The City of Greenville sold the property. This parcel also has an IFT, for the 2018 through 2030 tax years, which provides tax incentives. However, Mr. Genzink was unable to confirm the details of the sale. An industrial park, located south of the subject property, has 143.5 acres and was listed for \$6,000 to \$12,000 an acre. However, they are listings in close proximity to the subject. Due to the gas line intersecting the subject property, the land value conclusion was \$6,000 per acre, for a total TCV of \$570,000.

The cost approach was calculated for Buildings One and Two separately. The resulting indication of value after application of architect's fees, current cost multipliers and local multipliers resulted in Building One, Class S of \$69.95 per square foot (sf) for the 579,247 sf a subtotal value of \$40,309,662. Building Two, Class C with 12,507 SF equaled \$57.95/sf for a subtotal of \$699,436. The following amounts were added: site improvement \$138,883, direct and indirect costs \$41,565,118, and entrepreneurial profit \$415,651. Accrued Depreciation of \$15,113,007 was deducted. The total depreciated building value was \$27,867,692, plus the \$570,000 land value results in a rounded value by the cost approach of \$27,400,000.

Mr. Genzink, utilizing a price per square foot of gross building area, explained the sales comparison approach, utilizing six comparable sales. Sales 1, 2, 3 and 6 are located in Ohio, Sale 5 is located in Wisconsin, with Sale 4 in Brownstown Township, Wayne County, Michigan. Sale 3 has 122 acres, with the remaining sales ranging from 10.35 acres to 31.91 acres. The square footage of the sales ranged from 209,700 sf (Sale 1) to 567,350 sf (Sale 6).

The sales were adjusted as follows:

Sale 1: \$37.44 sf adjusted up for ceiling height, age and condition, down for market condition, location and size.

Sale 2: \$39.58 sf adjusted down for size.

Sale 3: after adjustment for excess land, \$31.77 sf adjusted up for market conditions, location, and age/condition.

Sale 4: \$44.75 sf adjusted up for market conditions and age/condition, down for location and size.

Sale 5: \$22.94 sf adjusted up for market conditions, ceiling heights, and age/condition, down for location and size.

Sale 6: \$51.11 sf adjusted up for market conditions, down for location and age/condition.

The final adjusted sale prices per sf with overall adjustments are Sale 1 \$35.22 - 6%, Sale 2 \$35.62 -10%, Sale 3 \$37.63 18%, Sale 4 \$45.65 2%, Sale 5 \$25.77 12%, Sale 6 \$40.64 -21%. The adjusted sale prices range from \$25.75 to \$45.65 sf. Sale 5 was given minimal weight as it may have been a distressed sale. The resulting value indication via the sales comparison approach is \$21,300,000 (\$36.00 sf).

Mr. Genzink was questioned on cross-examination regarding Ms. Bilardello's (the second signature on the report) participation. She assembled the information in the chart on page 13 of Petitioner's appraisal and all of the demographics. She also gathered the sales that were ultimately selected in a joint effort and put the spreadsheet together that included sales. Mr. Genzink did not confirm the sales information. He could not remember if Ms. Bilardello came up with the initial draft. However, she did the initial draft of the market depreciation table.

Mr. Genzink testified "we have more than one checkpoint during the appraisal process so because we have so many checkpoints along the way, there's minor revisions every time. So, in other words, I don't lead our office in a way that says go out and do your own thing, write the appraisal..."⁷ The work she does is under his direction from the beginning.

Mr. Genzink testified that he signs 350 appraisals a year. When questioned if these are under his supervision, he responded yes. Mr. Genzink explained that it is his work product and conclusions, and not the analysis of staff that he simply signs off on.

Mr. Genzink testified that in this submarket it is appropriate to compare Sale 1, zoned highway commercial, with the subject property, which is zoned industrial. He explained that in rural markets "there's common similarities wherein a commercial building can easily have storage, warehouse, some type of assembly going on in the back. That is very, very common in commercial zoning districts."⁸

Mr. Genzink, with all due respect, that's not the question I asked you. I asked you if a property – if a property's highest and best use is not legally permissible that cannot be the highest and best use, correct?

That's correct.⁹

Mr. Genzink was not aware if either of the remaining two sale listings actually sold or not. The largest of the three land sales utilized is 12.98 acres. This is also a listing. The exception is 6501 Fitzner Road, 98 acres, which is located across the street. The sales were compared to the subject's 95.29 acres.

⁷ Tr 1 at 152-153.

⁸ Tr 1 at 184.

⁹ Tr 1 at 185.

When asked what the total square footage of the subject property is, Mr. Genzink responded 579,247 sf or 13.3 acres. Therefore, the improved square footage alone is larger than the three land sales.¹⁰ However, the 6501 Fitzner Road property has close to the same acreage. However, this information was not confirmed as the city manager did not respond to the message inquiring about the sale. No alternative methods were utilized to confirm the details. Mr. Genzink does not know if Ms. Bilardello tried other sources. The Fitzner Road property is zoned industrial and sold for \$11,775 an acre in 2017. This is the only sale in the City of Greenville appropriately zoned and sold for more than \$6,000 an acre. Mr. Genzink considered the sale but did not use it.

Replacement cost as utilized by Mr. Genzink, utilizes modern materials, current standards, design and layout. Marshall Valuation Service (MVS) segregated section was utilized to calculate the replacement costs utilizing the subject's square footage and ceiling height. The appraisal utilized 36.8 acres (1,604,400 sf) for excavation and site prep. However, the report does not show, and Mr. Genzink did not recall, how that acreage was calculated.

The story height multiplier of 1.82 was applied to subject's 579,247sf frame. However, when asked by Respondent to recalculate the height adjustment, it results were 34.5 feet not the 40-foot average ceiling height. It was an error.

Mr. Genzink testified that the office space is 4% of the two-story building. Mr. Genzink was questioned on cross-examination as follows:

Q: So then you believe it's appropriate to reduce the multiplier by .02 for an office that only takes up 4 percent of the entire building?

A: We thought it was, yes.

Q: You mathematically could have applied a 1.52 multiplier to the 96 percent of the building and a 1.5 multiplier to the 4 percent that was office, correct?

A: We could have done that.

Q: That would have resulted in a higher base cost, correct, if you had done it that way?

A: Right.¹¹

The MVS calculator cost could be utilized to cost out the various sections of the building. However, Mr. Genzink explained that the components are applied to the entire building area. The implication for the interior is that there is going to be some percentage of office space for an industrial use. The subject property, as of December 31, 2019, did have heavy manufacturing, primarily in Plant 2. When questioned if it is possible to cost the property out as half heavy manufacturing and half as light

¹⁰ Exhibit P-1 at pages 42-43.

¹¹ Tr 1 at 207- 208.

manufacturing, and value the 4% as office and not light or heavy industrial, Mr. Genzink answered "Correct".¹²

Petitioner's cost approach utilized the light industrial costs for both the buildings. Respondent, utilizing Petitioner's appraisal (Exhibit P-1 at 46-47) and the cost manual from Petitioner's work file (Exhibit R-6), went back and forth between the two with questions on differences in what was and could have been utilized.¹³ Starting with Exhibit R-6 at 93, utilizing the heavy manufacturing cost at \$23.90 sf vs Petitioner's \$2.88 sf and averaging equals \$13.39 sf for the total 579,247 sf of both buildings 1 and 2. The result of averaging costs is \$7,756,117 vs Petitioner's light industrial \$1,668,231 an increase of \$6,087,886.

Petitioner did not include the air conditioning cost. The \$4.03 sf cost was for heat only not \$7.56 which includes both heat and air conditioning. Building 2 states space heaters gas with fan at \$1.75 sf. Petitioner did not blend or consider costs for the heavy versus the light industrial use of the building nor the full heat and cooled air.

When questioned about the IFT for 2016, Mr. Genzink thought that the cost was about \$38,000,000, including the wastewater treatment plant, tunnel in buildings 1 and 2, filling in the trenches, air compressors, renovating the office space, adding an elevator, adding heat treat oven tanks, and including landscaping. The cost did not include the original construction of the two buildings. The majority of the \$38,000,000 was for real property improvements. Mr. Genzink's conclusion of value at \$23,100,000 is \$15,000,000 less than the 2016 IFT cost.

When questioned on depreciation, Mr. Genzink stated: "We did perform a market-extracted depreciation which lumps in all forms of depreciation. We just did not segregate[] between the three forms."¹⁴ The depreciation for physical, functional, or external was 36% in the market extracted depreciation.

The land value found in the work files is a result of Ms. Bilardello calling the assessors for the current land value on each sale. The only Michigan sale is in Wayne County.

Respondent questioned the extraction of depreciation from the six comparable sales. When asked if there is any data in the report that supports a 3% market-conditions per Anum adjustment, Mr. Genzink answered, "Besides us stating 3 percent, no, we don't."¹⁵

Mr. Genzink's size adjustment varies for each sale and was based on Integra's databases that are in the office. (900 sales of industrial buildings within Michigan from 2017-2019). They periodically group sales in a square foot range to assist in

¹² Tr 1 at 211.

¹³ Exhibits P-1 and R-6

¹⁴ Tr 2 at 25.

¹⁵ Tr 2 at 77.

determining adjustment factors. The sales are analyzed generally and then extrapolated for individual appraisals. There are no charts of how the adjustments were made.

It was unclear if the other states had tax abatements akin to the IFT's. Mr. Genzink testified "[s]o our level of verification would be that we would check a public record just to make sure that the property sold, that -- if there is a sale price we can verify that. So, it's very much reduced from our typical if we are doing the verification ourselves."¹⁶ In addition, secondary information in public records, such as CoStar, are utilized.

Petitioner testified in reference to Sale 1:

Well, as I said earlier, the property is located between Akron and Canton just south of Cleveland about 45 miles. Its population data, its location to other industrial users are superior. There's better location characteristics because there's more people, there's more industrial properties. It is closer to a metropolitan area like Cleveland.

So due to its larger population base and more industrial users in the neighborhood, that is our reason for the location adjustment. It's also supplemented by the land value that we discovered about each one of these properties because we're comparing a land value to give us some basics for an inferior or superior adjustment for location.¹⁷

Mr. Genzink agreed that the information on how adjustments were made is not in the work file. The ceiling height for Sale 1 is half of the subjects with a 5% adjustment. All of the adjustments were made in 5% increments except for market conditions.

Sale 2 is a distribution warehouse located in Sandusky, Ohio. It was a sale from a landlord to the tenant, based on the right of first refusal. It also had an expansion in 2018 and 2019. It is unknown if the sale price was predicated on construction cost expanded by the landlord. The impact of the square footage addition could impact the age and condition but was not known.

Sale 3 was adjusted \$1 million for excess land of 66 acres (out of 122 acres) at \$15,151 per acre.¹⁸ The comments in this sale noted that it was also listed in December 2019 for \$20,451,000. It was leased for \$3.58 sf for 10 years with two, five-year extensions. Respondent submitted R-12, which indicates Sale 3, located close to I-75, was resold for \$16.6 million, with 24 acres, 44 dock doors, and with 9 years remaining on a 10-year lease. Mr. Genzink did not follow-up on the listing, which was noted in the prior sale write-up for Sale 3.

¹⁶ Tr 2 at 92.

¹⁷ Tr 2 at 96.

¹⁸ Exhibit P-1, Sale 3 was 122 acres.

Sale 6, located in Franklin County Ohio states:

Sale of newly constructed spec facility with 15-year 100% tax abatement. Partially occupied by Cintas Corp (216,112 sf at \$4.07/SF/nnn on 10-year term) but primarily vacant at the time of sale. Listed for \$3.50-\$3.75/sf/nnn following the sale.¹⁹

When questioned if Sale 6 was actually a warehouse distribution with 60 truck doors and three overhead doors as compared to the subject property with 10 truck doors, Mr. Genzink testified that he did not classify it as such, it is just a warehouse with additional doors. Although he explained earlier that utilizing leased fee sales was not appropriate, 38% of the building was leased, leaving 62% vacant. The transaction was also newly built and sold within a twelve-month period with a 15 year, 100% tax abatement. Mr. Genzink was not aware if it was a build-to-suit property.

Q: Okay. So, again, you went across multiple states in the Midwest and of the six comparables you were able to locate, one of those six best comparables was a 2017 sale of a newly-built leased fee property with a tax abatement and an unknown percentage of office space in it, right?

A: Correct.²⁰

Sale 6 (in Franklin County, Ohio) is the closest square footage to the subject property. It was built in 2017 and sold in 2017.

Sale 4 is in the metro Detroit area and was not a sale, but a purchase agreement. Mr. Genzink, using the write-up, didn't know if the sale was completed. All he knew was that there was a June 2019 purchase agreement. Two parcel numbers are listed. Respondent's rebuttal document was admitted over Petitioner's objection. Exhibit R-13 indicates that as of August 17, 2020, (after the June 2019 purchase agreement was signed) that the sale price for one of the two parcels (70-03-99-0016-702) was \$12.3 million. A subsequent Property Transfer Affidavit was filed December 11, 2020, for the mineral rights for the parcel. The addendum to the Covenant Deed (page 4), states "RNDC-NWS, LLC, a Michigan limited liability company, as tenant only, under an unrecorded lease."²¹

Petitioner's Sale 5, located in Wisconsin, was not able to be confirmed for any details of the October 2017 transaction. Notes indicate that it may not be an arms-length transaction. However, Exhibit R-7, at page 14, indicates that the analyst did not speak to anyone to confirm the sale or circumstances.²²

The value indication gave the smallest weight to Sale 5, with more weight given to Sales 1, 2, and 3, all located in Ohio. Sale 4 was the only Michigan sale at an

¹⁹ Petitioner did not paginate Exhibit P-1 (after page 64), it is the last page in the document.

²⁰ Tr 2 at 120.

²¹ Exhibit R-13.

²² R-7 page 14 only was admitted.

adjusted \$45.65 sf, which resulted in the highest adjusted price. The three adjusted sales were \$35.22, \$35.62, and \$37.63 per sf. The conclusion for Petitioner's Sales is \$36.00 per sf for \$21,300,000 TCV.²³ The value was not allocated to the seven parcels under appeal. Mr. Genzink was unable to testify to the value for the individual parcels.²⁴

Mr. Genzink did not rely on the land sale across the street because there was an IFT granted on the property. He had no idea what effect it had to that sale, which was not able to be verified. He was questioned on the determination to utilize a light industrial application in lieu of a heavy industrial for the cost and sales. He explained that Marshall & Swift costs calculators provide information, but it is not market value, only a tool to use.

The adjustment for the marketplace begins with land as if vacant, the replacement cost new of the existing improvements, depreciation, and then the land value and depreciated improvements are added together. If heavy manufacturing would have been the basis for the cost, then it would be compared with other approaches to check the cost approach, such as the sales approach.

When questioned on the relevance of Petitioner's \$38 million investment after purchasing the property, Mr. Genzink testified that:

We discovered that the majority of that cost was dedicated to process in plant number 2 as well as the construction of the wastewater treatment plant, tunnel, the melt area, the filling in of the pits, things of that nature and also when we interviewed the owner, there was a lot of conversation about the air compressor process and the piping that went with that and the cooling equipment.²⁵

The lack of emphasis on the Wayne County sale in Brownstown was questioned. Mr. Genzink explained that it was included because it is at the southern end of the area but in Wayne County, which has a significant population base, and land value superior to the subject. The out-of-state sales 1, 2 and 3 have more similarities to a rural location outside a major metropolitan area.

Petitioner requested admission of Exhibit P-17 to correct errors in multipliers in the cost approach for Buildings 1 and 2, and the Wastewater treatment building on pages 46 and 47 of Exhibit P-1 to increase the height and frame to 4%. As a result, the conclusion for the cost approach increased from \$27,400,000 to \$28,000,000. The final reconciliation also increased to \$23,300,000.

Respondent objected to page 21 of Exhibit P-17, because Mr. Genzink changed his assumptions and did not merely correct errors. Exhibit P-17 was admitted, noting Respondent's objection.

²³ P-1 at 57.

²⁴ R-6 was admitted.

²⁵ Tr 2 at 169.

RESPONDENT'S CONTENTIONS

Respondent contends that there are seven distinct parcels appealed by Petitioner. One parcel is ad valorem land value, and the remaining six parcels are IFT parcels. This is unlike a normal appeal where all of the parcels are ad valorem, and the valuation is unique because of the way the IFTs are valued on the roll. The Tribunal is presented with rather complex and challenging allocation issues. Respondent will offer evidence that the competent, material and substantial evidence will reflect that the property is correctly assessed or under-assessed. Respondent's testimony is that the property records are the only competent, material and substantial evidence and that they accurately reflect the properties' cost calculations and allocate value appropriately.

The values on the 2020 assessment roll are:

Parcel Number: 59-052-693-035-20 (Ad Valorem Parcel)

Year	TCV	SEV	TV
2020	\$96,400	\$48,200	\$48,200

Parcel Number: 59-052-910-117-00 (IFT)

Year	TCV	SEV	TV
2020	\$3,610,200	\$1,808,100	\$1,795,995

Parcel Number: 59-052-910-120-00 (IFT)

Year	TCV	SEV	TV
2020	\$3,616,200	\$1,808,100	\$1,795,995

Parcel Number: 59-052-910-123-00 (IFT)

Year	TCV	SEV	TV
2020	\$1,239,800	\$619,900	\$619,900

Parcel Number: 59-052-910-124-00 (IFT)

Year	TCV	SEV	TV
2020	\$1,239,800	\$619,900	\$619,900

Parcel Number: 59-052-910-142-00 (IFT)

Year	TCV	SEV	TV
2020	\$1,618,200	\$809,100	\$809,100

Parcel Number: 59-052-910-143-00 (IFT)

Year	TCV	SEV	TV
2020	\$32,395,400	\$16,197,700	\$16,197,700

RESPONDENT'S ADMITTED EXHIBITS

- Exhibit R-1 Property Record Cards
- Exhibit R-2 Review Appraisal
- Exhibit R-3 Marshall Valuation Excerpts (6 pages)
- Exhibit R-4 Sales Documents
- Exhibit R-6 Genzink Workfile excerpt from cost section (129 pages)
- Exhibit R-7 Genzink Workfile Sale Comparables (page 14)
- Exhibit R-8 MVS Depreciation
- Exhibit R-12 Rebuttal re: Petitioner's Sale 3
- Exhibit R-13 Rebuttal re: Petitioner's Sale 5

RESPONDENT'S WITNESSES

Michael John Beach, MAAO (Level 3) assessor for the City of Greenville.
John R. Widmer, Jr., MAI appraiser did a review of Petitioner's Appraisal.

Michael John Beach was Respondent's first witness. He is a Michigan Advanced Assessing Officer (MAAO), (Level 3) assessor for the City of Greenville. He is also the assessor for Maple Valley Township in Montcalm County, the assessor for the City of White Cloud, and Ashland and Lincoln Townships in Newaygo County, the assessor for Elk and Peacock Townships in Lake County, the assessor for Benona and Ferry Townships in Oceana County, and the assessor for Vernon Township in Isabella County. He was admitted as an expert assessor which allows testimony regarding the subject properties' property records and land value.

The six IFT exemptions for the subject were for new construction. They generally last for 12 years, and the exemption relates to the millage rate which is reduced to 50% of the rate. Four of the IFTs were under the prior owner which were transferred to Petitioner, and the latest two were applied for by Dicastal.

When applying for an exemption, the parties are required to submit a description of the new construction as well as the cost of the construction. When the IFT is granted, the land value stays on the ad valorem roll and a separate parcel number is assigned designating the parcel an abatement. In other words, the improvements are not included on the ad valorem roll. A record is made and maintained for the portions of the improvements covered by the IFT. When the abatement expires, the improvements are taken off the abatement roll, revalued to its current TCV on the ad valorem roll, added to the land value, to which the full millage rate is applied.²⁶

The State Tax Commission's (STC) Manual was utilized for the cost approach with the county multipliers and an Economic Condition Factor (ECF) applied. Petitioner

²⁶ Personal property can also be an IFT, however, in this instance the improved property IFT's are under appeal.

objected as the underlying data for the ECF was not received.²⁷ Mr. Beach was asked how the ECF was calculated. He responded:

So you have a sale and the value of the land and improvements is subtracted from the sale price and then it's divided by the building value on the record card.²⁸

Mr. Beach believes that the ECF calculated for the parcels at issue are accurate and reflective of the market. He then explained Exhibit R-1, page one, which is the Property Record Card (for the only ad valorem Parcel) Parcel No. 59-052-693-035-20, is assessed ad valorem property taxes and contains 96.465 acres of land valued at \$96,465. This parcel of property does not include any buildings because the buildings were all constructed under six different IFT parcels.

The land sales for 2019 and 2020 are contained on Exhibit R-1, page 30. Two sales were considered for 2019. The property across the street and east of the subject property has 114.67 acres and sold for \$11,337 an acre. The other sale was of a smaller parcel of property containing 5.3 acres and would not be comparable to the subject. The equalization process sometimes prohibits raising values, so the properties are at 49% to 50% of TCV. Mr. Beach increased the subject's land value to \$5,000 an acre. He could not remember the assessment ratio in the industrial class. He testified that he did not receive a call from Integra requesting information about the 822 Greenville vacant land sale (property located across the street from the subject property). Although the subject's land value was \$5,000 an acre, Mr. Beach reduced it to \$1,000 an acre. The parcel had the same percentage reduction for many years. The 2020 ad valorem assessed value (AV) and TV are \$48,200.

The Property Record Card for the next parcel, Parcel Number 59-052-910-117-00 is found at Exhibit R-1, page 5. This parcel contains a building constructed in 2006, subject to an IFT. The building is 202,500 sf, with 30 ft of story height. It is class S, good quality, with a 19,455 sf mezzanine. The cost new is \$23,685,422, with an effective age of 9 years. The physical good is 80%, with *20% functional obsolescence*, resulting in a reduction in value to \$3,789,668. Mr. Beach did not know what the 20% functional reduction was for, as there was no additional information. The ECF of .94 was applied resulting in the 2020 TCV of \$3,616,200, SEV \$1,808,100 and TV of \$1,795,995.

The next parcel is Parcel Number 59-052-910-120-00, a 2006 construction with an IFT. The building is 202,500 sf, 30 ft of story height. It is a class S, good quality with a 19,455 sf mezzanine. The cost new is \$23,685,422 with an effective age of 9 years. The physical good is 80%, with *20% functional obsolescence* resulting in a reduction in value to \$3,789,668. Mr. Beach did not know what the 20% functional reduction was for,

²⁷ Petitioner objected as the underlying data was not provided. This objection is taken under consideration and is addressed in the Conclusions of Law.

²⁸ Tr 2 at 189.

as there was no additional information. The ECF of .94 was applied resulting in the 2020 TCV of \$3,616,200, SEV \$1,808,100 and TV of \$1,795,995.

The next parcel is Parcel Number 59-052-910-123-00, a 2008 construction with an IFT. The building is 74,480 sf, 30 ft of story height. It is a class S, good quality. The cost new is \$8,042,351 with an effective age of 8 years. The physical good is 82%, with *20% functional obsolescence* resulting in a reduction in value to \$3,562,287. Mr. Beach did not know what the 20% functional reduction was for, as there was no additional information. The ECF of .94 was applied resulting in the 2020 TCV of \$1,239,800, SEV and TV are \$619,900.

Parcel Number 59-052-910-124-00 is a 2008 construction with an IFT. The building is 74,480 sf, 30 ft of story height. It is a class S, good quality. The cost new is \$8,042,351 with an effective age of 8 years. The physical good is 82%, with *20% functional obsolescence* resulting in a reduction in value of \$1,239,809. Mr. Beach did not know what the 20% functional reduction was for, as there was no additional information. The ECF of .94 was applied resulting in the 2020 TCV of \$1,239,800, SEV and TV of \$619,900.

The next parcel is Parcel Number 59-052-910-142-00, a 2016 construction with an IFT. The building is 11,408 sf, 14 ft of story height. It is a class C, excellent quality "Engineering" Water Treatment Facility. The cost new is \$1,643,437 with an effective age of 0 years. The TCV is \$1,618,200. It is noted that the December 2019 Board of Review (BOR) reduced the assessment from \$1,664,700 to \$809,100.

The last parcel on R-1 is Parcel Number 59-052-910-143-00, a 2016 construction with an IFT. The building is 34,300 sf, 14 ft of story height. It is a class C, good quality, industrial (heavy manufacturing). The cost new on the IFT was \$38,393,126. The TCV is on override at \$32,395,400, with a 2016 year built. The Assessment was reduced by the December 2019 BOR from an AV and TV of \$19,196,500 to \$16,197,700. Mr. Beach met with Dicastal, and it was determined that some personal property was included, and the BOR reduced the value.

Respondent's next witness was John R. Widmer, Jr. MAI, who prepared an appraisal review of Petitioner's valuation disclosure prepared by Integra Realty Resources – Grand Rapids. The following were noted. The subject contains five mezzanine areas accessible by stairway not included in the gross building area, but however, it is included in the cost approach. The substation contained no capacity or backup generator in the appraisal. The subject was costed as a light industrial property, not accounting for heavy power at its substation. The easement for the gas line at the northwest direction may impact Fitzner Road, (the industrial park across the street) but it would not be a large impact.

Petitioner's sales data included one Michigan sale on the east side of the state, four sales in Ohio and one in Wisconsin. Mr. Widmer's report listed eight sales in Michigan that contain the address, city, sale date, sale price, square footage, sale price

per square foot, acres, land to building ratio, age, and use. Due to the fact that it was an appraisal review report, no adjustments were made, nor was there an opinion regarding a conclusion of value. In addition, 11 sales in the Great Lakes Region were also included.

Mr. Widmer states:

On page 8 of the report it is noted: *The cost approach is an applicable valuation method because there is sufficient data to develop reliable estimates of land value, replacement cost of the improvements, and accrued depreciation.* Given the use of the property, it is necessary to consider this approach as highly relevant, especially with the specialized nature of the building improvements. It is known that the current owner and user is the largest manufacturer of aluminum wheels in the world, where it has been reported the company manufactures 3 million wheels per year. The physical plant appears to accommodate this heavy manufacturing use with an on-site sub-station and wastewater treatment facility. These are components that are not typically present in light manufacturing uses.

In an overview of the appraisal under review, it has been noted that TCV will be established on the basis of fee simple ownership, and will not measure going-concern value of the entity operating the property, namely Dicastal North America, Inc. It is important to understand, TCV is the usual selling price at the place where the property to which the term is applied is at the time of assessment. Likewise, future discussions will also opine as to the relevancy of the highest and best use of the property, as presently improved. This will ultimately show that the highest and best use is its current industrial use. This conclusion also considers the fact that the property is occupied and not vacant. The question that will ultimately be answered is what the TCV of this property is that is occupied, not by Dicastal, but by a market oriented heavy manufacturing user.²⁹

Mr. Widmer testified that a dedicated substation, having a power capacity of 2,500 KVA is generally considered for heavy manufacturing buildings. As an example, Mr. Widmer discussed Detroit Diesel, two Tower Automotive plants, and a TRW brake plant that have the same dedicated substation.³⁰ They are not found in a light industrial manufacturing plant. Examples were given of different types of industrial properties; however, heavy manufacturing is appropriate for the subject property.

The sales utilized by Petitioner were a concern. As an example, Sale 6 has 60 truck doors and three overhead doors. In comparison, the subject property has ten dock-height loading doors and 17 drive-in doors. This indicates that Sale 6 was

²⁹ Exhibit R-2 at 7-8.

³⁰ Exhibit P-1 at 5 states KVA is 2,500, this Tribunal notes Mr. Genzink at TR-1, 157 did not know.

constructed to be a high-cube distribution warehouse. In addition, it was 68% vacant, which in Mr. Widmer's experience results in an indicated lower sale price. Sales 2, 3, 4 and 5 are warehouse properties, unlike the subject property. Although Mr. Widmer did not inspect the facility, the floor thickness, framing, and power are components of heavy manufacturing and not of a distribution warehouse.

When questioned what factors should also be considered for determining characteristics of a heavy industrial property, Mr. Widmer stated it includes power capacity, total surface, bus, backup generator, ceiling clearance, crane capacity, HVAC does it require air conditioning. This indicates that the subject property is heavy not light industrial.

Respondent presented back-up data for Petitioner's Sale 4 at 17550 & 18472 Allen Road, Michigan, specifically the property transfer affidavits from the assessment records, a printout data sheet for the property from CoStar, and an offering memorandum from CBRE, the brokerage firm. It is Mr. Widmer's opinion that Petitioner's Sale 4 is a warehouse building. The indicated purchase price based on the transfer affidavits for the two parcels totaled \$12,500,000; the two parcels sold on August 17, 2020. This sale occurred eight months later than the date utilized in Petitioner's report and is one million dollars less than the \$13.5 million reported by Petitioner.

Testimony was presented in reference to the sale of 114 acres of vacant land located at 6501 S. Fitzner Road (Exhibit R-10), however the exhibit was not offered nor admitted.

Petitioner's determination of light manufacturing for the entire facility without air conditioning appears inappropriate. Building 2's components indicate heavy manufacturing, with air conditioning, wastewater treatment and the additional power source.

Mr. Widmer illustrated some of the variances in Petitioner's replacement cost as follows: (1) The ceiling height differences could be accounted for with a multiplier but was not, (2) A mixture of light and heavy manufacturing requires addressing the differences, (3) Weighting the light and heavy industrial 50/50 is \$103.95, applying the appropriate multipliers for floor area and story heights is a hybrid light to heavy manufacturing plant, that may represent the subject as a building replacement cost new for the actual building, site for cost new calculations highlighting the variances, (4) Exhibit P-1 at 46 indicates \$40.3 million, Respondent's replacement cost new of \$81,732,114 represents the inputs for building 1 and 2,³¹ (5) Lump sum costs include sprinkler, wastewater treatment building and mezzanines which were not broken out in Petitioner's report, and (6) current cost multipliers were also taken from MVS.

³¹ Exhibit R-2 at 15.

The numbers from the cost approach vary from Mr. Widmer's calculation of total building and site of \$87,371,364, or \$147.76 per sf, compared to Mr. Genzink's calculation of \$41,980,769 (\$71.03 per square foot).³²

The model utilized by Mr. Widmer begins with multiple columns starting with Petitioner's appraisal (Mr. Genzink's unchanged RCN), and Adjustment A utilizes Petitioner's \$41,980,769 value, utilizing 18% depreciation, resulting in a \$35,000,000 value. The 18% was Petitioner's market-extracted depreciation model. Sale 1 was the only heavy industrial building. Adjustment B is Mr. Widmer's value of \$87,371,364, depreciated at Petitioner's 36% depreciation rate, resulting in a value of \$56,500,000. The adjustments were utilized to indicate how the inputs of depreciation and classification impact value.

After doing the review analysis, Mr. Widmer determined that based on the various issues raised, Petitioner's TCV conclusion (\$23,300,000) is not considered to represent a reliable measure of value for the subject property.

Through cross examination of Mr. Widmer, it was determined that the Marshall Valuation unit cost for the various light versus heavy manufacturing components was the basis for the appraisal review report. In the analysis, on page 17, the various mathematical calculations are alternative methods of establishing what depreciation could be. The range of \$35 to \$57.5 million are calculations presented in the comparison chart, not a range of value. No range of value was stated. The opinion in the review raises questions just by presenting information for the reader to form their own opinion. If Mr. Widmer had formed an opinion, he would have done his own separate valuation. Based on what he found, there are questions as to the reliability of Petitioner's value conclusion.

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.

The following detailed information is from Respondent's Property Record Cards:

1. The subject properties are located at One Dicastal Way in Montcalm County.
2. The only ad valorem parcel is identified as parcel number 59-052-693-035-20.³³
3. Parcel number 59-052-693-035-20 contains 96.465 acres of land, with a TCV of \$96,400, and an AV and TV of \$48,200.

³² Exhibit P-1 at 48.

³³ Each parcel description utilizes the individual property records.

4. The six remaining parcels are identified as Industrial Facility Tax Abatement parcels. These include parcel numbers 059-052-910-117-00, 59-052-910-120-00, 059-052-910-123-00, 1059-052-910-124-00, 59-052-910-142-00 and 59-052-910-143-00.
5. Parcel 059-052-910-117-00 is an IFT parcel. The abatement was approved by the STC (2006-437) for \$17,144,844 real, for the period 12/31/2006 to 12/30/2020. The BOR established the property's 2020 TCV at \$3,616,200, with an AV \$1,808,100, and TV \$1,795,995.
6. Parcel 059-052-910-117-00 is described as Building 1, built in 2006, Class S, Good, 30' story height, with 202,500 sf, 19,455 sf mezzanine with sprinklers. Base cost new \$23,685,422, 80% good, 20% functional obsolescence, equaling 16% good. (\$17.59 sf).
7. Parcel 059-052-910-120-00 is an IFT, abatement (2007-470) (approved for \$17,144,844 real)³⁴ approved from 12/31/2007 to 12/30/2020. The BOR established the property's 2020 TCV at \$3,616,200, with an AV \$1,808,100, and TV \$1,795,995.
8. Parcel 059-052-910-120-00 is described as Building 1, Class S, good quality, 1- story, 30 ft height, with a mezzanine (19,455 sf) and office (with air conditioning). The total square footage is 202,500 and it also contains a small 81,000 sf ad valorem parking lot with a TCV of \$53,946. Total cost new is \$23,685,422 at 80% good, 20% functional obsolescence resulting in 16% good for a total depreciated cost of \$3,789,668 multiplied by 0.940 ECF for a TCV of \$3,562,287 for the building at \$17.59 per square foot plus \$53,946 for some blacktop.
9. Parcel 59-052-910-123-00 is an IFT, abatement (2008-503), approved from 12/31/2008 to 12/30/2023. The IFT was granted for \$18,000,000 real and \$107,108,228 personal property.
10. Parcel 059-052-910-123-00 is Class S, good quality, with 74,480 sf, 30 ft height, cost new was calculated at \$107.87 sf for \$8,042,351, at 82% good and 20% functional obsolescence equating to 16.4% good (\$1,239,809) after ECF equals \$1,239,809 TCV (\$16.65 sf), with a \$619,900 SEV/TV.
11. Parcel number 059-052-910-124-00 is an IFT, (208-504) 12/31/2008 to 12/30/2023. The IFT was granted for \$18,000,000 real.
12. Parcel number 059-052-910-124-00 is described as Building 1, Class S, good quality, Industrial Engineering, 1 story, 30 ft height, 74,480 sf, cost new was calculated at \$107.98 per sf for \$8,042,351, with 82% good and 20% functional obsolescence equating to 16.4% good (\$1,318,946) after ECF equals \$1,239,809 TCV (\$16.65 per sf) and with a \$619,900 SEV/TV.
13. Parcel number 59-052-910-142-00 is an IFT, (2005-212) approved from 12/31/2015 to 12/30/27. The IFT was granted for \$3,329,577 real.
14. Parcel number 59-052-910-142-00 is described as a Water Treatment Facility, Class C, excellent quality, 11,408 sf, 14 ft height, zero depreciation, ECF (3001 Industrial) 0.700. The resulting TCV is \$1,150,406, SEV/TV reduced in 2019 from \$1,664,700 to \$809,100.

³⁴ STC Industrial Facilities Application/Certificate.

15. Parcel number 59-052-910-143-00 is an IFT, approved from 12/31/2015 to 12/30/27. The IFT was granted for \$38,393,126 real.
16. Parcel number 59-052-910-143-00 is a Foundry Addition, Heavy Manufacturing, Class C, good quality, 14 ft height, with 34,300 sf. Abnormal physical is 200% good, 0.700 ECF resulting in TCV of \$6,525,438, for the cost approach. The BOR lowered the SEV from \$19,196,500 in 2019. SEV/TV is \$16,197,700 resulting in a TCV of \$32,395,400.
17. Neither party provided a sketch of the subject property in its entirety with measurements.
18. The subject properties consist of two buildings connected by a tunnel, in good condition, and a wastewater treatment plant, and a 2,500 KVA capacity substation.
19. The highest and best use of the subject property is a heavy industrial use.
20. The November 9, 2017 sale, located at 6501 S. Fitzner Road, of 98 acres across the street from the subject property sold for \$1,152,000 or \$11,755 an acre. It was sold by the City of Greenville for industrial use similar to the subject.

The actual square footage of the subject properties was not proven by Petitioner. The only information in this regard is found in P-4, a questionnaire to “Hilary and Justin.” Specifically, “Hilary and Justin” were asked: “Gross building area: 558,417 SF does this seem correct? This number is based on the sketch you provided”³⁵ Exhibit P-4 included a rough sketch by the appraisers, Exhibit P-7 is a 1994 sketch of both buildings before any additions by Petitioner and indicates the subject property’s square footage as 561,145.

Petitioner failed to provide contentions of TCVs, AVs, or TVs for each individual parcel of property. Instead, Petitioner asserted that the subject property’s total TCV was \$23,100,560, and that the SEV/TV was \$11,550,280 as of December 31, 2019. The Tribunal notes that Petitioner’s Prehearing Statement, (not in evidence) did list individual values.

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.³⁶

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

³⁵ Exhibit P-4 at (007).

³⁶ See MCL 211.27a.

cash value at which such property shall be uniformly assessed, which shall not exceed 50 percent.³⁷

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.³⁸

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”³⁹

“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.”⁴⁰ The Tribunal is not bound to accept either of the parties’ theories of valuation.⁴¹ “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.”⁴² 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.”⁴³

A proceeding before the Tax Tribunal is original, independent, and de novo.⁴⁴ The Tribunal’s factual findings must be supported “by competent, material, and substantial evidence.”⁴⁵ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”⁴⁶

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁴⁷ “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.”⁴⁸ 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

³⁷ Const 1963, art 9, sec 3.

³⁸ MCL 211.27(1).

³⁹ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁴⁰ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁴¹ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

⁴² *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁴³ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁴⁴ MCL 205.735a(2).

⁴⁵ *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁴⁶ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

⁴⁷ MCL 205.737(3).

⁴⁸ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

equalization factor that was uniformly applied in the assessment district for the year in question.”⁴⁹

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.⁵⁰ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁵¹ 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.⁵² Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁵³

In this case, Petitioner appealed the TCV of one parcel of land included on the ad valorem tax roll. The remaining six parcels under appeal are parcels subject to a tax abatement known as the “Industrial Facilities Exemption,” or “PA 198” exemption.⁵⁴

The Tribunal notes that IFT parcels are NOT ad valorem parcels. These IFT parcels are not located on the ad valorem assessment roll, but rather on a specific roll where 50% of the requested abatement is placed on the specific roll where 50% of the property taxes are levied. In other words, Petitioner is paying one-half of the millage rate for property taxes based on the dollar amount of improvements as stated on Petitioner’s application for the Industrial Tax Abatement. When the IFT expires, the property is added back to the ad valorem assessment roll and taxed at 100% of the millage rate.

The six IFT parcels are not based on typical assessing methods, as the property owner specified the TCV of the improvement on the IFT application. In this regard, the end result of the IFTs is one-half of the millage rate. Again, the IFTs are on a specific abatement roll because the value (as mandated by PA 198 of 1974) for the final approval, is not market value, but based on the cost as requested by Petitioner. However, this Tribunal finds that the values for the IFTs were not as approved by the STC, but were reduced by 20% functional obsolescence. The Tribunal asked the assessor to explain, however, he did not know why this occurred. The Tribunal notes that the abatements were established prior to the current assessor. However, the current assessor made no changes.

IFTs are improvements that are abatements exempt from ad valorem taxation and based upon, in this specific case, new construction. The cost of which is approved

⁴⁹ MCL 205.737(3).

⁵⁰ *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).

⁵¹ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁵² *Antisdale*, *supra* at 277.

⁵³ See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁵⁴ See 1974 PA 198; MCL 207.551 et seq.

at the local level and then submitted to the STC for final approval of the value and years covered by the abatement. The six abatements were for twelve-year increments, with 50% of the millage rate being exempt.

Mr. Genzink works for Integra, a large appraisal firm. He testified that he did 350 appraisals a year. However, it is unclear, how much of the determinations were actually completed by him or a team member. It is apparent that a large appraisal would take much longer than one-day. Mr. Genzink testified “[s]o just to clarify, so there are reports where I am the sole signature but we’ve collaborated so my answer was based on how many appraisals do I complete alone, the answer is none. There are appraisal reports that I sign alone but with collaboration from another appraiser.”⁵⁵

Ms. Bilardello assisted Mr. Genzink in the property inspection, gathering market data, and determining comparable data. She does a lot of the groundwork, assembling documents and confirming information. The market summary, demographics and economic analysis were written by her. The CoStar geographic information, as well as all of the demographics, suggested adjustments and spreadsheets, were prepared by Ms. Bilardello. Ms. Bilardello submits the information she has researched, quantified, and typed for Mr. Genzink’s review and direction, with some checkpoints.

It is noted, however, that the substation’s capacity was not known by Mr. Genzink.⁵⁶ (The Tribunal notes it is found on page 5 of P-1.) The location of the subject property as an outlying area as compared to Kent County, and lack of close highway interchange is negative. However, there is no data that isolates the location characteristic.

Mr. Genzink explained that industrial could include manufacturing, warehouse distribution, or shipping. In a warehouse distribution property, higher amount of dock doors and higher ceiling height would be expected. Heavy manufacturing requires stronger structure, a power substation, and higher ceiling heights.

Petitioner’s cost approach begins with vacant land sales. However, only one of the three land comparables was an actual sale. This property is zoned highway commercial property. The two property listings were relied on, in addition, Petitioner also listed twelve other sales, ranging from 1.61 to 12.98 acres. The Tribunal finds that the subject’s 95.29 acres is not comparable to 10.5, 7.3, or 12.98 acres. The subject’s 579,247 sf building footprint divided by 43,560 equals 13.3 acres. None of Petitioner’s purported land sales would be sufficient for the subject’s 579,247 sf footprint. The Tribunal gives no weight or credibility to Petitioner’s vacant land sales.

Parcel 59-052-693-035-20 is the only ad valorem parcel. It contains the 96.465 acres of land currently valued at \$1,000 an acre or \$96,465. The 2017 sale of 98 acres at 6501 Fitzner Road, across the street from the subject property, sold for \$1,152,000 or

⁵⁵ Tr- at 74.

⁵⁶ Tr-1 at 157.

\$11,755 an acre. It was sold by the City of Greenville for industrial use, like the subject property. Petitioner claims that the sale was not able to be confirmed, yet Mr. Genzink testified he could not recall and did not know whether he or Ms. Bilardello attempted to confirm the details of the sale or whether they attempted to call the assessor, buyer, seller or either of the brokers, or county register of deeds.⁵⁷

Respondent's assessor testified that no inquiries were made to the office to confirm the sale. The assessor further credibly testified in confirmation of the sale price of \$1,152,000 for the 98-acre parcel of vacant land sold by the City of Greenville.⁵⁸ Mr. Genzink agreed in testimony that the sale of 6501 Fitzner Road is "a very relevant sale to consider," and it was considered.⁵⁹ The Tribunal finds that the size, location, and date of the sale forms a solid basis to value the ad valorem parcel. The Tribunal also finds that the \$11,755 per acre sale across the street from the subject property is reliable and is an appropriate rate to use in the determination of the subject's land value. The Tribunal finds that the subject property's land value is severely undervalued. The 2020 TCV is increased to \$1,134,000, AV is increased to \$567,000, and the TV shall remain at \$48,200 for the ad valorem parcel, parcel number 59-052-693-035-20.

Petitioner did a replacement cost approach using modern materials, current standards, design and layout, with the "exact footprint" of the subject property utilized. MVS was the basis for the building costs. Mr. Genzink, however, applied an incorrect adjustment to the frame resulting in an average story height of 34.5 feet, not the 40 feet as testified to; this was the beginning of errors and misapplications in Petitioner's approach.

The office is only 4% of the total property, however, Petitioner reduced the overall multiplier by .02% for the office. If the office was costed separately, it results in a higher base cost for the building. The non-mezzanine was valued at \$2.88 sf; however, this is the value used for light manufacturing industrial. Light industrial was utilized for the cost basis, although upon cross-examination, Mr. Genzink testified that Building 2 had components of heavy manufacturing which is a sf rate of \$23.90⁶⁰ (over \$21.00 sf higher than the sf used by Petitioner). 100% air conditioning was not included, and the office was not costed separately. However, when calculated separately, as was done by Respondent, Building two is a substantially higher cost. However, for the HVAC, when deducting the moderate climate and replacing it with the extreme climate, (which is the correct selection for Michigan), and including the air conditioning, the cost, again, increases significantly.

Petitioner chose light manufacturing to utilize the cost basis for the entire property, as heavy manufacturing is a higher cost. Petitioner separately costed out the two buildings, selected light manufacturing for both, though testifying that Building 2 is heavy manufacturing. When questioned if the property could be broken down by square

⁵⁷ Tr-1 at 191.

⁵⁸ Tr-1 at 126-133. See also R-2, p 11.

⁵⁹ *Id.* at 194.

⁶⁰ See P-9 at (015).

footage for the different categories, he answered yes.⁶¹ Though it was possible for Petitioner to value the separate components of the buildings in the segregated cost analysis as light manufacturing and heavy manufacturing, Petitioner chose not to since “that is not the way the segregated approach in MVS is set up”⁶²

The Tribunal finds that Petitioner’s cost approach contains too many errors and incorrect choices, and unsupported determinations that significantly undervalues the subject property and is given no weight in this analysis.

Petitioner’s sales approach was stated to be the most reliable method. The Tribunal notes that the appraisers did not complete any on-site inspections of the comparable properties, they only looked at the on-line information. Only one of the six sales Petitioner’s used (Sale 4) is located within Michigan, in the Detroit area. There was only one out of the six sales that was not a warehouse, but a heavy industrial property, it was less than one-half the square footage of the subject and lower ceiling height: 22’ vs the subject’s 40’. The following sales were considered by Petitioner to be good comparables for the subject’s approximately 600,000 sf.

Sale 1 in North Canton, Ohio is the only heavy manufacturing property utilized. It is 216,321 sf, 22’ ceiling maximum, 9% office and 100% air conditioning.

Sale 2 in Clyde, Ohio is a distribution warehouse purchased by the tenant in place with right of first refusal.

Sale 3 in Findlay, Ohio is a light industrial distribution warehouse that included 66 acres of excess land that was estimated at \$1 million. The property was leased to American Plastics for \$3.58/sf. It was listed again December 2019 for \$20,451,000 or \$51/sf.

Sale 4 in Brownstown, Michigan, P-1 at 51, states it was in-contract for \$13,500,000. R-4, the property transfer affidavits, show that it was not actually sold until August 17, 2020, totaling \$12,500,000.

Sale 5 in Grand Chute, Wisconsin was an estate sale of a vacant warehouse.

Sale 6, in Groveport, Ohio, was a new spec building with 567,350 sf of which 216,112 sf was leased. It is an industrial warehouse with 60 truck doors, and 100% tax abatement.

The Tribunal finds that Petitioner’s sales comparison does not reflect the market value of the subject property and is given no weight.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner’s evidence is flawed as follows:

⁶¹ Tr-1 at 212.

⁶² *Id.* at 212.

- 1) Based land value on sales that were insufficient acreage (the largest was 12.98 acres) that would not cover just the buildings footprint, or close to the subject's 96.47 acres.
- 2) The HVAC did not include the 100% air conditioning.
- 3) The building height was understated in the cost approach.
- 4) The 7,500 sf of the middle connector was not costed with the plant.
- 5) Petitioner's cost approach indicates Building 1 is class S with 579,247 sf, Building 2 is Masonry Class C with 12,070 sf. The building sketches (Exhibit P-4) appear to be close in size. However, Petitioner did not include exterior measurements of the entire facility.
- 6) The wastewater treatment plant is 12,070 sf and does not appear to be costed or considered.
- 7) Petitioner's Building 2 was 12,070 sf which appears to be understated based on Exhibit P-4 and Exhibit P-7.
- 8) Petitioner's division of the two buildings for the cost approach does not appear to be correct, the sketch (P-4 at (002)) although without exact exterior measurements, indicates Building 2 measured 356 x 782 (278,392 sf) or approximately half of the square footage.
- 9) Petitioner's Exhibit P-7 (002) is a 1994 Land Title Survey for the subject property with detailed sketches for both buildings indicates Building 1 (279,493 sf) and Building 2 (281,652 sf) or a total 561,145 sq before additions.
- 10) The appraisal indicates that 591,027 is the total square footage based on Petitioner's cost approach at pages 46 and 47 of P-1. The introduction page indicates the two buildings are 579,247 sf.
- 11) However, it is unclear what the basis was for Petitioner's 12,070 sf for Building 2.
- 12) The subject contains a basement, 33,361 sf of mezzanines, Wastewater Treatment Facility with 12,070 sf, 680 sf garage and 6,650 sf open storage buildings that were not included in the gross building area. The Tribunal notes the mezzanines were included in the cost approach.
- 13) The cost approach did not consider the Heavy Manufacturing in Building 2, which visually appears to be about half of the square footage. Petitioner has

significantly undervalued the heavy industrial property in the cost approach by using light industrial as the basis.

- 14) Petitioner's sales comparison approach contained limited or no reporting of the following: (i) the subject property was originally constructed with craneways, (2) heavy power capacity (total surface, buss, and backup generator), (3) ceiling clearance, (4) crane capacity, and (5) climate control (HVAC is fully air-conditioned). The Tribunal finds that the subject property is a heavy industrial property, not a light industrial property.
- 15) Petitioner's Sale 1, located in North Canton, Ohio is the only heavy manufacturing comparable presented, however, it is more than 50% smaller than the subject property and only 22 feet of clear height vs the subject's 40 feet.
- 16) Petitioner's Sale 2, located in Clyde, Ohio was purchased by the existing tenant. This was a leased Distribution Warehouse.
- 17) Petitioner's Sale 3, located in Finlay, Ohio is a light industrial warehouse building that included 66 acres of excess land which contributed \$1 million to the value. The property was leased to American Plastic's for \$3.58 sf. The property was listed for sale in December 2019 for \$20,451,000 (\$51 per sf).
- 18) Petitioner's Sale 4 in Brownstown Township is a warehouse that was under contract in 2019 and sold for \$12,500,000 on August 17, 2020..
- 19) Petitioner's Sale 5 in Grand Chute, Wisconsin is an estate sale of a warehouse property.

The Tribunal finds that a closer examination of Petitioner's evidence, as outlined above, indicates that Petitioner did not get to the point of shifting the burden to Respondent. This Tribunal finds that a review of the appraisal, and examination of Mr. Widmer's review report and testimony, was beneficial in determining that Petitioner's appraisal is defective in both the cost and sales approaches. The appraisal is given no weight and credibility due to the major flaws as found above.

Petitioner's appraiser valued the subject property in its entirety without consideration for the fact that the subject property is specifically broken out into separate IFT parcels. Petitioner is technically appealing its own value that was placed on the IFT roll, as 50% of the property taxes are abated for the six IFT parcels. Petitioner is requesting that its market value is less than the cost new that was in the abatement requests. The Tribunal notes that only one of the six parcels is close to the value approved by the STC, the remainder are lower. The actual ad valorem value appealed is only the land value. The abated value is calculated based upon the applications to the local unit of government and based on the STC's approval. The

resulting assessed and taxable values are 50% of the abated values and the properties receive a 50% millage rate reduction until the IFTs expire.

Petitioner has “the burden of proof in establishing the true cash value of the property” under MCL 205.737(3). The Michigan Court of Appeals stated in *Alhi Dev Co v Orion Twp*,⁶³ that the petitioner must prove, by the greater weight of evidence, that one or more of the assessments in question were too high based upon the Tax Tribunal’s findings as to the true cash value.” The petitioner’s burden “encompasses two separate concepts”: (1) the burden of persuasion; and (2) the burden of going forward with the evidence.⁶⁴ Although the Tribunal cannot “automatically accept a respondent’s assessment”⁶⁵ the Tribunal may, upon motion or its own initiative, enter a “directed verdict” or, more appropriately, an involuntary dismissal if the petitioner fails to meet the burden of going forward.⁶⁶

In determining whether a petitioner meets the burden of going forward, the Tribunal “must consider the evidence in the light most favorable to the non-moving party [i.e., the petitioner], making all reasonable inferences in favor of the non-moving party.”⁶⁷ Thus, the general rule in a valuation case is that, to meet the burden of going forward with the evidence, the petitioner must present evidence that, when viewed in a light most favorable to the petitioner, would permit the Tribunal to determine the property’s TCV. Simply, before determining that Petitioner has failed to meet the burden of going forward, the Tribunal must be satisfied that after Petitioner has presented their evidence that, “on the facts and the law plaintiff has shown no right to relief.”⁶⁸ Further, involuntary dismissals⁶⁹ “are appropriate only when no factual question exists upon which reasonable minds may differ.”⁷⁰ Finally, “the weight given to the evidence is a matter within the . . . Tribunal’s discretion” and “the weighing process involves a considerable amount of judgment and reasonable approximation.”⁷¹

The Tribunal finds that Petitioner has not met the burden of going forward with the evidence in this case. As indicated above, Petitioner has the burden of establishing the value and here, Petitioner’s appraisal was wholly insufficient, as it was incomplete, a for the reasons set forth above. Simply, Petitioner did not introduce evidence regarding the IFT parcels sufficient enough to allow the Tribunal to render an independent

⁶³ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 768; 314 NW 2d 479 (1981) (emphasis added).

⁶⁴ *Jones & Laughlin*, 193 Mich App at 355.

⁶⁵ *Id.* at 355-356.

⁶⁶ See MCR 2.504(B)(2). See also *Jones & Laughlin*, 193 Mich App at 354-355 and *Great Lakes v City of Ecorse*, 227 Mich App 379, 408-410; 576 NW2d 667 (1998).

⁶⁷ *Meagher v Wayne State University*, 222 Mich App 700, 708; 565 NW2d 401 (1997) (emphasis added).

⁶⁸ *Samuel D Begola Services, Inc v Wild Bro*, 210 Mich App 636, 639; 534 NW 2d 217 (1995).

⁶⁹ Although *Meagher* involved a jury trial and an actual motion for directed verdict, a motion for directed verdict is “analogous” to a motion for involuntary dismissal in a bench trial. See *Armoudlian v Zadeh*, 116 Mich App 659, 671; 323 NW2d 502 (1982), and MCR 2.504(B)(2).

⁷⁰ *Meagher*, 222 Mich App at 708.

⁷¹ *Comstock Village Ltd Dividend Housing Ass’n v Comstock Twp*, 168 Mich App 755, 760; 425 NW2d 702 (1988) (emphasis added).

determination of value. Further, given that Petitioner did not meet its burden of going forward, the burden did not shift to Respondent.

Nevertheless, Respondent's values do not reflect the approved IFT applications as five out of six parcels are substantially lower than what was approved by the STC. The values were accepted and placed on the abatement roll, as these are not ad valorem parcels. The parcels do not appear to be assessed at 50% of market value every year unlike the ad valorem parcels. However, an ECF was added each year.

The IFT parcels' TCVs compared to the TCVs by the Assessor, are as follows:

IFT Parcel Number	IFT TCV	TCV on Assmt Roll	Difference
59-052-910-117-00	\$17,144,844	\$3,616,200	\$13,528,644
59-052-910-120-00	\$17,144,844	\$3,616,200	\$13,528,644
59-052-910-123-00	\$18,000,000	\$1,239,800	\$16,760,200
59-052-910-124-00	\$18,000,000	\$1,239,800	\$16,760,200
59-052-910-142-00	\$3,329,577	\$1,618,200	\$1,711,377
59-052-910-143-00	\$38,393,126	\$32,395,400	\$5,997,726
Totals	\$112,012,391	\$43,725,600	\$68,286,791

Respondent's Assessor, Mr. Beach, testified that though he has visited the subject property, he has only personally inspected the property externally and never internally.⁷² Mr. Beach stated that he only been inside the subject property twice but "it was limited to the office area."⁷³ However, MCL 207.560⁷⁴, requires the assessor to annually go to the subject property, measure, sketch, and cost out the individual IFT properties. Further, Respondent's cost valuation was not supported by the ECF analysis and the location within the subject buildings of the IFTs were unknown (by both parties). Respondent was not able to explain the 20% functional obsolescence for the IFT parcels. The TCV of all of the IFT parcels appear to be significantly undervalued based on the investments for the IFT parcels as indicated in the chart above. Though the burden of going forward did not shift to Respondent, Respondent's evidence is likewise insufficient in valuing the subject property.

JUDGMENT

⁷² Tr-3 at 26.

⁷³ *Id.*

⁷⁴ MCL 207.560 states that:

Sec. 10. (1) The assessor of each city or township in which there is a speculative building, new facility, or replacement facility with respect to which 1 or more industrial facilities exemption certificates have been issued and are in force shall determine annually as of December 1 the value and taxable value of each facility separately, both for real and personal property, having the benefit of a certificate.

IT IS ORDERED that the SEV and TV for parcel number 59-052-693-035-20 for the tax year at issue is as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that parcel numbers 59-052-910-117-00, 59-052-910-120-00, 59-052-910-123-00, 59-052-910-124-00, 59-052-910-142-00, and 59-052-910-143-00 are DISMISSED.

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%, (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, and (xiii) after December 31, 2022, through June 30, 2023, at the rate of 5.65%.

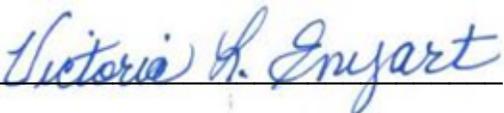
This Final Opinion and Judgment and Order of Dismissal resolves all pending claims in this matter and closes this case.

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 

Entered: February 28, 2023

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