



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ORLENE HAWKS  
DIRECTOR

MVP Athletic Club Holland LLC,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-003641

City of Holland,  
Respondent.

Presiding Judge  
Marcus L. Abood<sup>1</sup>

ORDER DENYING RESPONDENT'S MOTION TO STRIKE

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, MVP Athletic Club – Holland LLC, appeals ad valorem property tax assessments levied by Respondent, City of Holland, against parcel number 70-16-33-400-079 for the 2020 and 2021 tax years. A hearing was held in this matter on August 16, 17, and 18, 2022. Laura M. Hallahan and Seth A. O’Loughlin, Attorneys, appeared on behalf of Petitioner. Ronald J. Vander Veen, Attorney, appeared on behalf of Respondent. Petitioner’s witness was Gerald T. Heaton. Respondent’s witness was Jumana Judeh.

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 are as follows:

**Parcel Number:** 70-16-33-400-079

Year	TCV	SEV	TV
2020	\$3,500,000	\$1,750,000	\$1,750,000
2021	\$2,994,000	\$1,497,000	\$1,497,000

<sup>1</sup> The hearing of this matter was conducted by former Tribunal Judge, Steven Bieda. Judge Bieda is no longer with the Tribunal. As a result, after careful consideration of the transcripts, admitted evidence, and the case file, this Final Opinion and Judgment (FOJ) is rendered by the above-noted Tribunal Judge.

## PETITIONER'S CONTENTIONS

Petitioner's contentions of TCV, SEV, and TV are as follows:

<b>Parcel Number:</b>	70-16-33-400-079		
Year	TCV	SEV	TV
2020	\$3,250,000	\$1,625,000	\$1,625,000
2021	\$2,280,000	\$1,140,000	\$1,140,000

Petitioner contends that the subject is located in a smaller market area which is not comparable to the Grand Rapids market. There are no full-service health clubs similar to the subject in the Holland market.

Petitioner contends the Covid pandemic impacted the 2<sup>nd</sup> year under appeal. There was great uncertainty as of December 31, 2020, for investors, consumers and property owners.<sup>2</sup>

Petitioner's appraiser relied on International Health, Racquet & Sportsclub Association (IHRSA) and Industry Insights as a data source for his analysis.

Petitioner's appraiser considered all three approaches to value. The cost approach was not developed due to the age of the subject property and the difficulty in determining all forms of depreciation (physical, functional, and external). The sales comparison and income approaches to value were developed. Overall, the subject is a larger building in the smaller market of Holland which is not the equivalent of a similar fitness facility in the City of Dallas, Texas, with a million people.<sup>3</sup>

Petitioner developed the sales comparison approach by analyzing four comparable sales. The analysis included comparable sales adjustments to account for differences to the subject property. Overall, there is a lack of sales similar to the subject in this market. Nonetheless, Petitioner relied on this approach as a test of reasonableness to the income approach.

Petitioner's 2020 value indication from the sales comparison approach was \$3,150,000. For the subsequent tax year, Petitioner's appraiser analyzed the subject's value loss due to the Covid pandemic for an estimate of \$970,000. This amount is deducted from the 2020 value to conclude to a value of \$2,180,000 for 2021.

Petitioner developed an income approach to value the subject property. Specifically, a direct capitalization methodology was applied to the subject. Petitioner's appraiser reasoned that the subject is an income producing property which would warrant an income analysis. Further, Petitioner's appraiser reviewed the subject's actual financial data from 2017 through 2019. Through the data source IHRSA, Petitioner was able to

---

<sup>2</sup> Vol 1, 35-36.

<sup>3</sup> Vol 1, 41.

analyze revenue and expense information for health club operators and professionals from 2014 through 2018.

Petitioner analyzed the subject's membership dues and non-dues revenue to determine a market supported revenue. Petitioner contends that the subject's 2019 membership was 6,795 and dropped to 5,578 in 2020. This approximate 18% drop is understated given the number of frozen (inactive) memberships. For fitness clubs over 60,000 square feet, the reasonable range is 4,500 to 12,000 members. The subject's membership numbers are within the stated range but below the median of 7,900.<sup>4</sup>

Membership data was reviewed to derive an income rate for the subject property. Further, expense data was reviewed to derive relevant market expenses for the subject property. From a net operating income (NOI), Petitioner then derived a capitalization rate from relevant capitalization methodologies (band of investment, capitalization comparable sales, and survey rates). Again, the subject's location is inherent in revenue and expenses. The subject's building size in a smaller market is an issue. The demand within a smaller market such as Holland was taken into consideration for the capitalization rate.<sup>5</sup> From the *going concern value*<sup>6</sup> of \$3,560,000, the deduction of furniture, fixtures, and equipment (FF&E) was made to arrive at the 2020 TCV of \$3,250,000. The impact of the Covid pandemic resulted in a loss and a 2021 TCV of \$2,280,000 for the subject property.<sup>7</sup>

Petitioner's appraiser admitted that all things being equal, a property in a market with a smaller and less wealthy population will be worth less than the identical property in a larger wealthier area.<sup>8</sup> The subject property is competently managed; Petitioner has 7 clubs in Michigan and 3 clubs in Florida.

Petitioner's appraiser distinguishes this appraisal assignment from the Rockford appraisal report as questioned by Respondent's counsel. First, Petitioner's appraiser did not do a separate highest and best use (HBU) analysis for each comparable sale. Second, the Holland comparable sales were focused on fee simple sales; the Rockford comparable sales were focused on leased fee sales for a going concern value.<sup>9</sup>

#### PETITIONER'S ADMITTED EXHIBITS

- P-1: Petitioner's appraisal report prepared by G. Tobin Heaton.
- P-3: Holland East Retail Market – 2019 Vacancy Rates (page 371).
- P-3: Lakeview Athletic Club, 124 Sylvan, Spring Lake (pages 1-2).
- P-3: Marshall Valuation Service (MVS) Excerpt (page 344).

---

<sup>4</sup> Vol 1, 64-65.

<sup>5</sup> Vol 1, 85.

<sup>6</sup> Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 7<sup>th</sup> ed, 2022) p. 83.

<sup>7</sup> Vol 1, 113.

<sup>8</sup> Vol 1, 69.

<sup>9</sup> Vol 1, 162.

- P-3: Marshall Valuation Service (MVS) Excerpt (page 456).
- P-3: Marshall Valuation Service (MVS) Excerpt (page 409).
- P-4: Email Correspondence.
- P-5: Emergency/Executive Order.

### PETITIONER'S WITNESS

Petitioner's witness, G. Tobin Heaton, prepared an appraisal report for the subject property. He is primarily a commercial appraiser with 24 years of valuation experience and specializes in commercial properties. He is licensed in the state of Michigan as a Certified General Real Estate Appraiser. Based on his education and experience, the Tribunal accepted Mr. Heaton as an expert real estate appraiser.

### RESPONDENT'S CONTENTIONS

The property's TCV, SEV and TV, as confirmed by the BOR, are as follows:

**Parcel Number:** 70-16-33-400-079

Year	TCV	SEV	TV
2020	\$5,261,000	\$2,630,500	\$1,988,811
2021	\$5,573,400	\$2,786,700	\$2,016,654

Respondent's revised contentions of TCV, SEV and TV are as follows:

**Parcel Number:** 70-16-33-400-079

Year	TCV	SEV	TV
2020	\$6,000,000	\$3,000,000	\$1,988,811
2021	\$6,000,000	\$3,000,000	\$2,016,654

Respondent contends that the subject is unique and was originally built as a special use property.

Respondent's appraiser analyzed the subject neighborhood in relation to the four *lifecycles*.<sup>10</sup> The Holland-Grand Rapids market was researched. Respondent contends there is no indication that there is any kind of negative impact in the market to the subject. Given the subject building's larger size, the property is an institutional grade in a national market.<sup>11</sup>

Respondent's conclusion of highest and best use for the subject property is as continued existing use as a full-service health and fitness club.

Respondent's appraiser considered all three approaches to value. However, the sales comparison approach was not developed because of the lack of comparable sales to

<sup>10</sup> Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 15<sup>th</sup> ed, 2020), 140-141.

<sup>11</sup> Vol 1, 185.

the subject property. There are many local fitness clubs (less than 50,000 square feet) but are not comparable to a full-service health club such as the subject.

Respondent's appraiser contends that appraisers are judged heavily by their peers in valuation practice. Specifically, Respondent's appraiser believes that her peers have always taken the position that the cost approach is the best indicator of value when it comes to special use properties where there is a lack of data.<sup>12</sup>

Respondent's appraiser only developed a limited income approach of the subject property. The financial information that the appraiser received was insufficient to properly develop an income analysis. Moreover, income information from competing fitness clubs is extremely difficult to obtain. Respondent's limited income analysis was developed merely as a check of reasonableness for the cost approach.

Respondent contends that the most relevant means to value the subject property is the cost approach. Again, the subject is a special use property.

Regarding Petitioner's evidence, Respondent argues that Petitioner's data source IHRSA includes nationwide data and not specifically for Michigan.<sup>13</sup>

#### RESPONDENT'S ADMITTED EXHIBITS

- R-1: 2021 Subject Property Record Card.
- R-2: Respondent's appraisal report prepared by Jumana Judeh.
- R-6: Rockford Appraisal Report – Comparable Sales.

#### RESPONDENT'S WITNESS

Petitioner's witness, Jumana Judeh, MAI, prepared an appraisal report for the subject property. She is primarily a commercial appraiser with 28 years of valuation experience, specializing in all types of commercial producing properties. She is licensed in the state of Michigan and is designated through the Appraisal Institute. Based on her education and experience, the Tribunal accepted Ms. Judeh as an expert real estate appraiser.

#### 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 conclusions and has rejected evidence contrary to those findings.

---

<sup>12</sup> Vol 1, 179.

<sup>13</sup> Vol 1, 145.

1. The subject property is located at 650 Waverly Road, in the City of Holland and within Ottawa County.
2. The subject property is comprised of 14.19 acres and is improved with a detached 2,200 square feet restroom/pool building, a 2-story clubhouse (with a mezzanine) with attached office space and attached tennis courts. The main structure was constructed in 1976. Renovations to the building occurred in 2007.
3. The subject has gross building area (GBA) of 121,090 square feet.<sup>14</sup>
4. The subject is a special use property constructed as a full-service health club.<sup>15</sup>
5. The subject property is zoned C-2, Highway Commercial District.
6. Petitioner has seven MVP fitness clubs in Michigan and three fitness clubs in Florida.<sup>16</sup>
7. The subject property is valued as *fee simple*<sup>17</sup> under the definition of *market value*<sup>18</sup>.
8. The highest and best use of the subject property is as a health club facility.<sup>19</sup>
9. Petitioner submitted valuation evidence in the form of an appraisal report which included the sales comparison and income approaches to value.
10. Respondent submitted valuation evidence in the form of an appraisal report which included a limited income approach and a cost approach.
11. Respondent's appraiser's workfile included the subject property's 12-month financial statements for 2019 and 2020.<sup>20</sup>
12. Respondent's appraiser developed the cost approach to value by dividing the subject property into four distinct areas with different base costs.<sup>21</sup>
13. Respondent's appraiser applied the same percentage of physical depreciation to the 7 different site improvements.<sup>22</sup>
14. Respondent's appraisal report and workfile omitted any analysis for market standards to determine whether the subject had any functional obsolescence.<sup>23</sup>
15. Respondent's appraisal report does not account for any functional or external (economical) obsolescence to the subject property.<sup>24</sup>
16. The 2021 property record card denoted 47% physical depreciation, 25% functional obsolescence, and 38% economic obsolescence for the subject's fitness center.<sup>25</sup>
17. Respondent's appraiser analyzed vacant land sales as part of her cost approach.

---

<sup>14</sup> Each party's appraisal report contains a sketch and dimensions for the subject building. However, Petitioner's BS&A details and sketch carry greater detail. Respondent's determination of 121,909 GBA did not have the same level of detail or clarity. Further, Respondent's appraiser denoted the subject GBA as 123,569 square feet (which included the detached restroom/poolhouse) within the "Description of Improvements" (R-2, 28).

<sup>15</sup> Vol 1, 42 and 200.

<sup>16</sup> Michigan locations include Rockford, Kentwood, and multiple Grand Rapids facilities.

<sup>17</sup> R-2, 18 and P-1, 9.

<sup>18</sup> R-2, 17 and P-1, 10-11.

<sup>19</sup> Vol 1, 35 and Vol 2, 249.

<sup>20</sup> Vol 2, 291-292.

<sup>21</sup> Vol 2, 312.

<sup>22</sup> Vol 2, 355.

<sup>23</sup> Vol 2, 360.

<sup>24</sup> Vol 2, 366.

<sup>25</sup> Vol 2, 374-375.

18. Respondent's appraiser applied an economic characteristic (a.k.a., location) adjustment to her comparable land sales.<sup>26</sup>
19. Respondent's appraiser did not have any demographic data support in her work-file or appraisal report for the economic characteristics adjustments made to her comparable land sales.<sup>27</sup>
20. In testimony, Respondent's appraiser admitted that the subject's revenue loss from December 31, 2019, to December 31, 2020, was attributable to the Covid-19 pandemic.<sup>28</sup>
21. Each party's appraiser cited to IHRSA information, survey, and data etc. as a credible source.<sup>29</sup>
22. Each party's appraiser analyzed the impact of Covid-19 on the subject's market value as of December 31, 2020.

### 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.<sup>30</sup>

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.<sup>31</sup>

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.<sup>32</sup>

The Michigan Supreme Court has determined that "[t]he concepts of 'true cash value' and 'fair market value' . . . are synonymous."<sup>33</sup>

"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

---

<sup>26</sup> Vol 2, 382.

<sup>27</sup> Vol 2, 383.

<sup>28</sup> Vol 2, 446.

<sup>29</sup> Vol 1, 32 and Vol 2, 448.

<sup>30</sup> See MCL 211.27a.

<sup>31</sup> Const 1963, art 9, sec 3.

<sup>32</sup> MCL 211.27(1).

<sup>33</sup> *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

assessment.”<sup>34</sup> The Tribunal is not bound to accept either of the parties' theories of valuation.<sup>35</sup> “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.”<sup>36</sup> 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.”<sup>37</sup>

A proceeding before the Tax Tribunal is original, independent, and de novo.<sup>38</sup> The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”<sup>39</sup> “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”<sup>40</sup>

“The petitioner has the burden of proof in establishing the true cash value of the property.”<sup>41</sup> “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.”<sup>42</sup> 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.”<sup>43</sup>

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.<sup>44</sup> “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”<sup>45</sup> 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.<sup>46</sup> Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.<sup>47</sup>

---

<sup>34</sup> *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

<sup>35</sup> *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

<sup>36</sup> *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

<sup>37</sup> *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

<sup>38</sup> MCL 205.735a(2).

<sup>39</sup> *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

<sup>40</sup> *Jones & Laughlin Steel Corp*, *supra* at 352-353.

<sup>41</sup> MCL 205.737(3).

<sup>42</sup> *Jones & Laughlin Steel Corp*, *supra* at 354-355.

<sup>43</sup> MCL 205.737(3).

<sup>44</sup> *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).

<sup>45</sup> *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

<sup>46</sup> *Antisdale*, *supra* at 277.

<sup>47</sup> See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).



## MARKET ANALYSIS AND DESCRIPTION

Each party's appraiser developed a market description and analysis for the subject property. On the one hand, Petitioner's appraiser used a radius circle for a demographic analysis including population, household income, and unemployment statistics.<sup>48</sup> More specifically, this analysis included Ottawa County showing greater population and household income than the City of Holland.<sup>49</sup> Heaton utilized sources including Easy Analytic Software, Inc. (EASI) Demographics, Ottawa County, and IHRSA. On the other hand, Respondent's appraiser gave primary focus to the City of Holland for her demographic analysis.<sup>50</sup> Judeh relied on sources including *Site to do Business*, the U.S. Census Bureau and Ottawa County.

Both appraisers' market analysis and descriptions are slightly varied. Given the multiple MVP fitness clubs in West Michigan, the market appears to encompass Ottawa County as opposed to just the City of Holland. The Tribunal is not convinced that the subject fitness club is sequestered exclusively in the City of Holland. To rely on a radius circle may or may not be meaningful to a market analysis. Petitioner's appraiser admitted that sometimes a market analysis is for the county or the Metropolitan Statistical Area (MSA). In general, a market description and analysis must include meaningful explanation to lead intended users through an appraisal report.

Nonetheless, the parties' appraisal reports touched on the MSA for the Holland and Grand Rapids areas. Again, equally telling is the acknowledgment of Petitioner's multiple full-service fitness clubs in West Michigan. The fact that Petitioner has multiple facilities is an indication that such fitness clubs are not a rarity in West Michigan. While the City of Holland's demographics does not compare to the City of Grand Rapids demographics, the subject market area transcends the two separate cities. Said differently, Petitioner's various fitness club locations focus on a large portion of West Michigan. Moreover, the inference that club membership would offer access to all of the MVP fitness clubs is reasonably assumed. It is undisputed that a variety of fitness clubs and gyms exist in West Michigan. Therefore, the subject's market is aptly reasoned as West Michigan.

## SALES COMPARISON APPROACH

As noted, Respondent's appraiser elected not to develop a sales comparison approach to value due to the lack of sales data at the local, state, and national levels. The Tribunal does not accept this premise given the number of full-service fitness clubs owned by Petitioner as well as the acknowledged existence of limited-service fitness clubs and gyms in the State of Michigan. A comparative analysis is not necessarily and automatically discarded due to a lack of current sales. Said differently, the presence of fitness gyms and clubs carries a common denominator with the subject property; such

---

<sup>48</sup> Vol 1, 157.

<sup>49</sup> Vol 1, 115-116.

<sup>50</sup> Respondent's appraiser admitted that she made a mistake in not including surrounding area demographics for the market analysis. (Vol 2, 254).

properties are utilized for physical and social interactions. Respondent's appraiser further testified that undertaking a comparative analysis for the subject would be unbeneficial as sale transactions of fitness centers are based on going-concern values. As emphasized, valuation tax appeal matters only involve the value of the real estate.

Respondent's refutation over Petitioner's comparable sales (as failed health clubs) misses the point. Petitioner's comparable sales were built and designed as health clubs. An alleged failed use is not necessarily an element of an arm's length transaction that turns a sale into a viable comparable sale for analysis in valuation practice and theory. Petitioner's comparable sales are predicated on *value-in-exchange*<sup>51</sup> and not on *use value*<sup>52</sup> (a.k.a., value-in-use). The comparables failed uses is not the point but rather that they were built as health clubs. This is market evidence of buildings similar to the subject. Simply, market data does exist for a comparative analysis to the subject.<sup>53</sup> Therefore, the Tribunal does not accept Respondent's reasons for omitting a sales comparison approach in this tax appeal matter.

In valuation theory, the comparables' highest and best uses are expected to mirror a subject property.<sup>54</sup> However, in valuation practice, the subject and comparable sales may have different uses. Realistically, the use of a comparable may change subsequent to the sale of that property. A comparative analysis looks at the use of each comparable sale in line-item fashion (i.e., zoning) which allows for various acceptable uses. The purpose of a comparative analysis is to thresh out the sale property as a comparable sale. For example, a comparable sale may have a different use but have the same zoning at the subject property. Consequently, the highest and best use for the subject property is different than the "use" for a comparable property at the time of sale. Comparing and contrasting comparable sales to the subject property is the expectation in a comparative analysis. Again, a benchmark for a variety of legally, physically, and financially uses may be achieved within certain zoning ordinances. Said differently, an appraiser's due diligence research in the "normal course of business" may not necessarily encompass a separate highest and best use analysis for each comparable sale. The rigid perception that the subject and comparable sales must have the same highest and best use is not practical or reasonable. The Tribunal does not accept the premise that sales only become comparable sales when they have the same highest and best use as the subject property.

Petitioner's appraiser's sales comparison approach is a conventional framework for a comparative analysis to derive an indication of value for the subject.<sup>55</sup> However, this

---

<sup>51</sup> Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 7<sup>th</sup> ed, 2022), p 200.

<sup>52</sup> *Id.*, pp 199 and 201.

<sup>53</sup> Similar to Respondent's logic for a limited income approach, Petitioner's limited sales comparison approach is also feasible for the market value of the subject property.

<sup>54</sup> Contrary to Respondent's appraiser's belief, the U.S. Supreme Court did not weigh in on the *Menards* decision dealing with highest and best use. (Vol 1, 187)

<sup>55</sup> However, Heaton's sales comparison adjustment grid is deficient in format disallowing a reader to follow line-item entries, descriptive items and corresponding adjustments. Moreover, the adjustment grid included the comparable sales but excludes a descriptive column for the subject property. A reader and intended user of this appraisal report would reasonably expect to see side-by-side columns for the subject

comparative analysis has limitations. First, the abbreviated list of line-item entries is insufficient to illustrate characteristics and amenities for the subject. An adjustment grid should help a reader understand what the line-item is relative to the adjustment. In other words, line-item entries and corresponding adjustments should be side-by-side in a comparative grid analysis. Explanatory narration set off in other parts of the appraisal report do not readily give meaning to Petitioner's adjustment grid. Second, combined age and condition adjustments in the adjustment grid are not consistent with the appraiser's separate entries for these items in the comparable sale write-ups. The subject's chronological age (YB: 1976) relative to its remodeling in 2007 would compel separate grid entries, especially if any of the comparable sales had similar updating. Third, the lack of additional line-items is not persuasive to the overall analysis. For example, the grid omitted an entry for zoning. Given the building sizes and varied amenities, greater details and line-items for analysis would be reasonably expected. Fourth, Petitioner's appraiser devised an average from the adjusted prices per square feet to arrive at an indication of value. Reconciliation of data is more than a calculation. "The sales comparison approach is not formulaic. It does not lend itself to detailed mathematical precision. Rather, it is based on judgment and experience as much as quantitative analysis."<sup>56</sup> Logic and reasoning helps to compare and contrast sales to the subject property. For these reasons, the adjustments, the adjusted prices per square feet, and the indication of market value are given no weight or credibility in the independent determination of market value for the subject property.

Nonetheless, Petitioner's unadjusted comparable sales are considered because the sales data is market evidence of fitness clubs relevant for analysis.<sup>57</sup> While the quantitative adjustments are omitted, they illustrate differences between the comparable sales and the subject property which can be analyzed qualitatively. All four sales are fitness facilities having a common element of comparison to the subject property. All four sales have smaller gross building areas which are superior to the subject. All four sales are similar to the subject in land to building ratios. All of the sales were analyzed from the standpoint of the real estate and not the going-concern sales prices. On the other hand, all four sales are inferior to the subject in fitness amenities. Sales 1, 2, and 4 are located in other states. Sale 3 is located in the state of Michigan and has the least amount of differences compared to the subject. Sales 1 and 2 occurred relatively close to the December 31, 2019, tax day. Therefore, a reasoned and reconciled determination gives consideration to all four unadjusted sales. However, all four sales are superior to the subject in gross building area and location placing the \$/SF at the low range of the unadjusted sale prices (\$30/SF x 121,090 square feet = \$3,632,700). With a rational and cogent analysis, the sales comparison approach is a legitimate check of reasonableness to other approaches to value.

---

and comparable sales with descriptive line-item entries. Consistent formatting allows for a meaningful analysis on the part of an appraiser.

<sup>56</sup> Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 15<sup>th</sup> ed, 2020), p 368.

<sup>57</sup> Petitioner's due diligence in citing two additional sales of fitness centers in Michigan is also persuasive. (P-1, 62) While the sales were not applied in the comparative analysis, they disprove Respondent's claim that no sales of fitness facilities existed locally, regionally, or nationally.

## COST APPROACH

Generally, a cost approach is most applicable to new or newer properties. As reasoned, a newly constructed property would have minimal depreciation. On the other hand, a cost analysis is more problematic for older properties in quantifying all forms of depreciation. The elements for a cost analysis include the determination of land value, the replacement cost new (RCN) for building improvements, a calculation of depreciation (physical, functional, and external), and site improvements. Respondent's cost approach is a conventional framework for the cost analysis of the subject property. However, Respondent's application and reasoning for a cost approach is contradictory and unpersuasive.

First, the write-ups for the land sale comparables are deficient. Specifically, the broad label of "commercial" was ascribed to the zoning for each land sale. The lack of discerning zoning classifications between different municipalities does not bolster Respondent's land comparative analysis. As pointed out by Petitioner's counsel through cross-examination, the land write-up remarks describe various proposed development including office, retail, medical and senior care facilities. Such broad "commercial" zoning indicates permissible uses including special use properties. Second, the appraiser denoted a specific line-item entry for "highest and best use" and that the subject and comparable land sales are all "commercial." The appraiser's limited narrative for the "highest and best" adjustment was merely an acknowledgement to the four tests of analysis. Said differently, the presumption of acceptable commercial use was not supported by any analysis. Third, the write-ups included a "verification" of sources for each land sale. The appraiser is remiss in not distinguishing between a primary source and a verification source. Fundamentally, the two types of sources are not synonymous and should not be treated as such. To do so is not meaningful in demonstrating due diligence, reliability, and credibility in an appraiser's search efforts. Fourth, Petitioner challenged Respondent's appraiser's analysis regarding land sale 5. The parcel was listed for \$1,188,000 but sold for \$1,552,518. Respondent's appraiser attempted to recall her conversations with real estate brokers.<sup>58</sup> Again, verification of a sale price that was greater than the list price would be customary based on Respondent's appraiser's reliance on her "peers" in the market. Lastly, Respondent's reconciliation of the adjusted vacant sales is confusing. Reliance was placed on the "Holland comparable" but was tempered by sale 1 (Kentwood) having similar acreage. The Tribunal is not persuaded that market participants prefer the identification of a parcel of land on price per square feet basis when commercial properties are typically listed, exposed, and marketed as acreage for sale.<sup>59</sup> For these reasons, Respondent's land sales comparative analysis is given no weight or credibility in the independent determination of market value for the subject property.

Next, Respondent's appraiser's effective ages for the subject's different building areas exceed their actual ages. Likewise, the appraiser was confused about her

---

<sup>58</sup> Vol 2, 411-417.

<sup>59</sup> R-2, 65.

determinations for the effective age for each building component. Judeh was unable to recall her analysis for effective ages and actual ages for each building area. Further, her appraisal report did not include any explanatory narration to remedy these inconsistencies.<sup>60</sup> The appraiser's testimony and lack of clarifying narration for the effective ages, the chronological ages, and the method of depreciation is not meaningful to the cost analysis.

Respondent's claim that the effective age determinations included design/functional utility was baffling. Respondent's appraiser utilized an *age/life method*<sup>61</sup> for depreciation on a straight-line basis which was claimed to only account for physical depreciation. In fact, this method accounts for a lump sum depreciation. In other words, this method does not single out or isolate just physical depreciation from functional and external obsolescence. Respondent's appraiser testified that the other forms of depreciation do not exist at the subject property. However, after the completion of her appraisal report, Judeh testified that there are other fitness facilities in the subject's market area similar to the subject.<sup>62</sup> The acknowledgement that there are other fitness properties in the area but that all of them are inferior to the subject in size and amenities (as an over-improvement or super-adequacy) infers that the subject does suffer from functional obsolescence at least on a qualitative basis. While the subject size and amenities (in aggregate) may be superior to smaller fitness clubs, the fact remains that smaller fitness gyms nonetheless compete with the subject's fitness amenities.<sup>63</sup> Smaller fitness clubs (having fewer amenities) appear to compete with the subject for memberships. As previously noted, the existence of competing fitness clubs in the West Michigan market area proves a common denominator for analysis.

Respondent's assertion for no obsolescence was not supported by any market standards research. In other words, Judeh did not research the market for fitness club amenities to prove the subject's functional obsolescence. Conclusory statements contending that the subject does not suffer from any functional obsolescence is not meaningful to Respondent's cost analysis. Further, Respondent appraiser's admission that the subject fitness center is larger than typical in the marketplace does not square with the thought of no functional obsolescence because the subject offers a wide range of amenities.<sup>64</sup> In fact, Respondent's appraiser's position on obsolescence is contradicted by Respondent's assessor's subject property record card (showing functional obsolescence).

Next, Respondent's appraiser's testimony regarding site improvements and their respective effective ages was confusing. Similar to the effective ages for the subject buildings, Respondent's site improvements analysis and determinations are not cogent. The actual age and effective age of each site improvement was challenged by Petitioner's counsel. Installation dates for each site improvement was questioned.

---

<sup>60</sup> Vol 2, 334-344.

<sup>61</sup> Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 15<sup>th</sup> ed, 2020), 572.

<sup>62</sup> Vol 2, 363.

<sup>63</sup> Vol 2, 378.

<sup>64</sup> Vol 2, 360-361.

Further, the application of MVS base costs assigned by Respondent's appraiser was questioned as well.<sup>65</sup> Overall, the testimony was not meaningful to the overall cost analysis.

In summary, Respondent's cost elements including building/site cost calculations, effective/actual ages, all forms of depreciation, and land valuation are not meaningful and are misleading. As a noted fact, the subject was constructed in 1976 and remodeled in 2007. The application of a cost approach for an older building having updates is unpersuasive. For these reasons, Respondent's cost approach is given no weight or credibility in the independent determination of market value for the subject property.

### INCOME APPROACH

The parties' respective analyses considered the subject's viability as an income producing property. Again, the subject property is owner-occupied, but this fact does not automatically preclude the development of this approach to value in valuation practice and theory. As noted, each appraiser developed an income approach to value. However, each appraiser has taken dissimilar paths in an income analysis.

Respondent agrees that a general income analysis is based on revenue, expenses, cap rates, and value.<sup>66</sup> Respondent's appraiser elected to only develop a limited income approach for the purpose of a check of reasonableness to her cost approach. The Tribunal does not accept this premise given the circumstances surrounding the attainment of the subject's financial information.

First, Respondent's appraiser claimed that she was not given sufficient financial information but yet was able to develop an income approach. Specifically, the subject's financial statements did not include managerial expenses. Judeh was provided with limited financial data and states, "I mean, just because you give me financial data doesn't necessarily mean that that's market driven."<sup>67</sup> The point of having a subject's financial information means the appraiser is going to perform due diligence in carrying out the research and analysis. Applying the subject's income data in commensurate fashion to the market is commonplace in valuation practice. The Tribunal is not persuaded that Respondent's appraiser genuinely attempted to follow through with the subject's financial information to the market.

Second, Respondent's appraiser's concerns about the limitations for developing an income analysis are unconvincing. The Tribunal fails to see what prevented Respondent from reviewing full-service fitness clubs in West Michigan to derive general revenue for membership dues (as posted on public websites). Respondent's reliance on "peers" actions overlooks what Petitioner's appraiser did with the subject's financial

---

<sup>65</sup> Vol 2, 353-354.

<sup>66</sup> Vol 2, 288.

<sup>67</sup> Vol 1, 197.

information. Arriving at stated conclusions was quite telling as Respondent's workfile included the financial statements for an income analysis. However, Respondent's appraiser claimed that market income data was difficult to obtain as fitness club owners (and most commercial property owners) are reluctant to share such information. Yet, Petitioner's many MVP fitness clubs in Michigan would appear to be a starting point for market information. Further, Respondent's appraiser admitted to having appraised many fitness clubs over her extensive valuation career. Extolling an appraiser's experience and knowledge does not give credence to the indication of value when the report does not display any support other than the appraiser's knowledge, judgment, and experience. A report must carry support and persuasion beyond conclusory statements. An expert's testimony and documentary evidence must be weighed to determine credibility and reliability.

Third, Respondent developed potential gross income on the basis of market rent and not based on membership revenue. Rental income potentially avoids the going-concern value for the property. However, Respondent utilized big box store rental comparables which are not special use properties. Rental rates from commercial retail big box stores does not appear to be an apples-to-apples analysis to the subject's special use property. Overall, Respondent's income rental comparable data was unadjusted. Respondent's appraiser did not review the rental leases. Respondent's pro forma income assumed triple-net leases (NNN) with all carrying costs being the responsibility of the tenants. Therefore, Respondent's rental data analysis is given no weight or credibility in the independent determination of market value for the subject property.

Fourth, Judeh's testimony regarding the relevance of an income approach for any income producing property was confusing and not credible.<sup>68</sup> Practically speaking, there is a value from potential gross income attributable to the real estate. In other words, a real estate value is reasonably attainable by discounting the intangibles (i.e., FF&E, goodwill, name brand etc.) from the going-concern value.

Repeatedly, an appraisal report is based on the opinions, analyses, and conclusions of the appraiser. In this instance, the Tribunal cannot place reliance on conclusory statements based on an appraiser's testified "experience and expertise" which nebulously refers to data not included in an appraisal report or workfile. "Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care."<sup>69</sup> Respondent's actions belie the importance of rendering a meaningful appraisal report.<sup>70</sup> An appraiser's opinions, analysis and conclusions do not come before the market data is developed.

---

<sup>68</sup> Vol 2, 293-299.

<sup>69</sup> The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Washington DC: 2020-2021 Edition), p 11.

<sup>70</sup> Respondent's appraiser's admitted typos, mistakes, errors, omissions, misplaced verbiage, etc. do not signify a meaningful appraisal report, workfile, or conclusions of value. Vol 2, 229, 254, 324, 338, 344, 360, 363, 381-384, 386-387, 390-396, 399-401, 403-404, 407, 416, 442, 461, and 463.

Fifth, Respondent's appraiser's reliance and reference to "her peers" and what they are doing is not meaningful. Continuous references to "peers" took focus away from the reliance and understanding of a "scope of work."<sup>71</sup> The Tribunal is unable to assume that Respondent has an understanding of the "scope of work acceptability" element.<sup>72</sup> Each valuation assignment is predicated and driven by a scope of work. What each "peer" decides to undertake in each valuation assignment is based on the specific "scope of work." As each appraisal assignment (and assignment conditions<sup>73</sup>) are different, so will an appraiser's scope of work. An appraiser does not exclusively fall back on the actions of his/her peers.

The independent determination of market value for the subject property is as an owner-occupied commercial property with fee simple property rights. The subject is not encumbered by a lease. As of December 31, 2019, and December 31, 2020, the subject property was not available for lease; the subject property was owner-occupied.<sup>74</sup> The parties' valuation disclosures acknowledge the subject in terms of fee simple property rights. A fee simple estate is defined as "Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat."<sup>75</sup> The full bundle of rights (in fee simple) for the subject as an economic unit is done so without encumbrances. Nonetheless, Respondent believes that a real property value cannot be determined from the going-concern value of the subject property. Again, the rationale for Respondent's position is not persuasive. Leased fee interest is defined as "[t]he ownership interest held by the lessor, which includes the right to receive the contract rent specified in the lease plus the reversionary right when the lease expires."<sup>76</sup> The subject's property rights as fee simple are not a deterrence to an income analysis.

Similarly, Respondent's concerns over "vacant and available" commercial properties relative to an income analysis is misplaced. Again, as of the relevant tax days, the subject was neither vacant nor dark but rather was occupied and lit. Respondent's concerns over "dark" comparable sales are misplaced in this tax appeal matter. Specifically, the search for relevant comparable sales is based on arm's length sales under the definition of market value.<sup>77</sup> The connotation that "vacant and available" for a sale or lease as a detriment is equally misplaced. For a property to have a successful sales transaction, the property must be vacant and available for the purchaser to possess the property. Judeh's testimony in this regard is confusing.<sup>78</sup> A commercial property owner does not necessarily continue occupancy while waiting for the property to sell. Rather, the retailer moves on to a bigger and better store, a better location, or

---

<sup>71</sup> Vol 1, 179-180, 198-200 and Vol 2, 309 and 385.

<sup>72</sup> The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Washington D.C., 2020-2021 ed), 13-14

<sup>73</sup> *Id.*, p 3.

<sup>74</sup> The analysis of subject as leased at market rents is in the context of an income analysis.

<sup>75</sup> Appraisal Institute, *The Appraisal of Real Estate* (Chicago, 15<sup>th</sup> ed, 2020), p 60-61.

<sup>76</sup> *Id.*, 61-63.

<sup>77</sup> Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 7<sup>th</sup> ed, 2022), p 118.

<sup>78</sup> Vol 2, 249.



ceases operations in a given market area. For example, these actions prove that a big box retailer may not endlessly occupy the building to enhance the real estate profit. To the contrary, the retailer's mission is product sales profit and not necessarily real estate profit. Rental big box stores do not provide a reasonable rental basis for a special use property such as the subject.

Lastly, Respondent's reliance on a limited income approach merely as a test of reasonableness while giving full credence to the cost approach is not logical. A test of reasonableness infers/implies some reliance on the income approach in support of the cost approach. However, Respondent's conclusion of value falls squarely on the indication from the cost approach. For these reasons, Respondent's income approach is given no weight or credibility in the independent determination of market value for the subject property.

Petitioner developed the direct capitalization income approach for the subject property. As the subject property is a special use property (as acknowledged by both parties), Petitioner's appraiser developed gross potential income (PGI) on the basis of membership revenue. The subject property's income was not based on market rents. Petitioner's method to devise PGI is akin to an income analysis for a golf course. Rounds of golf are calculated to determine a market supported revenue. Here, Petitioner applied the subject's membership dues as income to market membership data through IHRSA. As noted, both parties' appraisers acknowledged IHRSA as a source of data and information. Therefore, Petitioner's application of IHRSA as a market data source is credible.

Petitioner reviewed and analyzed the subject's membership dues and non-dues for an overall revenue. Petitioner's ability to apply the subject's 2017-2019 financial information is meaningful and persuasive. Further, Petitioner applied the subject's financial information to the IHRSA market data. More specifically, the IHRSA data source focused on health and fitness club memberships. In essence, Petitioner was able to develop an income analysis without hesitation.<sup>79</sup> Petitioner's analysis of the subject's revenues was supported by credible market evidence.<sup>80</sup>

Next, Petitioner's analysis and presentation of operating expenses for the subject property from IHRSA is equally compelling. Again, the historical analysis from 2017-2019 was proximate to the subject's first year under appeal which was before the noted pandemic. Expenses were explained and supported resulting in a net operating income and expenses for the subject. The capitalization rate analysis included the band of investment, an investment survey and capitalization comparable sales' methodologies to arrive at a concluded overall capitalization rate. Petitioner cannot be faulted for considering and applying three methods for a capitalization rate analysis. Respondent's arguments are not convincing in this regard. Petitioner's appraiser customarily

---

<sup>79</sup> The parties acknowledged the difficulties in obtaining financial information from competing fitness clubs and gyms. This did not prevent Petitioner from securing reputable information from the data source IHRSA. Moreover, Respondent did not effectively refute this data source for fitness clubs.

<sup>80</sup> Vol 1, 71.

developed a capitalization rate from a Realtyrates survey, a comparative analysis from capitalization rate sales and a band of investment. On the other hand, Respondent's reluctance to develop the income approach due to going-concern issues is again nonsensical. In the absence of local income data, Petitioner utilized IHRSA data. Respondent's general refutation does not discredit Petitioner's analysis.<sup>81</sup> Acknowledging IHRSA data while only performing a cursory income approach does not bolster Respondent's analysis or conclusions of value.

The extent and level of Petitioner's income approach is logical and reasonable and is given weight and consideration in the independent determination of market value for the subject property. Petitioner's determination of a going-concern value of \$3,560,000 was taken a step further. Petitioner properly identified the value of FF&E which was not disputed by Respondent. The FF&E deduction of \$310,000 resulted in an indication of TCV from the income approach at \$3,250,000.

#### 2020 and 2021 TRUE CASH VALUES

As previous discussed, Respondent's cost and income analyses were given no weight and credibility for the subject's 2020 TCV. Correspondingly, Respondent's fallback analysis for a 2021 TCV must also fail. First, Respondent's identical value conclusions for 2020 and 2021 at \$6,000,000 contradict Respondent's acknowledgment of the effect of the pandemic. Respondent's appraiser stated, "[t]he pandemic of COVID-19 has certainly had an impact on the subject property for the second valuation year."<sup>82</sup> On the other hand, Respondent's appraisal report stated that there is no definitive market evidence of the effects of the Covid-19 virus on the subject property.<sup>83</sup> Judeh contended that the revenue loss from the subject's going-concern had nothing to do with the real estate. Yet, Respondent had the subject's 2019 and 2020 financial data indicating revenue losses.<sup>84</sup> Again, Respondent's appraiser admitted that the subject's revenue loss was attributable to the pandemic. To the contrary of Respondent's contentions, the real estate encompasses all of those improvements and fixture amenities that would attract and satisfy memberships and guests. The Tribunal is not persuaded by Respondent's illogical beliefs and evasions. Surely, a commercial going concern and revenue is not strictly based on the intangibles (i.e., name brand, etc.). Therefore, Respondent's 2021 contention of TCV is not given any weight or consideration in the independent determination of market value for the subject property.

As independently determined from Petitioner's comparative analysis, the indication of value is \$3,632,700 for 2020. The independent determination from Petitioner's income analysis is \$3,250,000 for 2020. A reasoned and reconciled overall conclusion of value for 2020 is attainable from these indications. To recap, the sales comparison approach

---

<sup>81</sup> Respondent's direct examination of its expert witness was not meaningful or substantive. Respondent's expert attempted to discuss Petitioner's appraiser's appraisal report without actually conducting a review appraisal. (Vol 1, 190-195)

<sup>82</sup> Vol 2, 442 and R-2, 76.

<sup>83</sup> R-2, 77.

<sup>84</sup> Vol 2, 444-446.

included sales of fitness properties which were analyzed on the sales prices of the real estate. The income approach included the subject's financial information which was then applied to IHRSA market data. Therefore, weight and credibility are placed on both indications of value which bracket the independent determination of market value for the subject property as of December 31, 2019, at \$3,500,000.

Regarding the 2021 TCV, Petitioner's appraiser analyzed the effects of the COVID pandemic for the December 31, 2020, tax day. Petitioner reasoned an abbreviated direct capitalization analysis for a 2021 going-concern value of \$2,641,150 less \$310,000 (FF&E) and less \$506,250 (revenue loss) for an alternate income value of \$1,820,000. Petitioner's 2<sup>nd</sup> methodology for a 2021 income value took the 2020 income value of \$3,250,000 and deducted revenue losses of \$506,250 to arrive at \$2,740,000. Petitioner then averaged the alternative income figures for a concluded 2021 value of \$2,280,000.

Petitioner's sales comparison approach value for 2021 at \$2,280,000 was based on the 2020 sales comparison value of \$3,250,000 less a Covid discount of \$970,000. Petitioner stated a "prudent health club operator's" expectation based on an associated risk. Petitioner's presumption for a COVID discount was based on the difference between values before and after the COVID pandemic. As previously discussed, Petitioner's valuation approaches were considered. Therefore, Petitioner's indication of value from the sales comparison approach for 2021 is given no weight or credibility in the reconciled overall value for a 2021 TCV.

Once again, Petitioner relied on IHRSA data showing market changes in memberships as of December 31, 2020. The analysis of membership losses was straightforward and persuasive. Absent local data from either party's appraiser, IHRSA data is the most reliable and credible valuation evidence. Therefore, Petitioner's concluded net revenue loss of \$506,250 is deducted from the 2020 TCV of \$3,500,000 resulting in an indication of \$2,993,750 rounded to \$2,994,000 for December 31, 2020.

#### PETITIONER'S MOTION TO STRIKE APPRAISER'S TESTIMONY (MRE 702)

At the conclusion of Petitioner's cross-examination of Respondent's expert witness, Petitioner motioned to strike Respondent's appraiser's testimony.<sup>85</sup> Specifically, Petitioner contended Judeh's testimony should be stricken because she was unable to recall notes, analysis, and methodologies from her workfile. Petitioner contended Judeh's inability to parallel information from her workfile to her appraisal report was discrediting. In response to the motion, Respondent contends Petitioner's questions over emails and published articles from Respondent's workfile are irrelevant.

The Tribunal has considered the motion and response and finds that the motion is without merit. Both parties' appraisers relied on their respective work files which were

---

<sup>85</sup> Vol 2, 404-406.

not subpoenaed for the hearing. The compilation and reference to a work file is reasonable given the reality that an appraisal report would be thousands of pages without a backup file. Each appraiser's narrative report contains a level of specific and summary information. Likewise, both appraisers were asked to recall elements from their workfiles that were not found in the appraisal reports. The lack of recall for specific items within a work file was admitted by both appraisers in the midst of testimony. An appraiser's credibility is weighed against his/her opinions, analyses and conclusions. Both appraisers were qualified as experts in real estate valuation for this hearing. Both appraisers provided testimony based on sufficient facts and data. The appraisers' testimony was the product of cited authoritative valuation treatises. Both appraisers applied principles and methods to facts of this case. As a result, Petitioner's Motion must be denied.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Respondent's valuation evidence is not more persuasive than Petitioner's testimonial and documentary evidence. Petitioner's comparative and income data was logical and reasonable. Respondent's cost approach and limited income analysis lacked cohesion, clarity, and substance. The subject property's TCW, 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 MODIFIED 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%, (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 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: April 26, 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