



STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

MARLON I. BROWN, DPA
DIRECTOR

Green Ridge Holdings, LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MTT Docket No. 23-000614

City of Walker,
Respondent.

Presiding Judge
Mark Perry

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Green Ridge Holdings, LLC, appeals ad valorem property tax assessments levied by Respondent, City of Walker, against parcel numbers 41-13-01-151-008, 41-13-01-151-009, and 41-13-01-151-018 for the 2023 tax year. The proceedings were brought before this Tribunal on November 18, 2024, and continued on through November 22, 2024, to resolve the real property valuation dispute. Jason Long, Attorney, appeared on behalf of Petitioner. Greg Longworth, Attorney, appeared on behalf of Respondent. Petitioner’s witnesses were Rick Davis and Daniel Tomlinson, Member Appraisal Institute (MAI). Respondent’s witness was David Van Stensel, 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 subject property are as follows:

Tax Year: 2023

Parcel Number	TCV	SEV	TV
41-13-01-151-008	\$8,607,060	\$4,303,530	\$3,907,634
41-13-01-151-009	\$1,224,300	\$612,150	\$555,103
41-13-01-151-018	\$13,268,640	\$6,634,320	\$5,971,533
Total	\$23,100,000	\$11,550,000	\$10,434,270

GENERAL PROPERTY DESCRIPTION

The subject property, commonly known as Green Ridge Square Mall, consists of six total assessment parcels,¹ of which three were previously withdrawn and dismissed from this appeal, and the remaining three parcels are collectively commonly known as Subject Property North (North). North’s address is 3370 – 3410 Alpine Avenue, NW,

¹ P-1, at 7-8. North: 18.23 acres, GBA: 213,005 sq. ft., NRA: 205,129 sq. ft. South: 2.79 acres, GBA: 17,608 sq. ft., NRA: 17,454 sq. ft. West: 1.63 acres. East: 0.28 acres.

City of Walker, Kent County, Michigan, consisting of 18.23 acres of a total 22.93 acres.² North's property tax assessment classification is commercial real property;³ zoned C PUD, Commercial Planned Unit Development Zoning District;⁴ and improved with two single-story buildings 17 units, and the multi-tenant inline retail center originally constructed between 1988-1989.⁵ The two buildings contain 17-units with a gross building area (GBA) of 213,129 sq. ft. and net rentable area (NRA) of 205,129 sq. ft.⁶

PETITIONER'S CONTENTIONS

Petitioner's contentions of TCV, SEV, and TV are as follows:⁷

Tax Year: 2023

Parcel Number	TCV	SEV	TV
41-13-01-151-008	\$6,000,000	\$3,000,000	\$3,000,000
41-13-01-151-009	\$900,000	\$450,000	\$450,000
41-13-01-151-018	\$9,300,000	\$4,650,000	\$4,650,000
Total	\$16,200,000	\$8,100,000	\$8,100,000

Petitioner contends that the evidence presented in this case strongly supports a determination that the TCV of the subject property on the assessment rolls is overstated. Petitioner contends that its revised appraisal evidence supports a value for North of \$16,200,000 for the 2023 tax year.

Petitioner further contends that (i) more than 161,000 sq. ft. or about 78% of rental units make up just seven of the 17-units;⁸ (ii) its appraiser correctly relied on the sales comparison and income approaches to determine the TCV of the subject property; (iii) the income approach is the most appropriate method for valuing the subject property as a power-center shopping center and was relied on most significantly by its appraiser; (iv) the sales comparison approach provides a check to the reasonableness of its appraiser's income approach; (v) its appraiser valued the fee simple interest based on the highest and best use (H&BU) as its continued current use, market rent as of tax day, subject to market occupancy and "frictional vacancy," less market operating expenses and recognized lease-up costs; (vi) Respondent's appraiser failed to adequately support his assumptions and conclusions the property is a strip shopping center; (vii) Respondent's appraiser failed to support the concept of lower market vacancy/uncollectable rate for smaller inline shopping centers located in the Grand Rapids, Michigan market area more applicable to larger power-centers; (viii) Respondent's appraiser adopted a capitalization rate more aligned with smaller lower risk shopping centers and not supported for the larger higher risk shopping center

² *Id.*

³ P-1 at 164.

⁴ P-1 at revised 8, and P-1 at 164.

⁵ *Id.*

⁶ *Id.*

⁷ P-1 at revised 143.

⁸ Tr Vol. 1, 9:18 through 10:4.

market; and, (ix) Respondent’s appraiser failed to adjust his value estimate via the income approach for stabilized occupancy and operating costs (costs associated with adjusting vacancy to assumed market vacancy).

Petitioner’s representative called Petitioner’s first witness, Mr. Davis, who testified establishing which tenants actually occupied the North as of tax day 2023. Mr. Davis testified that despite the December 31, 2022 rent roll⁹ indicating Shoe Show occupied Green Ridge Square II suite-3 (GSII-3), in fact it did not occupy GSII-3 until after tax day 2023, in February 2023.¹⁰ He further testified that Bed Bath & Beyond (BB&B) was in the process of vacating suite GSII-2 on tax day 2023,¹¹ and became aware of the store closing through the media.¹² Mr. Davis also provided testimony that Petitioner immediately began seeking a tenant to fill GSII-2 with no interest because prospective tenants desired direct store front visibility facing west toward Alpine Avenue rather than facing south overlooking the parking lot.¹³ Mr. Davis further testified that GSII-2 remained vacant a year later on tax day 2024.

Petitioner provided documentary evidence of the property’s rent roll for GSI-North, GSII-North, and GSI-South illustrating, among other information, the rental unit’s number and square footage (sq. ft.) of occupied and vacant units as of tax day 2023.¹⁴ Table #1 summarizes individual unit sizes and vacancy for North and South as a percent of total sq. ft. as of tax day 2023.

Table #1

Count	Unit #	Unit Leasable Sq.Ft.	Unit % of GSI & GSII ¹⁵	Tenant
1	GSI-5	4,400	2.0%	VACANT
2	GSI-6	4,785	2.1%	Rue21
3	GSI-7	1,198	0.5%	GNC
4	GSI-8	5,188	2.3%	Lane Bryant
5	GSI-9	2,860	1.3%	Bath & Body Works
6	GSI-10	28,894	13.0%	Burlington
7	GSI-11	5,500	2.5%	Maurices
8	GSI-12	3,080	1.4%	Three Happiness Chinese
9	GSI-13	7,949	3.6%	Five Below

⁹ P-5.

¹⁰ Tr. Vol 1, 16:18-22.

¹¹ Tr. Vol 1, 17:3-12.

¹² P-14.

¹³ Tr. Vol 1, 17:13-24

¹⁴ *Id.*

¹⁵ As of December 31, 2022, there were two vacant units in GSI-North totaling 8,800 sq. ft. GSII-North had one vacant unit totaling 11,759 sq. ft. The total vacant NRA sq. ft. of GSI-North and GSII-North as of December 31, 2022, was 20,559 sq. ft. or 10.0%. As of the end of February 2023, the total NRA vacancy increased by 34,820 sq. ft. when BB&B surrendered its unit increasing the total NRA vacancy of North to 55,379 sq. ft. or 27.0%.

Count	Unit #	Unit Leasable Sq.Ft.	Unit % of GSI & GSII ¹⁵	Tenant
10	GSI-14	4,400	2.0%	VACANT
11	GSI-15	25,200	11.3%	Michaels
12	GSI-16	2,200	1.0%	Claire's
13	GSI-17	8,250	3.7%	Kirkland's, Inc
14	GSI-18	2,192	1.0%	Alpine Nails and Spa
15	GSI-19	2,750	1.2%	Adventure Credit Union
16	GSI-20	1,650	0.7%	Sally Beauty Supply
17	GSI-21	3,200	1.4%	Kay Jewelers
	<i>Total GSI-North</i>	<i>113,696</i>	<i>55.4%</i>	<i>Located on parcel -018</i>
18	GSII-1	44,854	20.2%	Best Buy
19	GSII-2	34,820	15.6%	BB&B (vac after 12/31/22) ¹⁶
20	GSII-3	11,759	5.3%	VACANT
	<i>Total GSII-North</i>	<i>91,433</i>	<i>44.6%</i>	<i>Located on parcel -008</i>
	<i>Total GSI & GSII-North</i>	<i>205,129</i>	<i>100.0%</i>	
<i>Separate South Parcel Located South of Center Street – Not Under Appeal</i>				
21	GSI-22	4,260	1.9%	Panera Bread
22	GSI-23	2,498	1.1%	Honey Baked Ham
23	GSI-24	3,797	1.7%	VACANT
24	GSI-25	2,167	1.0%	SVS Vision
25	GSI-26	2,146	1.0%	Supercuts
26	GSI-27	2,586	1.2%	GameStop
	<i>Total GSI-South</i>	<i>17,454</i>		<i>Located on parcel -027</i>
	<i>Total GSI & GSII¹⁷</i>	<i>222,583</i>	<i>100.0%</i>	<i>All Properties</i>

Mr. Davis provided documentary evidence and testimony that Petitioner purchased North and South, and two parking lot parcels adjacent to the Target parcel, in December 2021, for the amount of \$23,250,000.¹⁸ He further testified, prior to finalizing the real

¹⁶ The Tribunal notes GSII-2 NRA increased to 37,544 sq.ft. as shown on the December 31, 2023 rent roll. See P-6.

¹⁷ P-1 at 187 and P-5, excluding GSI-South, Petitioner's GSI-North and GSII-North December 31, 2022, rent roll indicates there are 20 rental units and a total net rental area of 205,129 sq. ft. Petitioner's appraiser estimates North is 213,005 GBA and 205,129 sq. ft. NRA, see P-1, at 39. Also see P-1, at 166 and 171 for Respondent's assessor property record card listing the total GBA of 213,005 sq. ft. Respondent's appraiser estimates parcels -008 and -018 have a combined 20 rental units (-008, 3 units; -018, 17 units) and a GBA of 214,546 sq. ft. (-008, 94,555 sq. ft.; -018, 120,991 sq. ft.). See also R-1 at 17 and R-2 at 18.

¹⁸ P-3.

estate transaction and discovering their store closing from the media, Petitioner had a conversation with tenant, BB&B, essentially verifying BB&B had intended on renewing their lease. Additionally, the BB&B store closing did not affect the decision to purchase the property, nor did it affect their expectations.¹⁹ However, after the formal announcement and closing, Mr. Davis testified that the remaining tenants began to become concerned about declining customer traffic and expressed their interest in invoking the co-tenancy²⁰ provision in their lease contract permitting tenants to withhold their monthly rent payment. He further stated that one tenant “stopped paying rent for a while.”²¹

Petitioner’s representative called Petitioner’s appraiser, Mr. Tomlinson, to the stand. Mr. Tomlinson was asked if there were any corrections or revisions that needed to be made, he testified the overall effective tax rate (ETR) was incorrectly calculated as the 1% administrative fee was added to the millage rate ETR rather than included through a multiplication factor. After correcting the mathematical overall ETR computation, the revised overall capitalization rate decreased from 10.03% to 9.87%.²²

For appraisal purposes, Petitioner’s appraiser testified that he classified North as a “power center” because the make-up of the overall shopping center campus development was more consistent with a power center²³ as defined by the Appraisal Institute,²⁴ rather than a community or neighborhood shopping “strip center.”²⁵

Mr. Tomlinson testified why he appraised the three assessment parcels making up North as a single economic unit:²⁶

¹⁹ Tr. Vol 1, 20:13 through 21:7.

²⁰ “Co-Tenancy Clause” is “[r]ental reduction for a small tenant in a retail center or right of a tenant to vacate the property, usually without penalty, if one or more anchors vacate and the anchor space is not tenanted within a specified period of time by a similar-quality, traffic-generating tenant. After the period ends, the tenant usually must return to the previous rent or terminate the lease.” *Appraisal Institute: The Dictionary of Real Estate Appraisal*, Seventh Edition, at 44.

²¹ Tr. Vol 1, 21:8-17. See also Vol 1, 23:21 through 24:19.

²² Tr. Vol 1, 31:3 through 32:7. During post-hearing closing instructions, the Tribunal directed Petitioner to correct the valuation disclosure throughout and submit the corrected ETR pages on the Tribunal’s docket lookup. The affected ETR original and revised pages are marked as revised followed by the corrected page number. See exhibit P-1, 4/4, 8/8, 13/13, 14/14, 104/103, 114/113, 115/114, 141/140, 143/142, 144/143.

²³ Tr. Vol 1, 32:17-25.

²⁴ “Power Center” is defined as a “large community shopping center with more than 250,000 square feet of space anchored by three or more tenants that occupy 60% to 90% of the space; the number of specialty stores is kept to a minimum.” *The Dictionary of Real Estate Appraisal* at 145.

²⁵ “Strip Center” is defined as a “strip shopping center or strip retail center.” See also “Strip Development” which is “[c]ommercial development in which the main thoroughfares of a city are bordered by an almost continuous row, or strip, of retail stores and allied service establishments; also any shopping area that consists of a row of stores.” *Id.* at 182.

²⁶ “Economic Unit” is defined as “1. A portion of a larger (parent) parcel, vacant or improved, that can be described and valued as a separate and independent parcel. Physical characteristics such as location, access, size, shape, existing improvements, and current use are considered when identifying an economic unit. The economic unit should reflect marketability characteristics similar to other properties in the market area. In appraisal, the identification of economic units is essential in highest and best use analysis of a property. 2. A combination of parcels in which land and improvements are used for mutual

[i]t's because of highest and best use.²⁷ If we start with the parking lot south of the Target store . . . "Subject Property Excess Land West" used as a . . . parking lot for the tenants in the mall.

The next property . . . is the Subject Property Excess Land East, which was a very small sliver . . . eventually donated to the city for a round-about.

The next property is [S]outh of Center Drive. There's a Panera restaurant there and several other smaller . . . tenants. It's also a smaller property. And that is a multi-tenant retailer because it doesn't contain any large tenant spaces. I'd classify that as a strip center; a neighborhood center. So that's different - different highest and best use.²⁸

And then, finally, the last three parcels are to the [N]orth of Target. If you look at the area, it looks somewhat like a 7, with Best Buy and the former Bed Bath & Beyond at the top of that number 7. And then, the straight line, of the number 7, contains in-line tenants Burlington and Michaels. And then, at the bottom, is the Target store; that, too, is a multi-tenant retailer, but it contains spaces greater than 23,000 square feet. So I'd classify that not as a strip center or a neighborhood center, but it fits more into the definition of a power center.²⁹

Mr. Tomlinson further provided testimony relative to Respondent's representative's inquiry of the strict adherence to the Appraisal Institute's and CoStar's definition of a power center being greater than 250,000 sq. ft. and inference the real estate must be owned by the same property owner:

Well, according to those strict parameters, one would think it would not follow that definition; however, you do have a Target store, there, that's adjacent. And the market would say, even though I may not have 250,000 square feet, that Target draws patrons. And, if I include that, I'm well over 250,000 square feet. So it's - it depends how patrons view the center and how the market participants will view the center, even if they own it or not. So the bottom line; even though I may not fall exactly within those definitions, I feel that is the best definition.³⁰

economic benefit. An economic unit may comprise properties that are neither contiguous nor owned by the same owner. However, they must be managed and operated on a unitary basis and each parcel must make a positive economic contribution to the operation of the unit." *Id.* at 60.

²⁷ P-1 at 42-43.

²⁸ The Tribunal notes that the East, West, and South properties were originally included in this pending appeal but have been withdrawn from this appeal. The parties filed a joint motion requesting that the Tribunal permit Petitioner to withdraw its appeal of Parcel Nos. 41-13-01-151-027 (West), 41-13-01-301-002 (South), and 41-13-01-302-001 (East); the Tribunal granted the motion on October 24, 2024.

²⁹ Tr. Vol 1, at 33:10 through 34:23.

³⁰ Tr. Vol 1, at 135:18 through 136:3.

Both party's appraisers provided photographs of the Green Ridge Square signage along Alpine Avenue. The two signs display anchor businesses located in the Green Ridge Square shopping center. The northerly most sign located next to the main ingress/egress to the shopping center parking lot on parcel -009 serves as access to all of North, Target and two out-lot tenants located along Alpine Avenue. The second Green Ridge Square sign is located on the Target parcel which is immediately adjacent to the second main ingress/egress into Green Ridge Square. This southerly access serves Target, all of North, and two out-lot tenants, and is located on parcel -018 owned by Petitioner. The northerly Green Ridge Square sign on parcel -009 displays business tenants, the former BB&B, Best Buy, and Burlington. The second Green Ridge Square or southerly sign is located on Target's property and displays Target and Burlington. The third ingress/egress access into Green Ridge Square is off from Center Street through the Target parcel leading to North's parcels -018, -009, and -008.³¹ There were no photographs of a Green Ridge Square sign marking this ingress/egress into the shopping center. There is a fourth public access owned by Petitioner located on the East parcel off from Weatherford and paralleling Target's southerly exterior wall. The East parcel also provides shipping and receiving access to the rear of Target and all of North. Petitioner's appraiser also provided his concept of what is Green Ridge Square, leading him to opine why the multiple parcels should be recognized as one economic unit making up a power center.

North is integrated to each other, it's all owned by the same owner, managed by the one entity and it all serves as one H&BU.³²

Petitioner's appraiser provided documentary evidence³³ and testimony that North's building improvements are shaped like the number seven with anchor stores Best Buy and the former BB&B located on parcel -008 at the top of the seven facing to the south, overlooking a parking lot on parcel -009, rather than facing Alpine Avenue. Located in the North-south portion of the seven on parcel -018, facing Alpine Avenue, are two additional anchor stores, Michaels and Burlington, mixed with several smaller inline stores. The southernly most anchor, constructed about the same time as North on its own contiguous parcel, is the Target retail store. The Target parcel immediately abuts North. Mr. Tomlinson further testified, if the shopping center was constructed today the building configuration would be different. The big-box stores would be built in a line toward the rear of the parcels facing Alpine Avenue and the inline tenant stores would be along Alpine Avenue. He concluded that the current configuration of North is an example of incurable functional obsolescence.³⁴

Highest and Best Use

Mr. Tomlinson provided documentary evidence and testimony as part of his vacant and improved H&BU determination, he analyzed multiple sources for industry market data

³¹ P-1 at 154-155, 175, 178, 181, P-4 at 1, and R-2 at 70-71.

³² Vol 2, at 50:3 through 52:8.

³³ P-1 at 172 and P-15.

³⁴ Tr. Vol 1, at 37:1-22. Also see P-1 at 46-47.

including CoStar, RealtyRates.com, and other internal company files for financial feasibility market indicators. Due to the effects of COVID, during the period preceding tax day 2023, COVID continued to influence patron inline shoppers to use e-commerce, possibly causing these market surveys to show patterns of weakening demand, negative retail absorption, and increasing vacancies. Based on the appraiser's research, it would not be financially feasible with weakening rent levels, vacancy levels, and absorption supporting construction of new retail space on North's site, if vacant and available, indicating the maximum productivity to hold the property as vacant.³⁵

As improved, Mr. Tomlinson testified that due to the existing commercial power center improvements influenced by other existing commercial developments around North, legally conforming with applicable land use laws, current commercial use is legally permissible. He also testified that while the existing improvements configuration is not ideal, it is physically possible and financially feasible for the current use of existing power center improvements to still contribute to the land value of North.³⁶

Cost Approach

Petitioner's appraiser developed all three approaches to value. The cost approach was principally developed to value the two vacant parking lot land parcels, settled prior to this hearing, and he did not develop the cost approach valuing North's building improvements due to the age of the improvements and accurate quantification of all other forms of depreciation.³⁷ Moreover, investors do not rely on the cost approach in their decision-making processes. The sales comparison approach was developed to check the reasonableness of the income approach.

Sales Approach³⁸

Mr. Tomlinson identified and analyzed the following five improved comparable property sales in his sales approach in comparison to the subject property:

North³⁹ is located at 3370 – 3410 Alpine Avenue, City of Walker, Kent County, Michigan. The three assessment land parcels total 18.23 acres. The buildings were constructed in 1988-1989, GBA⁴⁰ is 213,005 sq. ft., land to building ratio is 3.73 to 1, 20 rental units, 205,129 sq. ft. NRA⁴¹ and on-site parking is provided. North and South

³⁵ Tr. Vol 1, at 40:8 through 43:1. See also P-1 at 46-47.

³⁶ Tr. Vol 1, at 43:2-25.

³⁷ Tr. Vol 1, at 43:19-25.

³⁸ P-1 at 54-64. See also at 67.

³⁹ P-1 at 2.

⁴⁰ "Gross Building Area" is defined as "1. Total floor area of a building, excluding unenclosed areas, measured from the exterior of the walls of the above grade area. This includes mezzanines and basements if and when typically included in the market area of the type of property involved. 2. Gross leasable area plus all common areas" *The Dictionary of Real Estate Appraisal* at 85.

⁴¹ "Net Rentable Area" and "Rentable Area". "For office or retail buildings, the tenant's pro rata portion of the entire office floor, excluding elements of the building that penetrate through the floor to the areas below. The rentable area of a floor is computed by measuring to the inside finished surface of the dominant portion of the permanent building walls, excluding any major vertical penetrations of the floor.

sold on a leased fee basis on December 21, 2022, for \$23,250,000, or \$100.82/sq. ft.⁴² Mr. Tomlinson reports Staples is among the anchors at Green Ridge Square and was not part of the sale. The reported occupancy was 77.7% at the time of sale.

Sale #1 is located at 12635 Felch Street, Holland Township, Ottawa County, Michigan. The five assessment land parcels total 13.51 acres. The buildings were constructed in 1998, GBA is 166,100 sq. ft., the land to building ratio is 3.54 to 1, and on-site parking is provided. The property sold on a leased fee basis on February 22, 2022, for \$21,000,000, or \$126.43/sq. ft. Mr. Tomlinson reports Lowe's is the anchor and was not part of the sale. The reported occupancy was 100% at the time of sale. The appraiser adjusted this sale upward by 2% for the market conditions/time. The sales price was adjusted 5% downward for the differences in condition of property in comparison to the subject property. Mr. Tomlinson explained this sale was also adjusted 25% downward for "other factors" because this sale did not suffer from obsolescence as does the subject property. The total adjustment was downward 30% and the final adjusted sales price was \$90.27/sq. ft.

Sale #2 is located at 4495 – 4587 Canal Avenue, City of Grandville, Kent County, Michigan. The single assessment land parcel totaled 30.58 acres, the building was constructed in 2001/2010, GBA is 209,000 sq. ft., the land to building ratio is 6.37 to 1, and on-site parking is provided. The property sold on a leased fee basis on November 23, 2021, for \$21,000,000, or \$100.96/sq. ft. Mr. Tomlinson also reports Lowe's is the anchor in this property and was not part of the sale. The reported occupancy was 100% at the time of sale. The appraiser adjusted this sale upward by 2% for the market conditions/time. The sales price was adjusted 5% downward for the differences in the condition of property as well as a downward 5% for land to building ratio in comparison to the subject property. This sale was also adjusted 25% downward for "other factors" because this sale did not suffer from obsolescence as does the subject property. The total adjustment was downward 35% and the final adjusted sales price was \$66.93/sq. ft.

Sale #3 is located across the street from the subject property at 3165 Alpine Avenue, City of Walker, Kent County, Michigan. The single assessment land parcel totaled 13.34 acres, the building was constructed in 1989, GBA is 114,942 sq. ft., the land to building ratio is 4.01 to 1, and on-site parking is provided. The property sold on a leased fee basis on August 2, 2021, for \$17,690,000, or \$122.05/sq. ft. The reported occupancy was 100% at the time of sale. The appraiser adjusted this sale upward by 3% for the market conditions/time. The sales price was adjusted by 5% upward for the differences in condition of property in comparison to the subject property. This sale was also adjusted 25% downward for "other factors" because this sale did not suffer from obsolescence as does the subject property. The total adjustment was downward 20% and the final adjusted sales price was \$106.88/sq. ft.

Alternatively, the amount of space on which the rent is based; calculated according to local practice." *Id.* at 131 and 162.

⁴² \$100.82/sq. ft. = \$23,250,000 ÷ (North: 213,005 sq. ft. + South: 17,608 sq. ft.)

Sale #4 is located 1610 – 1780 Orchard Gateway Boulevard, City of North Aurora, Kane County, Illinois. The single assessment land parcel totaled 14.38 acres, the building was constructed in 2006, GBA is 121,074 sq. ft., land to building ratio is 5.17 to 1, and on-site parking is provided. The property sold on a leased fee basis on August 2, 2021, for \$7,025,000, or \$58.02/sq. ft. The reported occupancy was 76% at the time of sale. The appraiser adjusted this sale upward by 3% for the market conditions/time. The sales price was adjusted 5% downward for building size as well as condition for differences in the property in comparison to the subject property. The sales price was also adjusted 5% downward for the land to building ratio in comparison to the subject property. This sale was not adjusted downward for “other factors” because the appraiser felt this sale did suffer from external obsolescence. The total adjustment was downward by 15% and the final adjusted sales price was \$50.80/sq. ft.

Sale #5 is located 28774 – 28802 Gratiot Avenue, City of Roseville, Macomb County, Michigan. The single assessment land parcel totaled 6.41 acres, building was constructed in 1963 and renovated in 2004, GBA is 154,883 sq. ft., land to building ratio is 1.8 to 1, and on-site parking is provided. The property sold on a leased fee basis on April 8, 2020, for \$9,500,000, or \$61.34/sq. ft. The reported occupancy was 58% at the time of sale. The appraiser adjusted this sale upward by 5% for the market conditions/time. The sales price was adjusted by 5% upward for the land to building ratio in comparison to the subject property. This sale was not adjusted for “other factors” because the appraiser felt this sale did suffer from functional obsolescence due to a vacant second floor. The total adjustment was up by 5% and the final adjusted sales price was \$67.62/sq. ft.

Petitioner’s appraiser applied a sales comparison adjustment for building size, condition, land to building ratio, and other factors (occupancy). He stated:

I'm trying to show, in the sales comparison approach, that, because the subject has obsolescence, the buyer would recognize that it would pay for less; versus a property that is 100 percent occupancy and may not have the degree of obsolescence as the subject . . . I simply did a pairing between the Comparables 4 and 5 versus 1, 2 and 3. And when I do the calculation, it's about 50 percent. I thought that was excessive and I concluded at 25 percent.⁴³

The appraiser used sq. ft. as the unit of measure comparison, as most market participants consider this unit of measurement when purchasing and leasing this type of property. As adjusted, the sales price/sq. ft. ranged from \$50.80 to \$106.88. The subject property sold in December 2022 for \$100.82/sq. ft.⁴⁴ Mr. Tomlinson gave each

⁴³ Tr. Vol 1, at 120:5-18, See also P-1 at 67 & 68.

⁴⁴ Tr. Vol 1, at 20:10 through 21:7. Neither Mr. Davis nor Mr. Tomlinson provided conclusive testimony that the property’s (North, South, East and West parcels) 2021 purchase price of \$23,250,000 was or was not at arm’s length. However, Mr. Davis confirmed Petitioner was not related to the seller of the property, the property was listed for sale, absent testimony, the buyer did not assume any debt as part of the purchase price, and confirmed that the terms of the sale were not negatively influenced by BB&B not renewing its lease and vacating GSII-2 by February 2023.

sale “equivalent weight,”⁴⁵ and estimated that the value via the sales comparison approach to be \$75.00/sq. ft. for North. Based on North’s GBA of 213,005 sq. ft., North’s 2023 TCV via the sales comparison approach was \$16,000,000.

Income Approach

Petitioner contends that the subject property is an investment grade institutional property and would be bought and sold on its cash stream by cap-market participants basing their purchase price on the quality and quantity of the cash stream.⁴⁶ Respondent’s representative inquired as to the pool of investors that may invest in large and small properties. Mr. Tomlinson responded, large institutional properties are properties valued greater than \$10,000,000, such that institutional investors are a higher quality investor with more resources and purchasing power. He further testified that because there are fewer institutional investors there are fewer investors bidding up the price for these larger price properties causing cap rates to be higher while there are many more investors for smaller properties bidding up the price causing lower cap rates.⁴⁷

Petitioner’s appraiser reviewed and analyzed market lease data to establish market rent for the appraisal assignment as well as examined the subject property’s existing contract rents but did not use them. For example, the Burlington (GSI-10) lease commenced in late 2022, but wasn’t used

For a couple of reasons. First, you're trying to establish what market rent is. And, even though you haven't executed rent, at your subject, some will argue that you're really taking what you're trying to determine and using it as part of your evidence. . . The bottom line is most appraisers are advised not to use the contract rent. You can consider it, and you should analyze it, but market rent should be properties outside the subject.⁴⁸

Petitioner’s income approach was based on direct income capitalization. Rental comparisons were made separately for typical smaller size units and larger size units. The appraiser testified he stratified the market rate analysis for spaces 30,000 sq. ft. and above, under 30,000 and above 10,000 sq.ft., and below 10,000 sq.ft..⁴⁹

30,000 sq. ft. and Above⁵⁰

Rental #1 is located at 3445 28th Street SE, Grand Rapids, Michigan. This is a 43,000 sq. ft. single tenant retail building, constructed in 1967, with on-site parking. The asking rental rate as of November 2022, was \$14.00/sq. ft. triple net (NNN) with tenant paying expenses including utilities. A 15% downward condition of lease adjustment was made,

⁴⁵ P-1 at 69.

⁴⁶ Tr. Vol 1, at 44:5-12.

⁴⁷ Tr. Vol. 2, at 63:9 through 64:18.

⁴⁸ Tr. Vol 1, at 69:1-25. See also P-5 and P-6, 2022 & 2023 calendar years at \$12.00/sq. ft.

⁴⁹ Tr. Vol 1, at 45:10-23. See also P-1 at 85-88.

⁵⁰ P-1 at 85-87.

and no market condition/time adjustment was necessary. Other adjustments included a 10% downward adjustment for location and a 10% upward adjustment for the condition of property. The total adjustment was 0% and the final adjusted rental rate was \$11.90/sq. ft. NNN.

Rental #2 is located at 4830 Wilson Avenue SW, Wyoming, Michigan. This is a 35,164 sq. ft. rental unit of 230,864 sq. ft. multi-tenant retail building, constructed in 2000, with on-site parking. The tenant of this unit is Ashley and located between Best Buy and Marshalls. The transaction rental rate as of November 2021, was \$11.00/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of lease was made, and a 2% upward adjustment was made for the market condition/time. Other adjustments included no adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 10% and the final adjusted rental rate was \$10.10/sq. ft. NNN.

Rental #3 is located at 4901 28th Street SE, Cascade Township, Michigan. This is a 34,250 sq. ft. rental unit of 74,250 sq. ft. multi-tenant retail building, constructed in 1995, with on-site parking. This unit is located next to a BB&B and leased to Total Wine. The transaction rental rate as of June 2021, was \$12.65/sq. ft. NNN with tenant paying expenses including utilities, and tenant improvements were provided by landlord. The quoted rental rate is net of tenant improvements. No adjustment for the condition of lease was made, and a 3% upward adjustment was made for the market condition/time. Other adjustments included a 10% downward adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 20% and the final adjusted rental rate was \$10.42/sq. ft. NNN.

Rental #4 is located at 3160 28th Street SE, Kentwood, Michigan. This is a 30,713 sq. ft. single-tenant retail building, constructed in 1969/1974/1984, with on-site parking. This unit was leased to Ashley. The transaction rental rate as of February 2018, was \$10.74/sq. ft. NNN with tenant paying expenses including utilities, and no tenant improvements were provided by landlord. No adjustment for the condition of lease was made, and a 10% upward adjustment was made for the market condition/time. Other adjustments included a 10% downward adjustment for location and no adjustment for the condition of property. The total downward adjustment was 10% and the final adjusted rental rate was \$10.63/sq. ft. NNN.

The appraiser's adjusted rental rate for retail space 30,000 sq. ft. and above ranged from \$10.10 to \$11.90/sq. ft. NNN. Most weight was given to comparables #1 and #4 because Mr. Tomlinson felt they were more comparable. Lease comp #3 was assigned tertiary weight behind comps #1 and #4. Lease comp #1 was given the least weight because the comp was considered to possess a greater number of dissimilarities. Mr. Tomlinson acknowledged that North's existing contract rent ranged from \$8.00 to \$11.50/sq. ft. with an average of \$9.97/sq. ft.⁵¹ Based on the adjusted comparable lease data, North's estimated market lease rental rate is \$10.50/sq. ft. on a NNN

⁵¹ P-1 at 87 and P-5.

basis.⁵² To calculate North's potential gross income (PGI)⁵³ for 30,000 sq. ft. and above space, the appraiser multiplied the \$10.50/sq. ft. NNN market rent by the NRA of 79,674 sq. ft., for a total of \$836,577.⁵⁴

29,999 sq. ft. to 10,000 sq. ft.⁵⁵

Rental #1 is located at 4910 Wilson Avenue SW, Wyoming, Michigan. This is a 19,262 sq. ft. rental unit of 49,262 sq. ft. multi-tenant retail building, constructed in 2014, with on-site parking. The transaction rental rate as of November 2022, was \$13.00/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of lease was made, and no adjustment was made for the market condition/time. Other adjustments included no adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 10% and the final adjusted rental rate was \$11.70/sq. ft. NNN.

Rental #2 is located at 2978 28th Street SE, Kentwood, Michigan. This is a 18,945 sq. ft. rental unit single-tenant retail building, constructed in 1997, with on-site parking. The for-lease asking rental rate as of December 2021, was \$16.50/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. A 15% downward adjustment for the condition of lease was made and a 2% upward adjustment was made for market condition/time. Other adjustments included a 10% downward adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 20% and the final adjusted rental rate was \$11.44/sq. ft. NNN.

Rental #3 is located at 4265 28th Street SE, Grand Rapids, Michigan. This is a 12,820 sq. ft. rental unit of 20,000 sq. ft. multi-tenant retail building, constructed in 1988, with on-site parking. The transactional rental rate as of August 2021, was \$10.00/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of lease was made and a 3% upward adjustment was made for market condition/time. Other adjustments included a 10% downward adjustment for location and no adjustment for the condition of property. The total downward adjustment was 10% and the final adjusted rental rate was \$9.27/sq. ft. NNN.

Rental #4 is located at 2200 Beltline Avenue, Grand Rapids Township, Michigan. This is a 22,950 sq. ft. rental unit of 250,000 sq. ft. multi-tenant retail building, constructed in 2019, with on-site parking. The transaction rental rate as of October 2019, was \$10.95/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of lease was

⁵² P-1 at 87.

⁵³ The Appraisal Institute defines "Potential Gross Income," as "the total potential income attributable to property at full occupancy before vacancy and operating expenses are deducted." *The Dictionary of Real Estate Appraisal* at 145.

⁵⁴ P-1 at revised 103.

⁵⁵ P-1 at revised 95.

made and a 7% upward adjustment was made for market condition/time. Other adjustments included a 10% downward adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 20% and the final adjusted rental rate was \$9.37/sq. ft. NNN.

Mr. Tomlinson's adjusted rental rate for retail space 29,999 sq. ft. to 10,000 sq. ft. ranged from \$9.27 to \$11.70/sq. ft. NNN. Most weight was given to comparables #1 and #3 because Mr. Tomlinson felt they were most comparable to the subject. Lease comparable #4 was assigned tertiary weight behind comparables #1 and #4. Lease comparable #2 was given the least weight because this comparable was considered to possess a greater number of dissimilarities. Mr. Tomlinson acknowledged that North's existing contract rent for 29,999 sq. ft. to 10,000 sq. ft. ranged from \$10.00 to \$12.00/sq. ft. NNN. with an average of \$11.30/sq. ft.⁵⁶ Based on the adjusted comparable lease data, North's estimated market lease rental rate for 29,999 sq. ft. to 10,000 sq. ft. is \$11.00/sq. ft. NNN.⁵⁷ To calculate North's PGI for 29,999 sq. ft. to 10,000 sq. ft. space, the appraiser multiplied the \$11.00/sq. ft. NNN market rent by the NRA of 65,853 sq. ft. for a total of \$724,383.⁵⁸

Below 9,999 sq. ft. and Below⁵⁹

Rental #1 is located at 3031 – 3033 28th Street SE, Grand Rapids, Michigan. This is a 3,216 sq. ft. rental unit of 3,960 sq. ft. multi-tenant retail building, constructed in 1970, with on-site parking. The transaction rental rate as of April 2022, was \$19.95/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of the lease was made and a 2% upward adjustment was made for market condition/time. Other adjustments included a 10% downward adjustment for location and a 10% upward adjustment for the condition of property. The total downward adjustment was offset at 0%, and the final adjusted rental rate was \$20.35/sq. ft. NNN.

Rental #2 is located at 1633 28th Street SW, Wyoming, Michigan. This is a 5,500 sq. ft. rental unit of 20,631 sq. ft. multi-tenant retail building, constructed in 2000, with on-site parking. The transaction rental rate as of April 2022, was \$14.00/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of the lease was made and a 2% upward adjustment was made for market condition/time. Other adjustments included a 10% downward adjustment for location and a 5% downward adjustment for the condition of property. The total downward adjustment was 15% and the final adjusted rental rate was \$12.14/sq. ft. NNN.

Rental #3 is located at 2200 NW Alpine Avenue, Walker, Michigan. This is a 1,028 sq. ft. rental unit of 7,500 sq. ft. multi-tenant retail building, constructed in 2016, with on-site

⁵⁶ P-5.

⁵⁷ P-1 at 94.

⁵⁸ *Id.* at 103.

⁵⁹ *Id.* at 100-103.

parking. The transaction rental rate as of March 2022, was \$16.50/sq. ft. NNN with tenant paying expenses including utilities and no tenant improvements were provided by landlord. No adjustment for the condition of the lease was made, and a 2% upward adjustment was made for market condition/time. Other adjustments included no adjustment for location and a 10% downward adjustment for the condition of property. The total downward adjustment was 10% and the final adjusted rental rate was \$16.00/sq. ft. NNN.

The appraiser's adjusted rental rate for retail space below 9,999 sq. ft. ranged from \$12.14 to \$20.35/sq. ft. NNN. Mr. Tomlinson gave equal weight to all three below 9,999 sq. ft. lease comparables. He also acknowledged that North's existing contract rent for less than 9,999 sq. ft. ranged from \$11.00 to \$32.99/sq. ft. NNN. with an average of \$16.93/sq. ft.⁶⁰ Based on the adjusted comparable lease data, North's estimated market lease rental rate for 9,999 sq. ft. and below is \$16.00/sq. ft. NNN. To calculate North's PGI for 9,999 sq. ft. and below space, the appraiser multiplied the \$16.00/sq. ft. NNN market rent by the NRA of 59,602 sq. ft. for a total of \$953,632.⁶¹

Once market rent has been determined, PGI is determined by multiplying the market rent by the NRA sq. ft. In this approach, Petitioner's appraiser utilized the NRA of 205,129 sq. ft. broken down into three market lease rate sizes: 1) greater 30,000 sq. ft. (79,674 sq. ft.); 2) 29,999 to 10,000 sq. ft. (65,853 sq. ft.); and 3) below 9,999 sq. ft. (59,602 sq. ft.). GBA of 213,005 sq. ft. was not used in the income approach. Based on market rent, Mr. Tomlinson's estimated the subject property's total PGI at \$2,514,592, or an average effective rental rate of \$12.26/sq. ft. NNN.

Prior to estimating total PGI, Mr. Tomlinson estimated the reimbursable operating expenses Petitioner seeks from tenants as provided in the NNN lease agreement. These reimbursable operating expenses include maintenance and repairs, grounds, real estate taxes, insurance, and utilities. Total reimbursable operating expenses were \$1,103,594, or \$5.38/sq. ft.

Vacancy and Collection Loss Allowance

Once the PGI and reimbursable expenses have been calculated, Mr. Tomlinson estimated the vacancy and collection (credit) loss allowance.⁶² Petitioner's appraiser reported that published research by CoStar indicated the Comstock/Alpine Avenue overall retail submarket contains approximately 3,000,000 sq. ft. with an overall vacancy rate of 6.8% for 2022. He also reported that during 2022 the Comstock/Alpine Avenue overall retail market experienced a net positive absorption of 113,579 sq. ft. However, during 2019 through 2022, the table in his report indicated three out of four years had reported overall net negative absorption.⁶³ Even though the parties resolved the South

⁶⁰ P-1 at revised 101 and see P-5.

⁶¹ P-1 at revised 103.

⁶² "Vacancy and collection loss" is defined as a "deduction from PGI) made to reflect income reductions due to vacancies, tenant turnover, and nonpayment of rent; also called vacancy and credit loss or vacancy and contingency loss." *The Dictionary of Real Estate Appraisal* at 200.

⁶³ P-1 at revised 35.

strip center appeal, rather than using CoStar's 6.8% vacancy rate, the appraiser adopted his strip center South vacancy analysis for smaller retail units of 5.5%. He chose 5.5% to use as a component smoothing out the varying vacancy estimates between smaller riskier inline strip center units, and larger less risky power center units within North.⁶⁴

As for the larger anchor units making up North, the appraiser relied on CoStar's 2022 Comstock/Alpine Avenue power center retail market data to estimate that portion of the vacancy rate. CoStar reported that the Comstock/Alpine Avenue power center retail market had 372,424 sq. ft. and a 22.8% vacancy rate. For the period of 2017 through 2021, net absorption varied between zero and a negative absorption. During 2022, there was a positive 20,000 sq. ft. net increase.

In order to estimate the overall vacancy, Mr. Tomlinson estimated a blended rate based on the average rate of vacancy for larger power center units and smaller strip center units. For the power center vacancy calculation, he included Best Buy, BB&B, Michaels, Burlington and Shoe Show, accounting for slightly over 70% of North's total sq. ft. and slightly less than 30% for the balance of the smaller strip center units. The calculated overall weighted average vacancy was 17.76% and the final selected vacancy rate rounded down to 16.0%.⁶⁵

Again, Petitioner's appraiser relied on CoStar, augmented with his calculated South strip center research, as source materials to develop his 16% vacancy rate for power center shopping centers included in the Grand Rapids Metropolitan Statistical Area (MSA) and Comstock/Alpine Avenue submarket. He estimates the credit loss at 1.0%, with an overall vacancy and credit loss of 17.0%.⁶⁶

Petitioner's appraiser testified that the actual vacancy rate for North, as of tax day 2023, was 10.02%.⁶⁷ As calculated by the Tribunal, the actual overall vacancy rate for North and South as of tax day 2023, was 10.94%.

Effective Gross Income

From PGI, deductions are made for vacancy/credit loss, also known as collection loss, resulting in effective gross income (EGI).⁶⁸ The appraiser estimated the vacancy and credit loss to be \$615,092, or \$3.00/sq. ft. EGI was \$3,038,094, or \$14.81/sq. ft.⁶⁹

⁶⁴ Tr. Vol 1, at 80:3-25, 81:1 through 83:11.

⁶⁵ Tr. Vol 1, at 89:17 through 90:17 and P-1 at 36. (Power Center: $.7094\% \times 22.8\% = 16.17\%$, Strip Center: $.2906\% \times 5.5\% = 1.59\%$; weighted Average $16.17\% + 1.59\% = 17.76\%$, selected 16%.)

⁶⁶ P-1 at 35-36, and original page 103.

⁶⁷ Tr. Vol 1, at 126:17 through 129:22

⁶⁸ "Effective Gross Income," or EGI, is defined as the "anticipated income from all operations of the real estate after an allowance is made for vacancy and collection losses and an addition is made for any other income." *The Dictionary of Real Estate Appraisal* at 60. Also see *The Appraisal of Real Estate, 15th Edition*, at 421.

⁶⁹ *Id.* at revised 103, also see P-1 at 97.

Operating Expenses

The next step in the income approach, the appraiser deducted operating expenses from EGI. Expenses include operating expenses paid by the landlord as well as those expenses that were offset as reimbursable expense income as part of EGI. Among the expenses directly associated with operating the real property, including insurance, common area maintenance (CAM),⁷⁰ maintenance and reserves, and management and legal, were then deducted from the EGI, resulting in net operating income (NOI).⁷¹ More specifically, Mr. Tomlinson estimated expenses included:⁷²

Management Fees: Typical management fees⁷³ are between 2% and 4% of the EGI. Ultimately, Mr. Tomlinson concluded to a 3% fee, or \$91,143, or \$0.44/sq. ft.

Maintenance & Repairs: Mr. Tomlinson reported that these expenses are related to the general maintenance of the building and its components. The comparable properties presented a range from \$0.65 to \$7.11/sq. ft. The historical expenses for the subject property have ranged from \$0.66 to \$1.05/sq. ft. Accounting for future increases in maintenance and repair costs, the appraiser projected the cost to be \$1.00/sq. ft. in the first year, or \$205,129.

Grounds: Based on the subject's financial reports, the appraiser notes the historical cost ranged from \$1.75 to \$1.47/sq. ft. Mr. Tomlinson estimates a cost of \$1.50/sq. ft., or \$307,694.

Real Property Taxes: Property taxes were not deducted as an operating expense, but rather the ETR was added to the overall capitalization rate.

Insurance: Petitioner's historical insurance premium has ranged from \$0.09 to \$0.56/sq. ft. Based on premium increases of \$0.13 and \$0.14/sq. ft. in 2022 and 2023, Mr. Tomlinson estimates the insurance expense to be \$0.13/sq. ft., or \$26,667.

⁷⁰ "Common Area Maintenance" (CAM) "1. The expense of operating and maintaining common areas; may or may not include management charges and usually does not include capital expenditures on tenant improvements or other improvements to the property. See also common area. 2. [For shopping centers, t]he amount of money charged to tenants for their shares of maintaining a center's common area. The charge that a tenant pays for shared services and facilities such as electricity, security, and maintenance of parking lots. Items charged to common area maintenance may include cleaning services, parking lot sweeping and maintenance, snow removal, security, [amenities,] and upkeep. (ICSC)." *The Dictionary of Real Estate Appraisal* at 33.

⁷¹ "Net Operating Income" (NOI or IO). "The actual or anticipated net income that remains after all operating expenses are deducted from effective gross income but before mortgage debt service and book depreciation are deducted. Note: This definition mirrors the convention used in corporate finance and business valuation for EBITDA (earnings before interest, taxes, depreciation, and amortization)."

⁷² P-1 at 109-110. See also P-1 revised p. 103.

⁷³ "Management Fee" is the "amount charged by a management firm to manage property for an owner. In income and expense analysis, a management fee is typically treated as a variable operating expense, usually expressed as a percentage of effective gross income." *Id* at 115.

Utilities: Mr. Tomlinson reports utilities are separately metered and paid for by the tenants. Historical utility costs ranged from \$2.18 to \$2.75/sq. ft. The appraiser estimated utility costs to be \$2.75/sq. ft., or \$564,105.

Security and Administration: These expenses are not reimbursable and have been combined as they are relatively de minimis. Security is estimated to be \$0.02/sq. ft. and administration is estimated to be \$0.06/sq. ft. or a total of \$16,411.

Replacement Reserves: Mr. Tomlinson reports Petitioner places reserves in a savings account to replace short-lived building components. The reserve account ranges from \$0.38 to \$1.15/sq. ft. The estimated reserve is \$0.75/sq. ft., or \$157,847. The appraiser looked to RealtyRates.com to support reserve requirements for the retail industry.⁷⁴

Mr. Tomlinson estimates total operating expenses to be \$1,364,994, or \$6.65/sq. ft.⁷⁵ Less operating expenses, the subject property's 2022 NOI was \$1,673,100, or \$6.65/sq. ft. of NRA.

Capitalization Rate

Petitioner's appraiser developed an overall capitalization rate by analyzing market driven shopping center sales, investor surveys, and performing the mortgage and equity method calculation commonly known as the "band of investment" method. The sales derived capitalization rate extraction method relied on seven reported shopping center sales located across the state from Benton Harbor to Roseville. The sales indicated the capitalization rate may fall within the range of 8.22% to 16.61%. After the appraiser eliminated outlier double digit rates, the revised range set the goal posts between 8.22% and 9.67% with an average of about 8.9%.⁷⁶

Investor surveys were relied upon for capitalization rate trends⁷⁷ during the COVID and post-COVID years, as well as to develop and approximate average range of the overall capitalization rate (OAR) for power centers as of tax day 2023. Petitioner's appraiser principally relied on Real Estate Research Corporation (RERC) survey of investor rates of return for second-tier investment properties located in the Midwest. The RERC survey for power-center properties leans more towards less risk, credit worthy, strong market location, strong credit tenants, and values greater than \$10,000,000. Mr. Tomlinson provided testimony that a tier-1 property is a new shopping center development property, tier-2 is a former tier-1 property that is aging, still in good condition and average location. A tier-3 property is an older property that may have obsolescence. Based on these general descriptions, he felt the subject property was more aligned with tier-2 properties located in the Midwest. The OAR for power center

⁷⁴ P-1 at 111.

⁷⁵ Tr. Vol 2, at 22:10-17, also see P-1 revised p 103.

⁷⁶ Tr. Vol 1, at 94:6 through 95:13, and 160:15 through 161:12.

⁷⁷ Tr. Vol 1, at 56:10 through 58:25, also see P-12 at 1-3. Vol 1, at 92 through 98:12. P-1 at 112, and P-13 at 1-4.

tier-2 properties located in the Midwest ranged from 8.40% to 11.50%, and the average was 9.40%.⁷⁸

Petitioner's appraiser lastly analyzed the band of investment method. Mr. Tomlinson provided documentary evidence of the various elements he incorporated into this method for developing the capitalization rate. For the debt component he used a current mortgage interest rate of 5.66%, for a term of 28-years, and a 70% loan-to-value ratio. He calculated a loan constant of 7.12%. For the equity component of the cap rate, the appraiser used a 30% equity to value ratio and a current equity dividend rate from Realty Rates.com ranging from 7.76% to 16.18%. The calculated mortgage and equity capitalization rate indicates a range of 7.29% to 9.84%.⁷⁹

Finally, Mr. Tomlinson determined an overall capitalization rate, considering all three capitalization rate methods, giving greatest weight to the RERC survey ranging from 8.40% to 11.0%. The band of investment method ranged from 7.29% to 9.84%, which reflects the current economic climate. The cap rate, extracted from the market sales method, reflects actual historical returns on similar investments ranging from 8.22% to 9.67%. After considering these methods and considering the RERC survey in support, he estimated the capitalization rate to be 9.5%.⁸⁰

Next, Petitioner's appraiser adjusted the "modified" overall tax capitalization rate, attributable to uncollectable NNN taxes typically paid by a tenant due to vacancy. The elements of the "modified" overall tax capitalization rate include the taxing jurisdiction's current tax rate of 45.7637 mills, plus a 1% administration fee (46.2213 mills), plus an amount attributable to uncollectable taxes on a net lease basis paid by the property owner during vacancy. Assuming a 16% vacancy rate, the appraiser calculated the apportioned ETR to be paid by the owner is 0.37%.⁸¹ Adding the uncollectable vacancy ETR of 0.37% to the capitalization rate of 9.5%, Mr. Tomlinson calculates the modified overall capitalization rate at 9.87%.⁸²

Based on the appraiser's estimated NOI of \$1,673,100, North's 2023 "as stabilized" TCv via the income approach to value is \$16,951,766 (rounded), or \$82.64/sq. ft.

Lease-Up Cost

Mr. Tomlinson provided documentary evidence and testimony that due to below market occupancy as of tax day 2023, the "as stabilized" TCv must be adjusted for unreimbursed, "lease-up" expenses, the landlord may incur during an estimated two-year or eight-quarters lease-up period. The appraiser reports that a stabilized TCv is based on NRA of 205,129 sq. ft. and a stabilized market occupancy of 84% or 172,308 sq. ft. (16% vacancy). Therefore, a non-stabilized lease-up cost is estimated by

⁷⁸ P-1 at revised 112, and also see Tr. Vol 1, at 92:19 through 98:12.

⁷⁹ *Id.* and Tr. Vol 1, at 98:13 through 101:17.

⁸⁰ Tr. Vol 1, at 101:18 through 102:19 and see also P-1 at 113.

⁸¹ $((45.76370 \times 1\%) / 1,000 / 2) \times 16\% = 0.37\%$. See also P-1 at revised 113.

⁸² Tr. Vol 1, at 102:20 through 103:15, and see P-1 at revised p 113 replacing original p 114.

subtracting current occupancy of 161,509 sq. ft. from stabilized occupancy of 172,308 sq. ft. with the remainder of 10,799 sq. ft. vacancy to lease-up during the two-year period to attain stabilized occupancy at 84%. Mr. Tomlinson identified several cost elements making up his lease-up cost estimate of \$476,062: including rent loss opportunity cost on the vacant space, unrecovered operating expenses, tenant improvement allowance, and brokerage lease commissions. The total rounded lease-up cost is \$480,000.⁸³

After deducting the lease-up expense from the “as stabilized” TCV, Petitioner’s appraiser estimated the non-stabilized TCV to be \$16,500,000 (rounded) or \$80.30/sq. ft.

Reconciliation

Petitioner’s appraiser, in reconciling North, Mr. Tomlinson placed primary reliance on the income approach because “typical buyers of retail development such as the subject are most concerned with the income-producing potential of the properties and value the investment accordingly.” The sales comparison approach served as a check to the income approach opinion of value. He wrote that for income-producing property the sales comparison approach is not primary, but can be relied on as a secondary approach in support of the income approach. These analyses resulted in a final opinion of TCV of \$16,500,000 as of December 31, 2022, for the 2023 tax year.⁸⁴

PETITIONER’S ADMITTED EXHIBITS

The parties advised the Tribunal at the beginning of the hearing they jointly stipulated as to the admissibility of all exhibits. With the intent of efficiently trying the case, rather than individually moving to admit each piece of documentary evidence throughout the hearing, the parties’ representatives stipulated they would just declare, “we admit exhibit (#)” without any further debate of admissibility and relevance. Exhibits referenced and admitted during hearing are identified by “*”.⁸⁵

- P-1: Appraisal of Real Property Interest, Green Ridge Mall, Tomlinson Valuation & Consulting, LLC, as of 12-31-22 *
- P-2: Qualifications of Daniel Tomlinson *
- P-3: Buyer's Settlement Statement, Green Ridge Holdings, LLC *
- P-4: Survey *
- P-5: Green Ridge Mall Rent Roll, 12/31/2022 *
- P-6: Green Ridge Mall Rent Roll, 12/31/2023 *
- P-7: Income Statement, CY 2023 *
- P-8: Income Statement, CY 2022 *
- P-9: Income Statement, partial 2021
- P-10: Income Statement, 2018-partial 2021 *

⁸³ Tr. Vol 1, 104:1 through 109:11. See also P-1 revised at 103 and revised at 113-114.

⁸⁴ Tr. Vol 1, 110. See also P-2 revised at 140 – 142.

⁸⁵ Tr, Vol 1, 7:3-18. See also Vol 4, 45:13-19.

- P-11: Unemployment Statistics *
- P-12: Overall Change in Rates 2019-2022 *
- P-13: 2nd Tier Surveys, 2019-2022, RERC *
- P-14: Five BB&B Stores in Michigan to Close, Detroit Free Press, Sept. 16, 2022 *
- P-15: Google Earth Aerial Photo *
- P-16: Costar Photos for 6333 Kalamazoo Avenue SE, Grand Rapids *
- P-17: Google Street View, 411 E. Main Street, Lowell *
- P-18: Costar Photos for 5340 Plaza Avenue, Hudsonville *
- P-19: Listing Brochure, 701 68th Street, Byron Center *
- P-20: Costar Photo for 302-316 Baldwin Street, Jenison *
- P-21: Sale Brochure, 5318-5330 S. Division Avenue, Grand Rapids *
- P-22: Costar Photo for 5344 Plainfield Avenue NE, Grand Rapids *
- P-23: Costar Photo for 5265-5275 West River Drive NE, Comstock Park *
- P-24: "Sales Comps," from Respondent's discovery responses
- P-25: "Costar Leases," from Respondent's discovery responses
- P-26: Tomlinson Survey
- P-27: Costar, 3165 Alpine Avenue NW
- P-28: NAI Flyer, 3165 Alpine Avenue NW
- P-29: Costar, 3819-3845 Rivertown Parkway
- P-30: Costar, 4485-4497 Canal Avenue NW
- P-31: Costar, 3165 Felch Street
- P-32: Costar, 4901-4923 28th Street SE
- P-33: Costar, 5049-5159 Harvey Street *
- P-34: Costar, 5225-5365 Harvey Street *

PETITIONER'S WITNESSES

Petitioner's witnesses are Rick Davis and Daniel Tomlinson, MAI. Mr. Davis is employed by McCall Companies Management (McCall) owners of Petitioner, Green Ridge Holdings, LLC. McCall manages the subject property. Mr. Davis has been the property facilities project manager since Petitioner took ownership of the property in December 2021. Mr. Davis's expertise is within the sphere of the subject property ownership; operational management structure; property history, physical characteristics, occupancy, financial income and operating expenses; and competitive marketplace environment of the property.

Daniel Tomlinson prepared a valuation disclosure for the subject property. Mr. Tomlinson is a state of Michigan Certified General Real Estate Appraiser and licensed general appraiser in the state of Indiana. He is a designated real estate appraiser through the MAI. Mr. Tomlinson is experienced in valuation of commercial and industrial properties at the local, national, and international levels for acquisitions and divestitures, lending and workouts, business reorganizations, litigation services, ad valorem tax valuations, condemnation, proposed developments and insurance appraisals. Prior to forming Tomlinson Valuation and Consulting, LLC, Mr. Tomlinson was a shareholder at Stout where he was responsible for the development of their real

estate practice. Mr. Tomlinson earned an MA in Real Estate & Urban Analysis from the University of Florida and a BA in Economics from Stanford University.⁸⁶

The parties mutually agreed to stipulate each party's witnesses are admitted as subject matter experts within their fields of expertise without objection.⁸⁷ Based on Mr. Davis's background, training, education, and experience, the parties also agreed to admit him as an expert in the areas of the property's facilities and property management. Mr. Tomlinson was admitted as an expert in the valuation of real estate.

RESPONDENT'S CONTENTIONS

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

Tax Year: 2023

Parcel Number	TCV	SEV	TV
41-13-01-151-008	\$8,698,000	\$4,349,000	\$3,948,525
41-13-01-151-009	\$1,236,400	\$618,200	\$560,910
41-13-01-151-018	\$13,408,000	\$6,704,000	\$6,033,615
Total	\$23,342,400	\$11,671,200	\$10,543,050

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

Tax Year: 2023

Parcel Number	TCV	SEV	TV
41-13-01-151-008	\$9,768,000	\$4,884,000	\$3,948,525
41-13-01-151-009	\$1,332,000	\$666,000	\$560,910
Total -008 & -009	\$11,100,000	\$5,550,000	\$4,509,435
41-13-01-151-018	\$17,900,000	\$8,950,000	\$6,033,615
Grand Total	\$29,000,000	\$14,500,000	\$10,543,050

Respondent contends that there is a material difference between the TCV estimates of Respondent's appraiser, Mr. Van Stensel, and Petitioner's appraiser. Partially accounting for the differences is that Petitioner's appraiser valued the three parcels under appeal as a single economic unit power center while Mr. Van Stensel valued⁸⁸ parcels -008 and -009 as a single economic unit⁸⁹ strip center and also separately valued the remaining parcel -018 as a single economic unit strip center.⁹⁰

Respondent's representative further contends that Petitioner's appraiser made several errors in his appraisal report contributing to the vast differences in TCV. Among the contended errors: i) higher than local market vacancy and uncollectable rate,

⁸⁶ P-2.

⁸⁷ Tr, Vol 1, at 6-7, Tr, Vol. 4, at 45.

⁸⁸ Tr. Vol 1, at 12:1-5.

⁸⁹ R-1, being 3400-3410 Alpine Avenue, NW, Walker, MI.

⁹⁰ R-2, being 3370 Alpine Avenue, NW, Walker, MI.

ii) excessive capitalization rate exceeding the local Grand Rapids market, iii) unsupported 25% “other factors” adjustment of three sales in the sales comparison approach, iv) use of and misappropriation of vacancy adjustments to “nonlocal” sales that are not comparable to the subject property, and lastly, v) Petitioner’s appraiser mischaracterizes North as a “power center” property.⁹¹

Respondent’s representative called Respondent’s appraiser, Mr. Van Stensel, to the stand. Mr. Van Stensel clarified that R-1 is an appraisal report he prepared for 3400 Alpine Avenue NW (-009) and 3410 Alpine Avenue NW (-008) as a single economic unit, also known as the horizontal east-west top of the number seven corresponding with Petitioner’s North portion of P-1 appraisal report. R-1 includes the suites occupied by Best Buy and the former BB&B (-008) plus the adjacent parking lot (-009) to the south.⁹² Respondent’s appraiser also separately valued parcel -018, found in R-2, as a standalone economic unit. Parcel -018 is the vertical north-south portion of the number seven being 3370 Alpine Avenue NW, located immediately adjacent to the east.⁹³

Respondent’s appraiser testified why he appraised the three parcels under appeal as two separate economic units as opposed to a single economic unit:

If you don't put those together (-008 and -009), the purchaser of that building is not going to have adequate parking. And I did this a lot of times when I did an appraisal for lending purposes. A bank will actually not allow them to finance something without parking. They'll say you have to consider the parking because if we lose the parking lot, then the building is completely devalued.

And as far as how I would market this if I was a broker, a buyer wouldn't want to buy this building that didn't have adequate parking and it would be very detrimental if the only parking on the site was behind it on the side, so that's why I valued that one separately.

In addition, the Bed Bath & Beyond/Best Buy building at 3410 has larger tenant suites as a percentage of the building. It's got Bed Bath & Beyond, Best Buy, the Shoe Show, all those suites. The majority of the two largest suites, Bed Bath & Beyond and Best Buy, are large and they make up a large percentage of the building. So if you take a look at the 3370 Alpine to the east.⁹⁴

⁹¹ Tr. Vol 1, at 12-13, 14:1-12.

⁹² Tr. Vol 2, at 68:24 through 69:14.

⁹³ Tr. Vol 2, at 96:25 through 97:11.

⁹⁴ Tr. Vol 2, at 92:1-23.

Mr. Van Stensel further explained why parcel -018, 3370 Alpine Avenue NW, was appraised as a separate economic unit:

That consists of a lot of smaller sized suites, some of them are below a thousand square footage, so it's different than the one to the north, and I wanted to be able to use different comparable sales, potentially with different adjustments for size because something with lots of small suites is going to sell different than something with lots of large suites on a per square foot basis. Typically, the smaller you go, the more per square footage you're going to get because the lease rates are higher on smaller suites than they are on larger suites so that's going to drive the income up for the smaller suite building.⁹⁵

Respondent's appraiser provide documentary evidence and testimony explaining the appraisal assignment scope of work (SOW):

The scope of work was defined by the client . . . they were looking for separate valuations of each parcel for tax related purposes, and I originally had discussions about how we were going to quote/unquote solve the appraisal problem, figure out these values, and the city agreed with me that 3410 and 3400 should be appraised on their own, mainly because they're different and also because they were looking for values to attach to those parcels, and the same is true for 3370 which was the Burlington, they were looking for separate values as well. So part of it was driven by the client that I would do two separate reports and part of it was due by necessity, and if I had combined it into one report, I would have had to handle those buildings separate because they're different enough.⁹⁶

Mr. Van Stensel further confirmed that the SOW for the R-1 assignment was also the same used to prepare the valuation report contained in R-2.⁹⁷

Highest and Best Use

Respondent's appraiser testified that the H&BU of the property under appeal, appraised in R-1 and R-2, is the same if valued as vacant as commercial or whether it is valued as improved at its existing current use as a multitenant commercial property,⁹⁸ but possibly not developed in the shape of an "L" (number seven) shaped configuration.⁹⁹

⁹⁵ Tr. Vol 2, 92:25 through 93:12.

⁹⁶ Tr. Vol 2, 93:22 through 94:13. See also R-1 at 7-9.

⁹⁷ Tr. Vol 2, 94:20-24. See also R-2, at 7-9.

⁹⁸ Tr. Vol 2, 107:17 through 108:5. See also R-1 at 26-27 and R-2 at 27-28.

⁹⁹ Tr. Vol 2, 109:19 through 110:9.

Cost Approach

Respondent's appraiser testified he did not perform the cost approach, due to the building being constructed in 1989, because it would be difficult to determine the amount of depreciation for every portion of the building of a building this old.¹⁰⁰ Mr. Van Stensel further provided testimony that the income and sales comparison approaches to value were heavily relied upon as they were a good indicator of what strip centers were selling for in the West Michigan market as well as the value of the income stream.¹⁰¹ Mr. Van Stensel testified that there is some obsolescence for parcel -008 due to visibility of the storefronts facing away from the street viewed by traffic traveling south on Alpine Avenue, because travelers are initially viewing the back side of the building. However, there is little to no visibility issue for storefronts traveling north bound from I-96. He further testified the units facing Alpine Avenue are going to collect more in rent because the tenants like the visibility. It may impact the lease rate because tenants facing away from Alpine Avenue may want a discount for less visibility¹⁰² To that end, it was Respondent's appraiser's opinion, if visibility was a big issue, treatment of functional obsolescence is something that is treated by the cost to cure and put in a separate analysis. He further testified that the treatment of any obsolescence caused by visibility is incorporated in the lease fee analysis and further supported by a lower rental rate, for those affected, whose spaces face away from Alpine Avenue.¹⁰³

Sales Comparison Approach

North (-008 and -009) is located at 3400 – 3410 Alpine Avenue, City of Walker, Kent County, Michigan. The two assessment land parcels total 7.28 acres, buildings constructed in 1989, GBA is 94,555 sq. ft., the land to building ratio is 3.31 to 1, three rental units, and on-site parking is provided on parcel -009.¹⁰⁴ North, South, East and West properties collectively sold on a leased fee basis on December 23, 2021, for \$25,000,000, or \$107.22/sq. ft.¹⁰⁵

For parcels -008 and -009 appraised as a single economic unit, Mr. Van Stensel identified and analyzed the following five improved comparable property sales¹⁰⁶ in his R-1 valuation disclosure report:

Sale #1 is located at 4901 28th Street, SE, Cascade Township, Kent County, Michigan. The single assessment land parcel totaled 6.53 acres, building was constructed in 1995

¹⁰⁰ Tr. Vol 2, 94:14-23.

¹⁰¹ Tr. Vol 2, 94:24 through 95:9.

¹⁰² Tr. Vol 2, 97:1 through 100:18.

¹⁰³ Tr. Vol 2, 104:23 through 105:7.

¹⁰⁴ R-1 at 16-18.

¹⁰⁵ R-1 at 15, R-2 at 16, R-10 & P-1 at 174, \$107.22/sq. ft. = \$25,000,000 / (94,555 + 120,991 + 17,608). The Tribunal notes the building square footage figures were obtained from Respondent's R-1 for parcels -008 and -009 and parcel -018 from R-2. Respondent's appraiser did not report the South property building sq. ft. in his analysis of the 2021 sale of the property, so the Tribunal obtained the South property sq. ft. from Respondent's property record card found in P-1 at revised 173.

¹⁰⁶ R-1 at 69-99.

and 1998, GBA is 74,250 sq. ft., the land to building ratio is 3.83 to 1, and on-site parking is provided. The property sold on August 12, 2021, for \$10,000,000, or \$134.68/sq. ft. Mr. Van Stensel reports this is a two-tenant building anchored by BB&B at time of sale. H&BU at the time of sale was multitenant commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 8% for the date of sale equating to an adjusted sales price of \$145.45/sq. ft. The adjusted sales price was adjusted downward 10% for the differences in age/condition of property, quality of construction downward 10%, and overall qualitative rating¹⁰⁷ of “superior” in comparison to the subject property. Total adjustment downward was 20% and the final adjusted unit price was \$116.36/sq. ft.

Sale #2 is located at 5201 S. Harvey Street, Norton Shores, Muskegon County, Michigan. The single assessment land parcel totaled 40.92 acres, building was constructed in 1995, GBA is 350,077 sq. ft., land to building ratio is 5.09 to 1, and on-site parking is provided. The property sold on December 7, 2021, for \$32,541,000, or \$92.95/sq. ft. H&BU at the time of sale was multitenant commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 6% for the date of sale equating to an adjusted sales price of \$98.53/sq. ft. The adjusted sales price was adjusted upward 20% for location, zero for difference in age/condition of property, zero for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of “inferior” in comparison to the subject property. Total adjustment upward was 20% and the final adjusted unit price was \$118.24/sq. ft.

Sale #3 is located at 12635 Felch Street & 3050 Beeline Road, Holland Township, Ottawa County, Michigan. The nine assessment land parcels totaled 15.84 acres, building was constructed over multiple year from 1996 - 2001, GBA is 167,661 sq. ft., land to building ratio is 4.11 to 1, and on-site parking is provided. The property sold on February 7, 2022, for \$21,000,000, or \$125.25/sq. ft. H&BU at the time of sale was commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 5% for the date of sale equating to an adjusted sales price of \$131.52/sq. ft. The adjusted sales price was adjusted zero for location, zero for difference in age/condition of property, downward 10% for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of “superior” in comparison to the subject property. Total adjustment downward was 10% and the final adjusted unit price was \$118.36/sq. ft.

Sale #4 is located at 4485-4597 Canal Avenue, SW, Grandville, Kent County, Michigan. The single assessment land parcel totaled 32.48 acres, building was constructed in 2001 and 2010, GBA is 211,138 sq. ft., land to building ratio is 6.7 to 1, and on-site parking is provided. The property sold on November 23, 2021, for \$21,100,000, or

¹⁰⁷ “Qualitative Adjustment” is an “indication that one property is superior, inferior, or similar to another property. Note that the common usage of the term is a misnomer in that an adjustment to the sale price of a comparable property is not made. Rather, the indication of a property’s superiority or inferiority to another is used in relative comparison analysis and other forms of qualitative analysis. See also qualitative analysis.” “Qualitative Analysis” is the “process of accounting for differences (such as between comparable properties and the subject property) that are not quantified; may be combined with quantitative techniques.” *The Dictionary of Real Estate Appraisal* at 152.

\$99.93/sq. ft. H&BU at the time of sale was commercial retail. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 6% for the date of sale equating to an adjusted sales price of \$105.93/sq. ft. The adjusted sales price was adjusted zero for location, downward 10% for difference in age/condition of property, upward 15% for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of “inferior” in comparison to the subject property. Total adjustment upward was 5% and the final adjusted unit price was \$111.23/sq. ft.

Sale #5 is located at 3165 Alpine Avenue, NW, Walker, Kent County, Michigan. The single assessment land parcel totaled 13.7 acres, building was constructed over multiple years beginning in 1965, 2002 and 2006, GBA is 136,468 sq. ft., land to building ratio is 4.37 to 1, and on-site parking is provided. The property sold on August 2, 2021, for \$17,690,000, or \$129.63/sq. ft. H&BU at the time of sale was multitenant commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 8% for the date of sale, equating to an adjusted sales price of \$140.00/sq. ft. The adjusted sales price was adjusted zero for location, zero for difference in age/condition of property, downward 10% for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of “superior” in comparison to the subject property. Total adjustment upward was 10% and the final adjusted unit price was \$126.00/sq. ft.

Mr. Van Stensel used a quantitative adjustment¹⁰⁸ method to adjust the comparable sales for dissimilarities to the subject property. Using GBA sq. ft. as the unit of measurement the adjusted sales price/sq. ft. ranged from \$98.53 to \$145.45 with an average of \$124.27. The appraiser’s adjusted unit price/sq. ft. ranged from 111.36 to \$126.00/sq. ft. with an average of \$118.04/sq. ft. The appraiser also assigned a “qualitative rating” to each comparable sale with three sales receiving a “superior” rating with the adjusted unit price ranging from \$116.36 to 126.00/sq. ft., and two sales receiving an “inferior” rating ranging from \$111.23 to \$118.24/sq. ft. The appraiser “thought all of the comparables were good and I didn’t think one needed any more weight than the other, so I determined that an average was fair.”¹⁰⁹ Therefore, the estimated TCV via the sales comparison approach is \$118.00/sq. ft. for parcels -008 and -009. Based on GBA of 94,555 sq. ft., the property’s 2023 TCV via the sales comparison approach was \$11,160,000.¹¹⁰

¹⁰⁸ “Quantitative Adjustment” is described as “ In the application of the sales comparison and income capitalization approaches, a numerical (dollar or percentage) adjustment to the sale price, rent, or expense amount of a comparable property to account for the effect on value of a difference between each comparable property and the subject property. See also dollar adjustments; percentage adjustments; quantitative techniques.” “Quantitative Techniques” are “[t]echniques used to derive quantitative adjustments to comparable sale prices in the sales comparison approach; also used in the development of adjustments in other valuation approaches and techniques. Quantitative techniques include data analysis techniques (paired data analysis, grouped data analysis, and secondary data analysis), statistical analysis, graphic analysis, trend analysis, cost analysis (cost-to-cure, depreciated cost), and capitalization of rent differences. See also graphic analysis; grouped data analysis; paired data analysis; statistical analysis; trend analysis.” *Id.*

¹⁰⁹ Tr. Vol 2, at 133:2-5.

¹¹⁰ Tr. Vol 2, at 133:10 through 134:3. See also R-1 at 40.

North (-018) is located at 3370 Alpine Avenue, NW, City of Walker, Kent County, Michigan. The single assessment land parcel land size is 10.9396 acres, buildings constructed in 1989, GBA is 120,991 sq. ft., land to building ratio is 3.94 to 1, 17 rental units, and on-site parking provided.¹¹¹

For parcel -018 appraised as a single stand-alone economic unit, Respondent's appraiser identified and analyzed the following four improved comparable sales¹¹² in Exhibit R-2 valuation disclosure.:

Sale #1 is located at 3165 Alpine Avenue, NW, Walker, Kent County, Michigan. This sale is the same as Sale #5 used in the R-1 appraisal report. The single assessment land parcel totaled 13.7 acres, building was constructed over multiple years beginning in 1965, 2002 and 2006, GBA is 136,468 sq. ft., land to building ratio is 4.37 to 1, and on-site parking provided. The property sold on August 2, 2021, for \$17,690,000, or \$129.63/sq. ft. H&BU at the time of sale was multitenant commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 8% for the date of sale equating to an adjusted sales price of \$140.00/sq. ft. The adjusted sales price was adjusted zero for location, zero for difference in age/condition of property, zero for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of "equal" in comparison to the subject property. Total adjustment was zero and the final adjusted unit price was \$140.00/sq. ft.

Sale #2 is located at 3819 – 3845 Rivertown Parkway, Grandville, Kent County, Michigan. The single assessment land parcel totaled 6.56 acres, building was constructed in 2000, GBA is 60,523 sq. ft., land to building ratio is 4.7 to 1, and on-site parking provided. Of the total GBA, there is an out lot with a 5,700 sq. ft. freestanding restaurant building.¹¹³ The property sold on August 11, 2022, for \$9,000,000, or \$148.70/sq. ft. H&BU at the time of sale was commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 2% for the date of sale equating to an adjusted sales price of \$151.68/sq. ft. The adjusted sales price was adjusted zero for location, downward 10% for difference in age/condition of property, upward 10% for quality of construction, zero for building size, zero for size of land site, and overall qualitative rating of "equal" in comparison to the subject property. The total adjustment upward was zero and the final adjusted unit price was \$151.68/sq. ft.

Sale #3 is located at 4485-4597 Canal Avenue, SW, Grandville, Kent County, Michigan. This sale is the same as Sale #4 used in the R-1 appraisal report. The single assessment land parcel totaled 32.48 acres, building was constructed in 2001 and 2010, GBA is 209,000 sq. ft.,¹¹⁴ land to building ratio is 6.7 to 1, and on-site parking provided. The property sold on November 23, 2021, for \$21,100,000, or \$100.96/sq.

¹¹¹ The Tribunal notes that Green Ridge Square total available parking includes spaces located on parcels -018, -009, and all of the East and West parcels are not under appeal.

¹¹² R-2 at 36, 74-97.

¹¹³ Tr. Vol 3, at 155:19 through 156:20.

¹¹⁴ R-1 at 89. The Tribunal notes Sale #4 and R-2 Sale #3 at 89 lists the property at 211,138 sq. ft.; however, the sales comparison adjustment grid in R-2 at 36 bases the adjusted unit price on 209,000 sq. ft.

ft.¹¹⁵ H&BU at the time of sale was commercial retail. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 6% for the date of sale equating to an adjusted sales price of \$107.01/sq. ft. The adjusted sales price was zero for location, downward 10% for difference in age/condition of property, upward 25% for quality of construction, upward 25% for building size, zero for size of land site, and overall qualitative rating of “inferior” in comparison to the subject property. The total adjustment upward was 40% and the final adjusted unit price was \$149.82/sq. ft.

Sale #4 is located at 12635 Felch Street & 3050 Beeline Road, Holland Township, Ottawa County, Michigan. This sale is the same as Sale #3 used in the R-1 appraisal report. The nine assessment land parcels totaled 15.84 acres, building was constructed over multiple year from 1996 - 2001, GBA is 167,661 sq. ft., land to building ratio is 4.11 to 1, and on-site parking provided. The property sold on February 7, 2022, for \$21,000,000, or \$125.25/sq. ft. H&BU at the time of sale was commercial. Occupancy at the time of sale was not reported. The appraiser adjusted this sale upward 5% for the date of sale equating to an adjusted sales price of \$131.52/sq. ft. The adjusted sales price was adjusted zero for location, zero for difference in age/condition of property, downward 10% quality of construction, upward 25% for building size, zero for size of land site, and overall qualitative rating of “inferior” in comparison to the subject property. The total adjustment upwards was 15% and the final adjusted unit price was \$151.24/sq. ft.

As with subject parcels -008 and -009, Mr. Van Stensel used a quantitative adjustment method to adjust the comparable sales for dissimilarities to the subject property. Using GBA sq. ft. as the unit of measurement the adjusted sales price/sq. ft. ranged from \$140.00 to \$151.68 with an average of \$132.55/sq. ft. GBA. The appraiser’s adjusted unit price/sq. ft. ranged from \$140.00 to \$151.68/sq. ft. with an average of \$148.18/sq. ft. GBA. The appraiser also assigned a “qualitative rating” to each comparable sale with two sales receiving an “equal” rating with the adjusted unit price ranging from \$140.00 to \$151.68/sq. ft., and two sales receiving an “inferior” rating ranging from \$149.82 to \$151.24/sq. ft.¹¹⁶ The appraiser “thought each of those sales contributed to approximately equally to the valuation and so I went with the average...”¹¹⁷ Mr. Van Stensel further concluded due to “location, size of site and building,” the estimated average adjusted unit price of \$148.00/sq. ft. is representative of the TCV of parcel - 018. Based on GBA of 120,991 sq. ft., the property’s 2023 TCV, via the sales comparison approach, was \$17,900,000.

Income Approach

Respondent’s appraiser provided documentary valuation evidence and testimony that he generally utilized separate improved market lease rental comparables in R-1¹¹⁸ for

¹¹⁵ Actual sale price/sq. ft. in R-1 at 35 is \$99.93/sq. ft. and R-2 at 36 is \$100.96/sq. ft.

¹¹⁶ Tr. Vol 2, at 213;5-19.

¹¹⁷ Tr. Vol 2, at 214:16-24.

¹¹⁸ R-1 at 102 through 114 and also see R-1 at 044.

parcels -008 and -009 than he did in R-2¹¹⁹ for parcel -018. However, he noted that R-1 Rental #1 and R-2 Rental #5 were the same, as well as R-1 #2 and R-2 #6. The appraiser confirmed that he followed the same general income capitalization methodology in both R-1 and R-2, and all other market data elements of the income approach were the same or very similar, such as time adjustment, vacancy rates, EGI, method of calculating operating expense, replacement reserves, management fees, and capitalization rates.¹²⁰ The appraiser further explained that he also examined current contract rents confirming they reflected or resembled current market rent in which he determined contract rent was similar to market rents.¹²¹

For improved parcel -008 and contiguous parking lot parcel -009, they were appraised as a single economic unit. Mr. Van Stensel identified and analyzed the following five improved comparable property leased in his R-1 valuation disclosure report:

Rental #1 is located at 3940 28th Street, SE, Kentwood, Michigan. This rental comp is the same as R-2 Rental #5. This is a 25,939 sq. ft. (38.75%) rental unit leased to Michaels of a total 66,944 sq. ft. multi-tenant retail building, originally constructed in 1996, with additions in 1999 and 2000. The total land area is 6.42 acres, land to building ratio is 4.17 to 1, and on-site parking is provided. As of the lease survey date of November 5, 2020, the rental rate was \$10.25/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 4.0% for the market condition/time resulting in an adjusted market rent of \$10.66/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, age/condition, quality, vacancy, special features, and use/parking of the property. The total net adjustment was 0% and the final adjusted rental rate was \$10.66/sq. ft. NNN.

Rental #2 is located at 4901 28th Street, SE, Cascade Township, Michigan. This rental comp is the same as R-2 Rental #6 with some noted exceptions below.¹²² Based on the rental comp description summary, this is a 40,000 sq. ft. (53.87%) rental unit leased to BB&B of a total 74,250 sq. ft. multi-tenant retail building, originally constructed in 1995. This unit also includes a 32' x 32' (1,024 sq. ft.) mezzanine above. The total land area is 6.53 acres, land to building ratio is 3.83 to 1, and on-site parking is provided. As of the lease survey date of January 10, 2020, the rental rate was \$11.50/sq. ft. NNN (\$10.48/sq. ft. NNN) with tenant paying expenses. The comparable lease rental was adjusted upward 5.0% for market condition/time resulting in an adjusted market rent of \$11.00/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, age/condition, quality, vacancy, special features, and use/parking of the property. The total net adjustment was 0% and the final adjusted rental rate was \$11.00/sq. ft. NNN.

¹¹⁹ R-2 at 105 through 121 and also see R-2 at 45.

¹²⁰ Tr. Vol 2, at 5:24 through 7:17

¹²¹ Tr. Vol 2, at 134:4 through 135:24. See also Vol 3, 7:22 through 11:2.

¹²² R-1 at 105-107. Rental #2 lease summary description lists the tenant as BB&B, \$11.50/sq. ft. NNN, unit area of 40,000 sq. ft. (53.87%) of 74,250 sq. ft. among other terms and conditions specific to the BB&B. However, reported on the appraiser's rental adjustment grid in R-1 at 44, Rental #2 tenant is listed as Babies-R-U's, 22,050 sq. ft. (64.38%) of 34,250 sq. ft. in the amount of \$10.48/sq. ft.

Rental #3 is located at 4830 Wilson Avenue, SW, Suite 610-660, Wyoming, Michigan. This is a 15,811 sq. ft. (6.85%) rental unit leased to DSW of a total 230,864 sq. ft. multi-tenant retail building, originally constructed in 2000. The total land area is 59.59 acres, land to building ratio is 11.24 to 1, and on-site parking is provided. As of the lease survey date of January 3, 2020, the rental rate was \$12.00/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 5.0% for the market condition/time resulting in an adjusted market rent of \$12.60/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, quality, vacancy, special features, and use/parking of the property; and downward 5.0% for the age/condition. The total net adjustment was downward 5.0% and the final adjusted rental rate was \$11.97/sq. ft. NNN.

Rental #4 is located at 3940 28th Street, SE, Kentwood, Michigan.¹²³ This is a 25,993 sq. ft. (38.75%) rental unit leased to PetSmart, Inc of a total 66,944 sq. ft. multi-tenant retail building, originally constructed in 1996. The total land area is 6.42 acres, land to building ratio is 4.17 to 1, and on-site parking is provided. As of the lease survey date of September 23, 2016, the rental rate was \$14.50/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 4.0% for market condition/time resulting in an adjusted market rent of \$15.08/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, age/condition, quality, vacancy, special features, and use/parking of the property. The total net adjustment was 0% and the final adjusted rental rate was \$15.08/sq. ft. NNN.

Rental #5 is located at 4830 Wilson Avenue, SW, Suite 610-660, Wyoming, Michigan.¹²⁴ This is an 8,456 sq. ft. (3.66%) rental unit leased to X-Golf of a total 230,864 sq. ft. multi-tenant retail building, originally constructed in 2000. Total land area is 59.59 acres, land to building ratio is 11.24 to 1, and on-site parking is provided. As of the lease survey date of September 21, 2023, the rental rate was \$12.00/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted downward 1.0% for the market condition/time resulting in an adjusted market rent of \$11.88/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, quality, vacancy, special features, and use/parking of the property; and downward 5.0% for age/condition. The total net adjustment was downward 5.0% and the final adjusted rental rate was \$11.29/sq. ft. NNN.

Mr. Van Stensel provided documentary valuation evidence and testified the adjusted unit price for parcel -008 and -009, which includes units GSII-1, GSII-2, and GSII-3, ranged from \$10.66 to \$15.08/sq. ft. NNN of GBA with an average of \$12.00/sq. ft. NNN. The appraiser concluded the GSII-1 Best Buy contract rental rate of \$11.50/sq. ft. NNN resembled market rate. For GSII-2, the former BB&B and now Urban Air unit, the appraiser assigned the average adjusted unit price of \$12.00/sq. ft. NNN. Respondent's appraiser calculated the GSII-3 or the Shoe Show unit market rent of \$8.01/sq. ft. NNN by subtracting the average building CAM cost of \$4.75/sq. ft. from the CSII-3 2023 contract rent of \$12.76/sq. ft. gross. Mr. Van Stensel concluded that GSII-1 and GSII-3

¹²³ R-1 Rental #4 is located in same shopping center development as R-1 Rental #1.

¹²⁴ R-1 Rental #5 is also located in the same retail shopping center development as R-1 Rental #3.

contract rents were typical of the current market and contract rents were equivalent to leased fee and fee simple. After estimating the PGI for parcel -008 and -009, the appraiser calculated a blended effective rental rate of \$11.24/sq. ft. NNN¹²⁵

For improved parcel -018, Mr. Van Stensel appraised this parcel as a single economic unit. He analyzed the following six improved comparable rental leases contained in his R-2¹²⁶ valuation disclosure report:

Rental #1 is located at 6080 28th Street SE, Cascade Township, Michigan. This is a 4,092 sq. ft. (20.0%) rental unit leased to Leo's Coney Island of a total 20,373 sq. ft. multi-tenant retail building, originally constructed in 2000. Total land area is 3.87 acres, land to building ratio is 8.27 to 1, and on-site parking is provided. As of the lease survey date of March 17, 2022, the rental rate was \$18.70/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 1.0% for the market condition/time resulting in an adjusted market rent of \$18.89/sq. ft. NNN. Other physical characteristic adjustments include an upward 20.0% adjustment for location; zero adjustment for size; downward 5% age/condition; and zero for quality, vacancy, special features, use/parking of the property. The total net adjustment was downward 15.0% and the final adjusted rental rate was \$21.72/sq. ft. NNN.

Rental #2 is located at 4174 Alpine Avenue, NW, Suite A, Alpine Township, Michigan. This is a 4,300 sq. ft. (35.47%) rental unit leased to unknown of a total 12,124 sq. ft. multi-tenant retail building, originally constructed in 2007. Total land area is 1.63 acres, land to building ratio is 5.86 to 1, and on-site parking is provided. As of the lease survey date of November 2, 2021, the rental rate was \$19.00/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 2.0% for the market condition/time resulting in an adjusted market rent of \$19.38/sq. ft. NNN. Other physical characteristic adjustments include zero adjustment for location and size; downward 5% age/condition; and zero for quality, vacancy, special features, use/parking of the property. The total net adjustment was downward 5.0% and the final adjusted rental rate was \$18.41/sq. ft. NNN.

Rental #3 is located at 3665 28th Street, SE, Unit 3535, Grand Rapids, Michigan. This is a 7,800 sq. ft. (1.50%) rental unit leased to Joann Fabric and Crafts of a total 521,735 sq. ft. multi-tenant retail building, originally constructed in 1967 with additions in 2012, and 2013. Total land area is 49.73 acres, land to building ratio is 4.15 to 1, and on-site parking is provided. As of the lease survey date of November 1, 2021, the rental rate was \$18.00/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 2.0% for market condition/time resulting in an adjusted market rent of \$18.36/sq. ft. NNN. Other physical characteristic adjustments include zero adjustment for location, size, and age/condition; downward 10% for quality; and zero for vacancy, special features, and use/parking of the property. The total net adjustment was downward 10.0% and the final adjusted rental rate was \$16.52/sq. ft. NNN.

¹²⁵ Tr. Vol 2 at 144:8 through 146:18. See also R-1 at 42 and 52.

¹²⁶ R-2 at 45, 105 through 120.

Rental #4 is located at 400 North Beacon Boulevard, Grand Haven, Michigan. This is a 1,707 sq. ft. (3.30%) rental unit leased to Great Clips of a total 51,793 sq. ft. multi-tenant retail building, originally constructed in 2004. Total land area is 6.32 acres, land to building ratio is 5.24 to 1, and on-site parking is provided. As of the lease survey date of March 1, 2022, the rental rate was \$22.71/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 1.0% for the market condition/time resulting in an adjusted market rent of \$22.94/sq. ft. NNN. Other physical characteristic adjustments include zero adjustment for location, size; downward 5% for age/condition; and zero for quality, vacancy, special features, and use/parking of the property. The total net adjustment was downward 5.0% and the final adjusted rental rate was \$21.79/sq. ft. NNN.

Rental #5 is located at 3940 28th Street, SE, Kentwood, Michigan. This rental comp is same as R-1 Rental #1. This is a 25,939 sq. ft. (38.75%) rental unit leased to Michaels of a total 66,944 sq. ft. multi-tenant retail building, originally constructed in 1996, with additions in 1999 and 2000. Total land area is 6.42 acres, land to building ratio is 4.17 to 1, and on-site parking is provided. As of the lease survey date of November 5, 2020, the rental rate was \$10.25/sq. ft. NNN with tenant paying expenses. The comparable lease rental was adjusted upward 4.0% for market condition/time resulting in an adjusted market rent of \$10.66/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, age/condition, quality, vacancy, special features, and use/parking of the property. The total net adjustment was 0% and the final adjusted rental rate was \$10.66/sq. ft. NNN.

Rental #6 is located at 4901 28th Street, SE, Cascade Township, Michigan. This rental comp is same as R-1 Rental #2 with some noted exceptions below. Based on the rental comp description summary, this is a 40,000 sq. ft. (53.87%) rental unit leased to the former BB&B, of a total 74,250 sq. ft. multi-tenant retail building, originally constructed in 1995. This unit also includes a 32' x 32' (1,024 sq. ft.) mezzanine above. Total land area is 6.53 acres, land to building ratio is 3.83 to 1, and on-site parking is provided. As of the lease survey date of January 10, 2020, the rental rate was \$11.50/sq. ft. NNN (\$10.48/sq. ft. NNN) with tenant paying expenses. The comparable lease rental was adjusted upward 5.0% for market condition/time resulting in an adjusted market rent of \$11.00/sq. ft. NNN. Other physical characteristic adjustments include no adjustment for location, size, age/condition, quality, vacancy, special features, and use/parking of the property. The total net adjustment was 0.0% and the final adjusted rental rate was \$11.00/sq. ft. NNN.

Mr. Van Stensel provided documentary valuation evidence and testified the adjusted unit price for parcel -018, including units GSI-5 through GSI-21, ranged from \$10.66 to \$21.79/sq. ft. NNN of GBA with an average of \$16.68/sq. ft. NNN. The existing contract rental rates as of tax day 2023, ranged from \$10.50 to \$32.59/sq. ft. NNN¹²⁷ of NRA

¹²⁷ R-2 at 44. During the hearing, Respondent's appraiser identified a column labeling error in his schedule of current rental structure table. Specifically, the last two column heading labels on the far right were reversed. Lessee Pays correctly precedes Lessor Pays. Respondent did not submit a corrected page for the record.

with an average of \$12.94/sq. ft. NNN.¹²⁸ Mr. Van Stensel concluded that for the occupied units that the exiting contract rents were typical of the current market and contract rents were equivalent to leased fee and fee simple. The appraiser estimated the current market rental rate for vacant GSI-5 and GSI-14 located in parcel -018 was \$19.00/sq. ft. NNN by blending or averaging adjusted unit price of rental comps #1, #2, #3, and #4 which felt were most similar in size.¹²⁹ After estimating the PGI for parcel -018, the calculated blended average effective rental rate was \$14.41/sq. ft. NNN, which is within the range of the adjusted unit price average of \$16.68 and adjusted unit price high of the range at \$21.79/sq. ft. NNN of NRA.¹³⁰

Vacancy and Credit Loss Rate

Respondent's representative asked Respondent's appraiser to confirm he used a combined 6% vacancy and credit loss rate for both parcels -008 and -018, Mr. Van Stensel responded "correct."¹³¹

Respondent's representative also inquired how he calculated his vacancy and credit loss rate. He provided in testimony:

I took a look at the rent roll because I was curious, I've shopped at this thing, and I could swear since the early '90s, late '80s it's the same tenants in here. So I went through there and I'm, like, yeah, these people have been in here 10 or 20 years. So he's got very little turnover so I took a look at the vacant suites and then I basically calculated the vacancy rate for the vacancy, basically, on the entire building to come up with existing, and then I went backwards to see move-ins and move-outs because I had the income expense over a period of time and I determined looking at the building, how it's produced income stream over the last couple years, it's been under 10 percent, so I know I was in single digit territory for the building, looking at the historical information.¹³²

Respondent's appraiser also provided that he considered the Comstock/Alpine Avenue submarket in his analysis when arriving at a vacancy rate of 6.0%:

I looked at the Comstock Alpine submarket and I took a look at what strip centers had for vacancy rates and it was 5 and a half, so I was under 10 percent, calculating backwards. This is showing 5 and a half percent. I just said we're going to go with 6 but it makes sense for this building and this site. . . I stopped in the initial -when I did this report I stopped at the CoStar Comstock market because the strip center number that I used was reflective of the historical data that I was seeing in the building, and I

¹²⁸ The Tribunal notes that two of the 17 units were vacant as of tax day 2023, contributing to the lower overall average \$12.94/sq. ft. NNN of NRA.

¹²⁹ Tr. Vol 2, at 31:10-21.

¹³⁰ Tr. Vol 3, at 7:18 through 34:17, and also see R-2 at 44, 45, and 53.

¹³¹ Tr. Vol 2, at 146:19 through 147:20, also see R-1 at 47 & 52, and R-2 at 44 & 53.

¹³² Tr. Vol 2, at 147:23 – 148:14.

thought I've done enough research, it looks like it's going to be under 10 percent, so I didn't do any further research outside of that. I thought that what I was seeing in CoStar and based on the sample size that they had for strip centers in the Comstock Alpine market, it was a large enough sample size to where I feel like they captured a good idea of what was going on in the market, if I agreed with it. It made sense from what I see.¹³³

Mr. Van Stensel provided documentary evidence and testimony that CoStar's published estimated "strip center" vacancy rate was 5.5% and that the "power center" vacancy rate was 22.8%. He further testified that the power center rate would have given him pause because:

It would have because it's based on a really small data set. It was, I think it was 374,000 square feet, it was effectively one power center that that discussed. It's coming up with statistics off of one building. I would want a bigger sample size to make that determination of what power centers were doing in the market at that time, not just what one power center did, so if I was going to value it as a power center, I would have pulled the entire Grand Rapids MSA on a document to see what's the Grand Rapids market vacancy rate for power centers as a whole, let's take a look at that. I don't care about one building. If it's just saying the average rent is \$10 a square foot and you find out they only had one lease, well, I don't really think that's helpful so I wouldn't use it.¹³⁴

Providing further clarification of why he felt North was not a power center, Mr. Van Stensel testified:

The Dictionary of Real Estate. Basically it has characteristics of our property but it talks about the building size aggregate being over 250,000. So there are aspects of a power center in these properties because we've got large traffic generating businesses next to small strip centers. It feels like a power center, but I felt that it wasn't a power center. It didn't meet my definition because of how it was broken up with parcels.

So I could sell this -I really wouldn't sell it as more than two different properties because if you get rid of that parking lot, you're going to destroy the Best Buy building, but still, if you can sell it as two parcels, then I wouldn't look at it as a whole if I could get rid of them separately.¹³⁵

¹³³ Tr. Vol 2, at 148:20-25 and 149:1-18. See also R-5 at 19.

¹³⁴ Tr. Vol 2, at 152:3-18. See also R-6 at 18-19.

¹³⁵ Tr. Vol 2, at 156:10-24.

Effective Gross Income

From PGI, deductions are made for vacancy/credit loss, also known as collection loss, resulting in effective gross income (EGI). The appraiser estimated parcel -008 and -009 vacancy and credit loss of 6% to be \$61,668, or \$0.67/sq. ft. EGI was \$966,137, or \$10.56/sq. ft.¹³⁶

The appraiser estimated parcel -018 vacancy and credit loss of 6% to be \$98,316, or \$0.86/sq. ft. EGI was \$1,540,279, or \$13.55/sq. ft.¹³⁷

Operating Expenses

Respondent's appraiser provided documentation and testimony the PGI in R-1 and R-2 were based on the rent roll provided by Petitioner and were NNN leases. The property's building operating expenses provided by Petitioner were on a consolidated basis including North, South, East and West properties. Since the property was subject to NNN leases, Petitioner passed along the operating expenses to its tenants for reimbursement. Essentially, this should equate to the sought expense reimbursement appearing as additional income offsetting expenses which should be a net zero or nearly same with little affect against NOI. The appraiser testified he relied on Petitioner's income and expense statement in support of his management fee analysis in which he determined that the property's average overall management fee of 6.8% or nearly 7.0% of EGI was reasonable. The management fee for parcels -008 and -009 found in R-1 was calculated to be \$65,697 or \$0.69/sq. ft. The fee for -018 in R-2 was \$104,713 or \$0.86/sq. ft.¹³⁸ The reserve for replacement figure of \$0.76/sq. ft. was obtained from the fourth quarter RealtyRates.com. Parcels -008 and -009 reserve for replacement expense is \$71,862, and for parcel -018 the expense is \$91,953.¹³⁹ Total estimated operating expenses for parcel -008 and -009 were \$137,599 or \$1.45/sq. ft. Total expenses for -018 was \$1,343,587 or \$11.10/sq. ft.

Net Operating Income

Total NOI for -008 and -009 was \$828,578 or \$8.76/sq. ft. and for parcel -018 is \$1,343,587 or \$11.10/sq. ft.

Capitalization Rate

Respondent's representative inquired which of the several capitalization methods Respondent's appraiser examined, including band of investment, surveys, and local cap rates:

¹³⁶ R-1 at 52.

¹³⁷ R-2 at 53

¹³⁸ Tr. Vol 3 at 36:11-16.

¹³⁹ Tr. Vol 2 at 161:5 through 168:18, also see R-1 at 48 & 52 and R-2 at 49 & 53.

I would say that I took a look primarily at RealtyRates.com. They provide a fourth quarter 2022 and they give a range of value. This is Exhibit R-1, page 50. So when I take a look at RealtyRates which publishes nationally, they're showing that at the bottom of the page, retail, all types, is between 5.41, 14.67, with an average of 9.42, and I found for this type of property in our market it's not rare for us to be 2 percent below that, so you can kind of track with it.

So I took a look to make sure I fell within the range and I took a look at the local cap rates that we actually had solid information on the cap rate information for, and I did run a band of investment just because people like to see that, but I don't put a lot of weight in the band of investment.

I think it's good if -inside the appraisal of real estate it says you can use it but use it as a last resort. It's kind of like the raft underneath the seat in the plane. If it's all you got, it's better than nothing, but if you got local cap rates, stick with those.¹⁴⁰

Respondent's appraiser provided documentary evidence¹⁴¹ and testimony¹⁴² that his band of investment capitalization rate of 7.5% was calculated based on a 70/30 loan to equity ratio, a mortgage loan constant of 0.7015, 25-year loan term at five percent mortgage interest rate for high quality strip mall by an investor with a high loan score, and an equity dividend rate of 8.5 percent obtained from RealtyRates.com. Respondent's representative inquired on the origin of the 0.7015 loan constant with the appraiser responding, "Yeah. It's called the happy keys in the calculator, in our financial calculator, but it's a boring equation that your calculator does for you. So you calculate the annual constant, and then the next -- go ahead."¹⁴³

Mr. Van Stensel provided documentary evidence and testified he also analyzed the sales and surveys to establish the "goal posts" of the upper and lower range of where the capitalization rate to fall within. The RealtyRates.com, fourth quarter 2022 report included multitenant retail ranging from 5.41% to 14.67% with an average of 9.42%. In other words, the capitalization rate should not be below 5.41% and any higher than 14.67%. It was the appraiser's opinion that the capitalization rate would be less than the average rate of 9.42% because the property had good exposure, low vacancy, was well maintained, and an investor would look at these factors and would pay a cap rate better than average.¹⁴⁴

¹⁴⁰ Tr. Vol 2, at 170:15 through 171:12.

¹⁴¹ R-1 at 50.

¹⁴² Tr. Vol 2, at 172:3 through 177:8.

¹⁴³ Tr. Vol 2, at 173:20-24.

¹⁴⁴ Tr. Vol 2, at 177:9 through 180:1. See also R-1 at 50.

Respondent's appraiser completed his capitalization rate analysis by examining 13 West Michigan multitenant strip center sales¹⁴⁵ in comparison to the overall market. The market sales capitalization rates ranged from 6.75% to 11.20% with an average of 8.32%. He further testified that the "7.5% (capitalization rate) was used for the subject property and 6333 Kalamazoo Avenue SE, Grand Rapid, MI was the strong evidence of the capitalization rate that could be anticipated from the local market."¹⁴⁶

On cross examination Petitioner's representative had Mr. Van Stensel "[c]alculate the capitalization rate based on the December 31, 2020 NOI of \$2,540,132 and the actual 2021 sale price of \$23,250,000 which equated to 10.92%." Mr. Van Stensel also remarked that it was his understanding the sale price was \$25,000,000.¹⁴⁷ If so, the Tribunal notes the cap rate would have been 10.16%.

After capitalizing the NOI, Mr. Van Stensel estimated a TCV of parcel -008 and -009, being 94,555 sq. ft., to be \$11,050,000 or \$116.86/sq. ft. The appraiser also estimated the TCV for parcel -018, being 120,991 sq. ft., to be \$17,900,000 or \$147.94/sq. ft.

Reconciliation

Respondent's appraiser's appraisal report and testimony for parcel's -008 and -009 concluded that the indicated TCV was 11,100,000 or \$18.00/sq. ft. He reconciled the three approaches to value, beginning with the cost approach, stating that he did not use the cost approach due to the age of the building. Mr. Van Stensel assigned greater reliance on the sales comparison approach at \$11,160,000, and the income approach at \$11,050,000, because he had adequate market data supporting these approaches to value. He further testified that he gave similar weight to these approaches to value because all of the sales were multitenant retail buildings and captured what a typical multitenant retail property would sell for in the market. The appraiser stated the income approach was supported by a good capitalization rate, income, and solid market rental data, also supported by NOI data supplied by the property owner. He further felt that his conclusion of TCV for parcels -008 and -009 was supported by the two approaches to value, as they were not too far off from each other, and weighted similar to the value of the property at \$11,100,000.¹⁴⁸

Mr. Van Stensel reconciled parcel -018's final estimate of TCV of \$17,900,000 or \$148.00/sq. ft. by testifying that all three approaches to value were considered, but only sales and income approaches to value were utilized. The cost approach was not utilized because of the property's age, and the sales and income approaches data were adequate. The adjusted unit price of the sales ranged from \$140.00 to \$151.68/sq. ft. with an average of \$148.00/sq. ft. GBA. He felt the quality of the sales data captured that the market was capable of paying for a quality multitenant retail property, and was reflective of the sales. He further explained that the NNN contract rental rates were

¹⁴⁵ R-1 at 51.

¹⁴⁶ Tr. Vol 2, at 180:20-25, 181:1-25, 182:1-25, 183:1-25, 184:1-8.

¹⁴⁷ Tr. Vol 3, at 221:17 through 223:20, also see R-1 at 48.

¹⁴⁸ Tr. Vol 2, at 193:13 through 194:21.

comparable to the current market rent reflecting leased fee and fee simple values. Lastly, the overall capitalization rate was based on the band of investment method, and is supported by both the market and survey rates by RealtyRates.com. Mr. Van Stensel's final opinion of TCV considers and is supported by both approaches to value.¹⁴⁹

Allocation of TCV

Respondent's representative inquired how to allocate the total TCV of \$11,100,000 between parcels -008 and -009, Mr. Van Stensel testified the 2023 SEV of parcel -008 was 88.2% of the sum of parcels -008 and -009 which would indicate parcel -009 should be the remainder of 11.8%.¹⁵⁰

RESPONDENT'S ADMITTED EXHIBITS

As previously noted in Petitioner's admitted evidence section of this opinion, the parties advised the Tribunal at the beginning of the hearing they jointly stipulated as to the admissibility of all exhibits and would identify the admitted evidence throughout the hearing by declaring, "we admit exhibit (#)" without any further debate of admissibility and relevance. Respondent's Exhibits referenced and admitted during hearing are identified below by "*" .¹⁵¹

- R-1: AVS Appraisal for 3400 and 3410 Alpine Avenue NW, prepared by James Van Stensel *
- R-2: AVS Appraisal for 3370 Alpine Avenue NW (plus revised page 44) *
- R-3: TVC Appraisal
- R-4: Missing page from TVC's Appraisal *
- R-5: Comstock/Alpine Avenue-Retail Submarket *
- R-6: Grand Rapids, MI USA - Retail Market *
- R-7: Center Drive 715 Vacant space rear building *
- R-8: The Appraisal of Real Estate *
- R-9: USPAP Documents *
- R-10: Property Transfer Affidavit *
- R-11: Roseville Town Center *
- R-12: Roseville Towne Center flyer *
- R-13: North Aurora Towne Center flyer *
- R-14: North Aurora Towne Center (edgemark)
- R-15: North Aurora Towne Center (edgemark 2)
- R-16: Pipestone Plaza flyer (Woodcrest) *
- R-17: Pipestone Plaza - 1944-2050 Pipestone Rd *
- R-18: Alpine Avenue NW - 3340 Rent roll and vacancy rate
- R-19: Alpine Avenue NW - 3370 Rent role and vacancy
- R-20: Local cap rates *

¹⁴⁹ Tr. Vol 3, at 37:13 through 38:8. See also R-2 at 54.

¹⁵⁰ Tr. Vol 2, at 194:22 through 196:4. See also R-1 at 20.

¹⁵¹ *Id.*

R-21: Aerial photograph of parcels (admitted without objection at day-one of the hearing) *

RESPONDENT'S WITNESS

Respondent's witness is James Van Stensel, Jr., MAI. Mr. Van Stensel prepared a valuation disclosure for the subject property. He is a Certified General Real Estate Appraiser licensed in the state of Michigan and designated through the Appraisal Institute. The parties mutually agreed to stipulate to each party's expert witness.¹⁵² Based on his education, background, and experience, the Tribunal accepted Mr. Van Stensel as an expert in the valuation of real estate.¹⁵³

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.

1. North is located at 3370 – 3410 Alpine Avenue, NW, Walker, Kent County, Michigan.
2. North is identified as parcel nos. 13-01-151-008, 13-01-151-009, and 13-01-151-018 and are commonly known as Green Ridge Square.
3. The contiguous property located on the south side of Center Drive also owned by Petitioner, but not under appeal, is 3150 Alpine Avenue, NW, Walker, Kent County, Michigan, (South).
4. Other contiguous parcels making up the Green Ridge Square abutting the North owned by Petitioner and not under appeal, are 815 Center Drive, NW, Walker, Kent County, Michigan, (West), and 819 Center Drive, NW, Walker, Kent County, Michigan (East).
5. All parcels making up the shopping center campus are zoned "C PUD, Commercial Planned Unit Development Zoning District" permitting current multi-tenant commercial use.¹⁵⁴
6. Petitioner's survey dated March 25, 2003, revised May 21, 2003, surveyor's note #8, footnote #3, discloses the approved PUD is subject to a written PUD agreement that shall be maintained in the City of Walker planning department but was not made available to the surveyor for review as of April 22, 2004.¹⁵⁵
7. The overall shopping center campus property includes the shadow anchor Target store parcel.

¹⁵² *Id.*

¹⁵³ Tr. Vol 2, at 170:1-25 and 171:1-12.

¹⁵⁴ P-1 at 8.

¹⁵⁵ P-4 at 1.

8. The parties provided photographs of the Green Ridge Square shopping center street signage which identifies several of Petitioner's anchor tenants as well as shadow anchor Target.
9. The record is absent minimum parking space C PUD zoning requirements for Green Ridge Square and more specifically for North and Target store parcel.
10. The record indicates the total number of West parking spaces owned by Petitioner and available serving West tenants is 170 spaces.¹⁵⁶
11. The record is absent of any shared-use parking lot access and operational management agreement between Petitioner, its tenants, and Target.¹⁵⁷
12. H&BU of the North as vacant and improved is hold for existing commercial multi-tenant income property use and is not owner occupied.
13. The North is classified for ad valorem property taxation purposes as Commercial-Real Property.
14. Excluding South, East, and West parcels, the three parcels (-008, -009, -018) making up North has a total of 18.23 +/- acres, or 794,099 sq. ft.¹⁵⁸
15. North contains approximately 213,005 sq. ft. of GRA and 205,129 sq. ft. of NRA.¹⁵⁹
16. North's contiguous and abutting land and building improvements were constructed simultaneously between 1988 and 1989.
17. The shadow anchor Target store is not owned by Petitioner and is contiguous and abuts the subject property.
18. The Target store was constructed about the same time as North.
19. Petitioner owns the assessment parcels surrounding Target on south, east, west, and north.
20. The abutting Target building is 102,386 sq. ft.¹⁶⁰
21. The total building square footage of the North and the Target Store is 315,391 sq. ft.
22. Petitioner purchased all six parcels including North, South, East, and West as a single transaction on December 23, 2021,¹⁶¹ in the amount of \$23,250,000.

¹⁵⁶ P-1 at 18. SOW requires appraiser to value the West 1.63 acre and 170 parking spaces.

¹⁵⁷ P-4 at 1 through 4. Survey indicates parcel -008 has 70 regular parking spaces, 0 handicap, 70 total; parcel -009 has 387 regular spaces, 17 handicap, 404 total spaces; parcel -018 has 450 regular spaces, 34 handicap, 484 total; East parcel has 170 spaces, 0 handicap, total 170 space. Overall, 1,077 regular, 51 handicap, total 1,128 space. Specific to parcel -018, the Tribunal notes that the survey P-4 at 1 and rent roll P-5 at 1 indicates there are 7 regular space, 14 handicap, total 21 spaces directly in front of retail units GSI-5 and GSI-11.

¹⁵⁸ P-1 at 7.

¹⁵⁹ P-1 at 8.

¹⁶⁰ The Tribunal takes judicial notice that Respondent's public BS&A assessment records lists the Target Store as 102,386 sq. ft. and constructed in 1989.

¹⁶¹ P-10 R-10 reports the transaction date on the Property Transfer Affidavit being December 23, 2021, and attached Covenant Deed and Quit Claim deed are dated December 6, 2021. P-1 at 7 reports the transaction date to be December 6, 2021, as recorded on the Covenant Deed December 10, 2021.

23. Petitioner executed the Buyer's Settlement Statement reporting the total consideration buyer paid seller was \$23,250,000.¹⁶²
24. The settlement statement reports Petitioner secured a new mortgage loan amount of \$17,437,500 or a loan to value ratio of 75/25.¹⁶³
25. The seller of the property to Petitioner submitted to Respondent a Property Transfer Affidavit form L-4260 executed on December 6, 2023, by seller's senior vice president reporting a purchase price of \$25,000,000.¹⁶⁴
26. North is an income producing multi-tenant commercial retail building.
27. North consists of two buildings on three contiguous land parcels which includes 16 inline retail units and four anchor stores.
28. As of tax day 2023, North had an NRA occupancy rate of approximately 89.98% or vacancy of 10.02%.¹⁶⁵
29. Two months after tax day 2023, on or about February 2023, North's NRA occupancy reduced to 78.2%, or 21.8% vacancy after BB&B vacated its space.¹⁶⁶
30. Alpine Avenue northbound traffic has good visibility of Green Ridge Square. Southbound traffic has reduced visibility of parcel -008 rental units and other southerly facing storefronts from Alpine Avenue.
31. Petitioner's appraiser prepared its valuation disclosure estimating the TCV of North's three parcels as a single economic unit.
32. Respondent's appraiser prepared two valuation disclosures valuing North's three parcels as two separate economic units.
33. Petitioner's appraisal report included the sales comparison approach utilizing five sales adjusted for dissimilarities in comparison to the North.
34. Respondent's two appraisals also included the sales comparison approach utilizing five sales in R-1 and four sales in R-2.
35. Petitioner's appraiser also did an income approach utilizing market rent, expenses, and an overall rate adjusted for the ETR adjusted for vacancy, and a lease-up costs deduction.
36. Respondent's income approach in R-1 and R-2 included market rents, expenses, and an overall rate.

¹⁶² P-1 at 181.

¹⁶³ P-1 at 182.

¹⁶⁴ R-10.

¹⁶⁵ P-1 at 8.

¹⁶⁶ P-1 at 12.

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.¹⁶⁷

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.¹⁶⁸

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.¹⁶⁹

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”¹⁷⁰

“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.”¹⁷¹ The Tribunal is not bound to accept either of the parties' theories of valuation.¹⁷² “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.”¹⁷³ 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.”¹⁷⁴

A proceeding before the Tax Tribunal is original, independent, and de novo.¹⁷⁵ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”¹⁷⁶ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”¹⁷⁷

¹⁶⁷ See MCL 211.27a.

¹⁶⁸ Const 1963, art 9, sec 3.

¹⁶⁹ MCL 211.27(1).

¹⁷⁰ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

¹⁷¹ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

¹⁷² *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

¹⁷³ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

¹⁷⁴ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

¹⁷⁵ MCL 205.735a(2).

¹⁷⁶ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

¹⁷⁷ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

“The petitioner has the burden of proof in establishing the true cash value of the property.”¹⁷⁸ “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.”¹⁷⁹ 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.”¹⁸⁰

Petitioner contends that the three assessment parcels making up North should be valued as a single economic unit because they function and operate as a whole with the appearance in the marketplace as a single economic unit. Respondent contends the three parcels should be appraised as two separate economic units valuing parcel -018 separate from parcels -008 and -009 because the client’s SOW called for two separate appraisals, banks would not lend on -008 if the building and parking lot were not sold together, and selling these two parcels together separate from -018 would yield the greatest value.

Petitioner contends Respondent’s appraiser failed to adequately support his assumptions and conclusions. North is a strip shopping center. Respondent contends Petitioner’s appraiser mischaracterizes the North as a “power center” property.

Respondent contends Petitioner’s appraiser utilized and inappropriately applied vacancy adjustments to “nonlocal” sales that are not comparable to the subject property. Respondent further contends that the 25% adjustment of three sales attributable to “other factors” in the sales comparison approach is unsupported. Petitioner’s appraiser contends his sales comparison approach provides a check to the reasonableness of its income approach.

Petitioner’s appraiser contends he valued the fee simple interest based on the H&BU as its continued current use, based on market rent, subject to market occupancy and “frictional vacancy,” less market operating expenses and recognized lease-up costs.

Petitioner further contends that Respondent’s appraiser failed to support their concept that lower market vacancy and uncollectable rate for smaller inline shopping centers located in the Grand Rapids market area was more applicable to larger power centers such as the subject. Conversely, Respondent contends that Petitioner utilized higher than local market vacancy and uncollectable rate.

Petitioner contends Respondent’s appraiser adopted a capitalization rate more aligned with smaller lower risk shopping centers and not supported for the larger higher risk shopping center market. Respondent contends Petitioner’s appraiser adopted an excessive capitalization rate exceeding the local Grand Rapids market.

¹⁷⁸ MCL 205.737(3).

¹⁷⁹ *Jones & Laughlin Steel Corp, supra* at 354-355.

¹⁸⁰ MCL 205.737(3).

The appraisers relied on both the sales comparison and income approaches to determine the TCV of the North. Petitioner's appraiser gave greatest weight to the income approach as the most appropriate method for valuing the subject property as a power center shopping center. Respondent's appraiser relied on the sales comparison approach to value both economic units which was supported by their income approach.

HIGHEST AND BEST USE

The subject property was originally developed as a commercial multi-tenant retail shopping center. Both parties appraisers have concluded a similar H&BU¹⁸¹ for the three parcels making up North. The Tribunal finds that there is no dispute that the North's H&BU is its continued use as a commercial multi-tenant retail shopping center.

Power Center v Strip Center

Closely related to the subject property's H&BU, both parties appraisers dispute the type of commercial retail building market in which the subject competes for potential investors and the appropriate market data to include in the valuation analysis. Petitioner's appraiser contends the subject property's retail market type more appropriately competes in the large investor "power center" retail shopping center market as a large single economic unit while Respondent's appraiser opines the property's highest value can be achieved if the property was marketed for sale as two separate economic units valued as two separate smaller inline retail strip centers.

¹⁸¹ "Highest and Best Use" is "1. The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity. 2. The use of an asset that maximizes its potential and that is possible, legally permissible, and financially feasible. The highest and best use may be for continuation of an asset's existing use or for some alternative use. This is determined by the use that a market participant would have in mind for the asset when formulating the price that it would be willing to bid. (IVS) 3. [The] highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future. (Uniform Appraisal Standards for Federal Land Acquisitions) 4. [For fair value determination] The use of a nonfinancial asset by market participants that would maximize the value of the asset or the group of assets and liabilities (for example, a business) within which the asset would be used. (FASB Glossary) The highest and best use of a nonfinancial asset takes into account the use that is physically possible, legally permissible, and financially feasible. (FASB 820-10-35-10B). The highest and best use of a nonfinancial asset establishes the valuation premise used to measure the fair value of the asset, as follows: (a) The highest and best use of a nonfinancial asset might provide maximum value to market participants through its use in combination with other assets as a group (as installed or otherwise configured for use) or in combination with other assets and liabilities (for example, a business). (b) The highest and best use of the asset might provide maximum value to market participants on a standalone basis. (FASB 820-10-35-10E)." *The Dictionary of Real Estate Appraisal* at 88.

The Appraisal Institute defines “Power Center” as a:

[L]arge community shopping center with more than 250,000 square feet of space anchored by three or more tenants that occupy 60% to 90% of the space; the number of specialty stores is kept to a minimum.¹⁸²

Additionally, the Appraisal Institute defines “Anchor Store” as:

[A] classification of shopping center tenant in which the store is a major store such as a chain store or major department store that (1) generates a high amount of retail customer traffic, (2) has substantial economic strength (i.e., creditworthiness), and (3) occupies a large space within the shopping center relative to other tenants. A freestanding store under different ownership on a nearby or adjacent parcel that has the characteristics of an anchor store is sometimes called a *shadow anchor store*.¹⁸³

“Strip Center” is a strip shopping center or strip retail center.¹⁸⁴ “Strip Development” is defined as a “[c]ommercial development in which the main thoroughfares of a city are bordered by an almost continuous row, or strip, of retail stores and allied service establishments, also any shopping area that consists of a row of stores.”¹⁸⁵

In this case, North’s building improvements have been described by the parties’ appraisers as appearing to resemble the number “7” or the letter “L” and is made up of four anchor tenants and 16 smaller inline suites located on three contiguous parcels owned by Petitioner. Additionally, also constructed within the Green Ridge Square shopping center is a fifth shadow anchor retailer separately owned and operated by Target and/or its parent legal entity. The four large retail tenant suites owned by Petitioner total more than 161,000 sq. ft. or about 75% of the building’s 213,005 GBA and about 78% of the 205,129 sq. ft. NRA. Located south of Petitioner’s suite GSI-21, Target shares a common wall abutting Petitioner’s property. Target’s store is 102,386 sq. ft. GBA. When considering the total building area of all buildings located at the Green Ridge Square community shopping center, the total building area is 315,391 sq. ft., for total anchor stores and the shadow anchor store space is 263,386 sq. ft. or 83.5% of the Green Ridge Square shopping center community campus.¹⁸⁶

When describing the functional integration of Petitioner’s North, East, and West with the Target parcel based on the evidence and testimony, Petitioner’s three parcels making up North, including parking lot parcels -009 and -018, East, and West, are contiguous to the Target parcel and its parking lot. Collectively, North, East, West, and Target share

¹⁸² *Id.* at 145.

¹⁸³ *Id.* at 7.

¹⁸⁴ *Id.* at 182.

¹⁸⁵ *Id.*

¹⁸⁶ Tr. Vol 3, at 121:20 through 123:24.

customer parking at Green Ridge Square. Customers, tenants and their employees gain access to Green Ridge Square from two main ingress/egress points of entry off of Alpine, Center, and Weatherford public right of ways. Additionally, the shopping center business tenants gain access to the rear of their stores for shipping/receiving purposes as well as employee parking¹⁸⁷ off from North Orchard/Old Orchard at the north of the property and Weatherford on the east or at the rear of the shopping center.

As shown in photographs admitted into evidence by the parties, both north and south Alpine Avenue entrances are marked by Green Ridge Square shopping center signage branding each of the five anchor stores making up the shopping center community campus as of tax day 2023. It is undisputed that Alpine Avenue is a high traffic commercial thoroughfare serving the Walker community. The Alpine Avenue north entrance shopping center curb-cut and sign are located on parcel -009 which includes commercial logos representing Best Buy and BB&B located on parcel -008, and Burlington located on parcel -018. The Target store, located on its own parcel and Michaels, located on -018, have their commercial logos appear on the Alpine Avenue south sign. The evidence also shows the south curb-cut is on Petitioner's parcel -018 and south shopping center sign is located on Target's parcel.

Based on all visible indications represented by the Green Ridge Square shopping center signage and all points of ingress/egress to all areas of public parking serving the shopping center, by appearance to the general public passing by Green Ridge Square on Alpine Avenue, the Target shadow anchor store is very much a part of the shopping center campus community as it and the other anchor brands contribute to the high amount of retail customer traffic at Green Ridge Square. Based on the evidence and testimony provided, the Tribunal finds that Green Ridge Square is a power center within compliance of the complete Appraisal Institute definition relied upon by both parties' appraisers.

Single Economic Unit v Two Economic Units

Also closely associated with H&BU, Petitioner's appraiser valued the North as a single economic unit based in his analysis of H&BU as a commercial retail shopping (power) center. Conversely, Respondent's appraiser determined that the optimal value of North can be achieved if the three assessment parcels are marketed for sale by a real estate broker as two separate strip center economic units.

It was Respondent's appraiser's opinion that based on his experience in order to optimize the value of parcel -008, brokers would market the improved building parcel together with the parking lot parcel -009 because it would be detrimental to the value of building on parcel -008 if the buyer or property owner did not own its parking lot and only provided parking in the back and side of the building. Along that same thought process, it was Mr. Van Stensel's experience that lending institutions would not provide financing if the property did not own its parking lot because without parking the improved property's value would be diminished. Furthermore, he was of the opinion the

¹⁸⁷ P-4 at 2, employee parking at rear of parcel -018 is 102 regular, 0 handicap, 102 total spaces.

smaller inline retail spaces making up parcel -018 more reflected a strip center commanding a higher market rate than the larger anchor stores located on parcel -008. And finally, Respondent's appraiser provided documentary evidence and testified that Respondent's assessor desired the SOW to value the property at the assessment parcel level for property tax assessment administration reasons.¹⁸⁸ Based on these fundamental factors, Mr. Van Stensel was of the opinion the H&BU of the property would be achieved if marketed and sold as two separate economic units.

As noted above, the Appraisal Institute defines an "economic unit" for property appraisal purposes as:

1. A portion of a larger (parent) parcel, vacant or improved, that can be described and valued as a separate and independent parcel. Physical characteristics such as *location, access, size, shape, existing improvements, and current use* are considered when identifying an economic unit. The *economic unit should reflect marketability characteristics* similar to other properties in the market area. In appraisal, the identification of economic units is essential in highest and best use analysis of a property.
2. A combination of parcels in which land and improvements are used for mutual economic benefit. *An economic unit may comprise properties that are neither contiguous nor owned by the same owner. However, they must be managed and operated on a unitary basis and each parcel must make a positive economic contribution to the operation of the unit.*¹⁸⁹

When identifying an economic unit, the elements to be considered are the physical characteristics of the property including location, access, size, shape, existing improvements, and current use. The Appraisal Institute also suggests the economic unit should reflect marketability characteristics similar to other properties in the market area. The definition also defines an economic unit to include a combination of parcels that are managed and operated on a unitary basis making a positive economic contribution to the operation of the unit.

In this case, the physical characteristics attributable to Green Ridge Square shopping center campus, excluding South, consists of five contiguous assessment parcels owned by Petitioner surrounding the Target shadow anchor store parcel.

Green Ridge Square is located west of US-131 and north of I-94 along heavily traveled Alpine Avenue serving commercial, industrial, and residential neighborhoods.¹⁹⁰ The shopping center's stores and customer parking are accessible off Alpine Avenue on the west by a set of north and south entrances marked by the five anchor tenants' brands represented on the Green Ridge Square signage. Other points of access on all sides of

¹⁸⁸ Tr. Vol 2, at 92:1-23

¹⁸⁹ *Id.* at 60.

¹⁹⁰ R-1 at 22 and P-1 at 29.

the shopping center site include the south entrance off from Center Street, the east off from Weatherford, and two points of access on the north side of the property off from North Center/Old Orchard.¹⁹¹ Based on the actual physical points of ingress/egress to the shopping center stores, customer parking, and shipping/receiving docks as shown on the survey,¹⁹² and the evidence, the shopping center campus appears to have been planned, designed, built, and functions as a signal economic unit subject to a commercial PUD even though the center is made up of multiple assessment parcels with two separate property owners.¹⁹³ The Tribunal notes that even though the City of Walker approved the commercial PUD zoning and development, neither party provided documentary evidence nor testimony relative to the customary PUD agreement and final design as noted on the survey documents that may govern certain use, development, and operational restrictions.¹⁹⁴ The survey also notes multiple easements placed on the parcels including a requirement for a utility easement for land set aside in the northeast corner of parcel -018 for a stormwater detention/retention pond serving the site.¹⁹⁵

The North is made up of three parcels with a total of 18.23 acres, and a land to building ratio of 3.73:1. Total number of regular parking spaces is 1,077 including 51 handicap spaces.¹⁹⁶ Specific to parcels -008 and -009, the site is 7.28 acres with a land to building ratio of 3.35:1 with total regular parking spaces of 457 and 17 handicap spaces. The survey for parcel -018 indicates this parcel is 10.94 acres with a land to building ratio of 4.0:1 with 450 regular parking spaces and 34 handicap spaces. The Tribunal notes that the survey shows if the parking spaces located on parcel -009 were sold to a buyer along with parcel -008, that would create a long narrow strip of parking on parcel -018 severely reducing the number of parking spaces owned by Petitioner located directly in front of store units GSI-5 through GSI-11 which contains the Burlington anchor store. Currently, located on parcel -018 directly in front of these units there are a total of 21 parking spaces including seven regular and 14 handicap. These 21 spaces are configured on a long narrow strip two to three spaces deep. The remaining 463 parking spaces are located in front of GSI-12 through GSI-21. GSI-5 through GSI-11 makes up 40% of NRA on parcel -018, and GSI-12 through GSI-21 makes up about 60% of NRA.

The appraisers generally agree that its common shopping center's parking lots are shared spaces to be used by tenants' customers and tenants themselves. There also was general agreement without objection that "retail people park in retail lots and there's not a concern about who parks where."¹⁹⁷ Respondent's representative inquired if there was no parking or detention/retention pond easements would there have to be

¹⁹¹ R-21.

¹⁹² P-4 at 1-4.

¹⁹³ Tr. Vol. 3 at 119:10 through 120::23.

¹⁹⁴ P-4 at 1-4. See survey pg. 1, surveyors zoning information note #8. Also see surveyors zoning information note on pg. 2 advising that bulk parking or land coverage requirements are not listed for the subject property.

¹⁹⁵ Tr. Vol 1, 36:14-15, and 120:24 through 122:13.

¹⁹⁶ P-4.

¹⁹⁷ Tr. Vol 3, at 117:7 through 119:9.

easement agreements prepared in order to split and sell the parcels to separate owners, Respondent's appraiser confirmed agreements would have to be put in place between the owners basically agreeing to sharing their parking spaces. The Tribunal notes that neither party provided any documentary evidence nor testimony that there are existing parking lot easements or parking lot management operating agreements between Petitioner and Target nor did the parties provide a sample copy of existing lease agreements between Petitioner and its tenants addressing the landlord's obligation to provide customer parking, property and liability insurance, snow removal, maintenance, lighting, and landscaping. The appraisers address that these related operating expenses are a part of the CAM expenses billed back to the tenants, but no evidence has been provided establishing these parking lot operational responsibilities provided to its tenants are assignable, if separately sold.¹⁹⁸ As mentioned earlier, the parties also did not provide the commercial PUD agreement that may address shopping center baulk or fractional parking lot zoning requirements. Therefore, the Tribunal has no evidence supporting whether the parking lot parcels currently used on a unitary basis, serving the entire shopping center, could be sold separately to different owners if the improved retail parcels are split into two separate economic units. According to the definition of H&BU, demonstrating legal permissibility is a key component of H&BU.

Respondent's appraiser also provided testimony that if parcels -008 and -009 were split and sold separately from parcel -018, parcel -009 would have to be sold with parcel -008 because lenders would not finance the transaction without the parking lot parcel because without parking the value of the building would be devalued. To that end, Respondent's appraiser provided no supporting analysis that parcel -018's building value would not be devalued if parcel -009's parking was sold to an unrelated third party without the proper easements and agreements in place. Furthermore, while Respondent's appraiser appropriately considered lending approval policies of lenders he has done business within the past, he has failed to reconcile private lending practices with the definition of TCV and valuing multiple contiguous parcels to achieve economies of scale under the General Property Tax Act. The Tribunal finds Respondent has failed to provide persuasive evidence parcel -009 can be split and sold separately from the shopping center as a whole or in part without damaging or devaluing parcel -018 or the shopping center as a whole.

Under appeal are three of Petitioner's six parcels making up Green Ridge Square.¹⁹⁹ Petitioner's property manager testified all six assessment parcels making up the shopping center were listed and marketed for sale by a real estate broker.²⁰⁰ Petitioner provided documentary evidence and testimony the shopping center was offered for sale by a broker, and Petitioner purchased the entire shopping center campus, subject to multiple existing lease agreements, as a single economic unit on December 21, 2021, in the amount of \$23,250,000. The documentary evidence also demonstrates Petitioner secured mortgage financing from Flagstar Bank in the principal amount of \$17,437,500

¹⁹⁸ Tr. Vol 3, at 35:9 through 36:10.

¹⁹⁹ Tr. Vol 1, at 15-23.

²⁰⁰ Tr. Vol 1, at 24:20 through 25:9.

for the property.²⁰¹ No documentary evidence, testimony, nor analysis was provided addressing the terms and conditions of the mortgage agreement and whether the conditions or limitations in which the mortgagee will permit a split and sale of a portion of the property held as collateral.²⁰²

According to the parties, the appraisals report the two buildings located on North and the Target building were constructed at or about the same time between 1988 and 1989. The parties did not provide “as built” building drawings describing building construction quality indicating whether the two buildings construction were similar. However, the parties did provide several exterior, interior, and aerial photographs showing what building construction appears to be alike and similar complementing the overall appearance of shopping center as a single economic unit.

Another element of consideration when determining economic unit is marketability²⁰³ characteristics similar to other properties in the market area. As previously noted, the subject was marketed for sale and acquired by Petitioner as a single economic unit. The subject property’s GBA is 213,005 sq. ft. with 20 rental units ranging from 1,198 to 44,854 sq. ft.²⁰⁴ Green Ridge Square has portions of its storefronts facing Alpine Avenue and parcel -008’s storefronts facing south overlooking a parking. Respondent’s appraiser identified two shopping center properties in close proximity, neighboring the North, participating in the same micro Comstock/Alpine Avenue retail submarket.²⁰⁵ One shopping center rental property was located directly behind Green Ridge Square known as Green Orchard Shopping Center²⁰⁶ with no Alpine Avenue exposure, and a second shopping center known as Alpine Summit located across Alpine Avenue from the subject property with Alpine Avenue exposure and used as a comparable sale by both appraisers.²⁰⁷ All three shopping center properties had reported vacancies.

Specific to Green Orchard Shopping Center, the parties do not dispute this shopping center campus is made up of two detached retail buildings built on two parcels and is over 372,000 sq. ft., falling within the Appraisal Institute’s definition of a power center. According to the Green Orchard Shopping Center’s broker’s marketing brochure, admitted into evidence, there are nine rental units ranging from 5,033 to 104,508 sq. ft. with three vacancies totaling about 65,679 sq. ft. or a vacancy of about 17%.²⁰⁸

²⁰¹ P-1 at 180-181.

²⁰² The Tribunal takes notice that R-1 comparable Sale #4 is made up of seven assessment parcels containing a total of 167,661 sq. ft. multitenant inline multi-building improvements sold together as a single economic unit in the amount of \$21,000,000 closing on February 7, 2022. The accompanying comparable sales data sheet did not report the number of leasable units.

²⁰³ “Marketability” is “[t]he relative desirability of a property (for sale or lease) in comparison with similar or competing properties in the area. “Marketability Analysis” is “[t]he study of how a specific property is expected to perform in a specific market. A marketability analysis expands on a market analysis by addressing a specific property. See also market analysis.” “Market Analysis” is “[t]he study of the supply and demand in a specific area for a specific type of property.” *The Dictionary of Real Estate Appraisal* at 115.

²⁰⁴ P-1 at 8 and 186.

²⁰⁵ R-5

²⁰⁶ R-7

²⁰⁷ R-1 at 35 and 93, also see R-2 at 36 and 74.

²⁰⁸ R-7.

According to Petitioner's comparable sheet and broker's listing brochure, Alpine Summit is about 144,942 sq. ft. with suites ranging in size from 5,000 to 30,000 sq. ft.²⁰⁹ Actual number of rental units was inconclusive at the hearing but may range from five to 14 and vacancy was about 14%.²¹⁰

The subject property and Alpine Summit have Alpine Avenue frontage with Green Orchard Shopping center having no frontage with only a sign/billboard on the Target parcel at the northeast corner of Alpine Avenue and Center.²¹¹ The Tribunal notes that all appraisal reports contained both micro and macro "market analysis" with mixed conclusions. Petitioner's appraiser concludes " [i]nterest in retail has declined due to various factors."²¹² Respondent's appraiser concludes that the Walker Avenue corridor north of I-96 has seen growth due to the construction of a FedEx building which should drive increased demand for future development eventually expanding in the City of Walker.²¹³ In addition to the market analysis, when determining an economic unit a "marketability analysis" supporting their contentions of whether the subject property is a single or two economic units. The marketability analysis analyzes the relative desirability of a property in comparison with similar or competing properties in the area. It is the study of how a specific property is expected to perform in a specific market.²¹⁴ Moreover, a marketability analysis prepared to determine an economic unit expands on a market analysis by addressing a specific property. In this case, the Tribunal notes that neither party provided credible and persuasive evidence and testimony addressing how North with obstructed Alpine Avenue visibility is expected to perform in the Walker/Alpine Avenue commercial retail market if sold as two separate economic units other than differing opinions as to market vacancy and capitalization rate in greater Grand Rapids market. The appraisers did generally agree that the exposure²¹⁵ and marketing²¹⁶ times for the subject property might be between 12²¹⁷ to 18 months.²¹⁸ The appraisers also generally agreed that the risk of leasing smaller vacant rental spaces was lower than larger vacant spaces because there were far fewer large space users than smaller space users in the marketplace.

Absent a specific marketability analysis supporting the parties' determination of number of economic units, the Tribunal will summarize key facts presented by each appraiser.

²⁰⁹ P-27.

²¹⁰ P-28.

²¹¹ Tr. Vol 2, at 159:7-22 and see also aerial photo P-1 at 178.

²¹² P-1 at 35-37.

²¹³ R-2 at 21-24.

²¹⁴ Appraisal of Real Estate at 274.

²¹⁵ "Exposure Time" is "1. The time a property remains on the market. 2. An opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal. (USPAP, 2020-2021 ed.)" *The Dictionary of Real Estate Appraisal* at 67-68.

²¹⁶ "Marketing Time" is "[a]n opinion of the amount of time to sell a property interest at the concluded market value or at a benchmark price during the period immediately after the effective date of an appraisal. Marketing time differs from exposure time, which precedes the effective date of an appraisal" *Id.* at 118.

²¹⁷ R-1 at 30.

²¹⁸ P-1 at 45.

Their respective reports and testimony identify two retail shopping centers that presumably compete for potential tenants filling vacant space at market rent in the Walker/Alpine Avenue submarket. The closest thing to measuring the subject's desirability relative to the two neighboring shopping centers is the appraisers' testimony relative to the importance for store fronts with Alpine Avenue exposure. For example, Respondent's appraiser testified Burlington moved from its 40,000 sq. ft. Green Orchard Shopping Center space into a nearly 29,000 sq. ft. space in GSI-10 with Alpine Avenue exposure.²¹⁹ According to the Green Orchard Shopping Center marketing brochure, the former 40,000 sq. ft. Burlington space is still available at the time of the hearing among other large spaces without Alpine Avenue exposure.²²⁰ There was no evidence or testimony addressing Green Orchard Shopping Center's operating cashflow situation nor evidence Respondent's assessor was valuing that two-building power center as one or two economic units. The appraisers generally did not dispute the parcel -008 rental units facing south suffered from some amount of functional obsolescence and that the shopping center would more likely be reoriented differently if built today maximizing Alpine Avenue exposure.

Petitioner's property manager and appraiser testified that the larger BB&B space facing the parking lot became vacant as of late February 2023 and remained vacant as of the hearing date causing higher overall market vacancy rate at North. Based on parcel -008's vacancy and lack of exposure suggests parcel -008's dependence on parcel -018 and the overall shopping center's sustainable cashflow to operate profitably indicating Green Ridge Square should be treated as a single unitary economic unit. Treating Green Ridge Square as two separate economic units owned by two separate owners may weaken the rental income cashflow devaluing parcel -008's property value if not treated as a single economic unit with parcel -018. Since the parties did not provide a marketability analysis essential to the H&BU analysis, the Tribunal is unable to find based on a reliable marketability analysis if the subject is made up of one or two economic units. Absent a marketability analysis, the Tribunal must alternatively rely on evidence attributable to Petitioner's recent acquisition of the subject property's existing rent roll lease structure and cashflow. Petitioner provided evidence it acquired Green Ridge Square as a viable single economic unit in the open marketplace from a willing seller based on the existing consolidated rent roll of tenants leasing parcel -008, parcel -018, and South. Based on the actual purchase price paid, the 2020 contract rent structure, and Respondent's appraiser calculated capitalization rate of 7.5%, there was evidence that Petitioner paid no more nor less than the market value and the sale was at arm's-length. The record also does not reflect the seller listed Green Ridge Square as two separate economic units with the intent to maximize its sales proceeds and its capital gains.

In addition to a marketability analysis for a specific property, the Appraisal Institute's criteria for an economic unit may include a combination of parcels that are managed and operate on a unitary basis making a positive economic contribution to the operation of the unit. As noted above, Petitioner acquired on December 21, 2021, all six

²¹⁹ Tr. Vol 3, at 139:13 through 140:10.

²²⁰ R-7.

assessment parcels including all existing lease agreements were assigned to Petitioner as a single economic unit. Petitioner's property manager, Mr. Davis, further testified his employer and owner of the property is McCall, and McCall is also the property management company collectively managing North, South, East, and West parcels. Petitioner's appraiser testified that for appraisal purposes he reconstructed an income and expense statement from the 2022 financial statements and confidential 2022 and 2023 rent rolls obtained from Petitioner. The income and expense statements and rent rolls creditably and persuasively establishes all parcels making up Green Ridge business entity operate on a unitary basis as a single economic unit.

Serving as an example of how Green Ridge Square operates as a single economic unit, Mr. Davis testified that the rental units making up North are subject to existing lease agreements in place at the time of the real estate transaction including a "co-tenancy" provision. After the 2021 real estate transaction closing, BB&B located on parcel -008 vacated the property causing at least one tenant on parcel -018 to exercise its right under the co-tenancy provision to withhold monthly rent payments. He also testified that the remaining tenants in Green Ridge Square began to become concerned about declining customer traffic and expressed interest invoking the co-tenancy provision in the lease contract permitting tenants to withhold their monthly rent payment. He further stated that one tenant "stopped paying rent for a while."²²¹ Petitioner's appraiser concluded that "subject property north is integrated to each other, they're all owned by the same owner, managed by the one entity and it all serves as one H&BU."²²² Based on the foregoing, the Tribunal finds there is persuasive evidence and testimony that Green Ridge Square and more specifically North, operates on a unitary basis making a positive economic contribution to the operation of the property as a single economic unit.

In valuation theory, the comparables' H&BUs are expected to mirror a subject property. However, in valuation practice, the subject and comparable sales may have different uses and varying sizes. Realistically, the use of a comparable may change subsequent to the sale of that property. A comparative analysis looks at the use and other variables of each comparable sale in a line-item fashion (for example, zoning) which allows for various acceptable uses. The purpose of a comparative analysis is to thresh out the sale property as a comparable sale. A comparable sale may have a different use but have the same zoning as the subject property. Consequently, the H&BU for the subject property is different than the "use" for a comparable property at the time of sale. Comparing and contrasting sales to the subject property is the expectation in a comparative analysis. Again, a benchmark for a variety of legal, physical, and financial uses may be achieved within certain zoning ordinances such as CPUD. Said differently, an appraiser's due diligence research in the "normal course of business" may not necessarily encompass a separate H&BU analysis for each comparable sale. The rigid perception that the subject and comparable sale must have the same H&BU is not practical or reasonable. In general, the Tribunal does not accept the premise that

²²¹ Tr. Vol 1, at 21.

²²² Tr. Vol 2, at 50:23 through 51:2.

sales only become comparable sales when they have the same exact H&BU as the subject property.

Valuation

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.²²³ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”²²⁴ 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.²²⁵ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.²²⁶

Cost Approach

The cost approach “is particularly useful in valuing new or nearly new improvements and properties that are not frequently exchanged in the market.”²²⁷ Further, it is more useful when “a lack of market activity limits the usefulness of the sales comparison approach” and it is “especially persuasive when land value is well supported and the improvements are new or suffer only minor depreciation”²²⁸ As previously noted, neither party developed nor relied on the cost approach to value. Therefore, there is no basis for the Tribunal to have considered this approach to value the North.

Sales Comparison Approach

“The sales comparison approach is most useful when a number of similar properties have recently been sold or are currently for sale in the subject property’s market.”²²⁹

When selecting comparable sales of investment properties, the relevant market is often not geographically limited to the local retail trade area. It is the entire region or nation throughout which investors are likely to operate. Similarly, operating expense ratios should be drawn from industry sources that report norms for a range of properties, not just particularly successful or unsuccessful projects.²³⁰

²²³ *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).

²²⁴ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

²²⁵ *Antisdale*, *supra* at 277.

²²⁶ See *Meadowlanes* at 485.

²²⁷ The Appraisal of Real Estate at 36.

²²⁸ The Appraisal of Real Estate at 530.

²²⁹ The Appraisal of Real Estate at 36.

²³⁰ Appraisal Institute, *Shopping Center Appraisal and Analysis*, Second Edition, at 179.

As noted above, each party’s appraiser developed a sales comparison approach to value. The appraisers used this approach as a check on reasonableness to their income approach to value. The strengths and weaknesses from each appraiser’s comparative analysis are discussed below.

Petitioner’s and Respondent’s appraiser’s sales summary and comparison adjustment grids are a conventional comparison adjustment grid²³¹ for their respective comparative analyses.²³² Petitioner’s appraiser analyzed five sales for comparison to the North, three transacted in the west Michigan retail shopping center market, one from southeast Michigan, and one from the greater Chicago market. Table 2 below contains a summary of identified comparable sales and their property characteristics used in Petitioner’s sales approach valued as a single economic unit. Respondent’s sales summary and characteristics reported in R-1 (parcels -008 and -009) and R-2 (parcel -018) used to value the subject property as two separate economic units are listed in Tables 3 and 4, respectively. Petitioner’s appraiser’s Sales #1, #2, and #3 were also selected by Respondent’s appraiser used in appraisal reports R-1 and R-2.²³³

Table #2, North parcels -008, -009, -018²³⁴

Description	Subject	Sale #1	Sale #2	Sale #3	Sale # 4	Sale #5
Address	3150-3410 Alpine Ave	12635 Felch St	4495-4597 Canal Ave	3165 Alpine Ave	1610-1780 Orchard	28774-28802 Gratiot
Sale Date	12/21/2021	02/22/2022	11/23/2021	08/02/2021	05/24/2021	04/08/2020
Sale Price	\$23,250,000	\$21,000,000	\$21,100,000	\$17,690,000	\$7,025,000	\$9,500,000
Sale \$/sq. ft.	\$109.15	\$126.43	\$100.96	\$129.70	\$58.02	\$61.34
Ownership / Estate	Fee Simple	Leased Fee	Leased Fee	Leased Fee	Leased Fee	Leased Fee
Location	Walker, MI	Holland, MI	Grandville, MI	Walker, MI	N Auroa, IL	Roseville, MI
Location Rating	Average	Similar	Similar	Similar	Similar	Similar
Bldg. sq. ft. -GBA	213,005	166,100	209,000	136,388	121,074	154,883
Year Built	1988/1989	1998	2001/2010	1965/2002/2006	2006	1963/2004
Condition	Average	Superior	Superior	Similar	Superior	Similar
Quality	Class C, Average	Similar	Similar	Similar	Similar	Similar

²³¹ *Id.* at 178, Shopping Center Appraisal, Sales Summary and Adjustment Grid of Neighborhood Shopping Centers.

²³² P-1 at 67, R-1 at 35, R-2 at 36.

²³³ P-1 comparable sale #1 is used in R-1 sale #3 and R-2 sale #4. P-1 sale #2 is same as R-1 sale #4 and R-2 sale #3. P-1 sale #3 is same as R-1 sale #5 and R-2 sale #4.

²³⁴ P-1 at 67.

Description	Subject	Sale #1	Sale #2	Sale #3	Sale # 4	Sale #5
Site Size (Acres)	18.23	13.51	30.58	13.34	14.38	6.41
Site Size (sq. ft.)	794,099	588,596	1,332,065	581,090	626,393	279,220
Land to Building Ratio	3.73	3.54	6.37	4.26	5.17	1.80
Occupancy	89.98%/78.2%	100.0%	100.0%	100.0%	76.0%	58.0%

Table #3, North parcels -008, -009²³⁵

Description	Subject	Sale #1	Sale #2	Sale #3	Sale #4	Sale #5
Address	3400-3410 Alpine Ave	4901 28 th St SE	5201 S Harvey St	12635 Felch St	4485-4597 Canal Ave SW	3165 Alpine Ave NW
Sale Date	12/21/2021	08/2021	12/2021	02/2022	11/2021	08/2021
Sale Price	N/A	\$10,000,000	\$32,541,000	\$21,000,000	\$21,100,000	\$17,690,000
Sale \$/sq. ft.	N/A	\$134.68	\$92.95	\$125.25	\$99.93	\$129.63
Ownership / Estate	Fee Simple	Leased Fee	Leased Fee	Leased Fee	Leased Fee	Leased Fee
Terms	Conventional	N/A	Conventional	Other	Conventional	Conventional
Location	Walker, MI	Cascade Twp, MI	Norton Shores, MI	Holland Twp, MI	Grandville, MI	Walker, MI
Location Rating	N/A	Similar	Inferior	Similar	Similar	Similar
Bldg. sq. ft. -GBA	94,555	74,250	350,077	167,661	211,138	136,468
Year Built	1989	1995/1998	1995	1996/2021	2001/2010	1965/2002
Condition	Average	Average	Average	Average	Average	Average
Quality	Average	Average+	Average	Average+	Average, inf.	Average+
Site Size (Acres)	7.29	6.53	40.92	15.84	32.48	13.70
Site Size (sq. ft.)	317,552	284,447	1,782,475	689,990	1,414,828	596,772
Land to Building Ratio ²³⁶	3.35	3.83	5.09	4.11	6.70	4.37

²³⁵ R-1 at 35.

²³⁶ Land to building ratio was not calculated by Respondent's appraiser on improved sales data sheet, land to building ratio calculated by Tribunal based land acres and building size as listed on the sales data sheet. R-1 at 69-95.

Description	Subject	Sale #1	Sale #2	Sale #3	Sale #4	Sale #5
Qualitative Rating	N/A	Superior	Inferior	Superior	Inferior	Superior

Table #4, North's parcel -018²³⁷

Description	Subject	Sale #1	Sale #2	Sale #3	Sale #4
Address	3370 Alpine Ave	3165 Alpine Ave NW	3845 Rivertown Pkwy	4495-4597 Canal Ave SW	12635 Felch St
Sale Date	12/21/2021	08/2021	08/2022	11/2021	02/2022
Sale Price	N/A	\$17,690,000	\$9,000,000	\$21,100,000	\$21,000,000
Sale \$/sq. ft.	N/A	\$129.63	\$148.70	\$100.96	\$125.25
Ownership / Estate	Fee Simple	Leased Fee	Leased Fee	Leased	Leased
Terms	Conventional	Conventional	Conventional	Conventional	Other
Location	Walker, MI	Walker, MI	Grandville, MI	Grandville, MI	Holland Twp, MI
Location Rating	N/A	Similar	Similar	Similar	Similar
Bldg. sq. ft. -GBA	120,991	136,468	60,523	209,000	167,661
Year Built	1988	1965/2002/2006	2000	2001	1996/2001
Condition	Average	Average	Average	Average	Average
Quality	Average	Average	Average, inf.	Average, inf.	Average+
Site Size (Acres)	10.94	13.70	4.72	32.48	15.84
Site Size (sq. ft.)	476,546	596,772	205,603	1,414,828	689,990
Land to Building Ratio ²³⁸	3.91	4.37	3.40	6.77	4.11
Qualitative Rating	N/A	Equal	Equal	Inferior	Inferior

Petitioner's appraiser adjusted the comparable sales for differences in property rights appraised, financing terms, condition of sale, expenditures after sale, and market

²³⁷ R-2 at 36.

²³⁸ Land to building ratio was not calculated by Respondent's appraiser on improved sales data sheet, land to building ratio calculated by Tribunal based land acres and building size as listed on the sales data sheet. R-2 at 74-94.

conditions. Other adjustments were made by Petitioner's appraiser which included location, building size, condition, quality of construction, land to building ratio, and other factors. Starting with property rights, Mr. Tomlinson explained all sales were leased fee transactions, and the SOW was value the fee simple estate. He further explained there was not sufficient information available to perform an adjustment which is among the reasons he assigned secondary weight to the sales comparison approach in the reconciliation.²³⁹ Respondent's appraiser determined all sales used in R-1 and R-2 were sold on a leased fee basis, so no adjustments were made.

Petitioner's appraiser made no adjustments to the sales for *financing terms* because he felt the terms for all sales were market-oriented not requiring adjustment for premiums or discounts to cash or cash-equivalency. Accordingly, no adjustment was made. Respondent's appraiser determined financing terms for all sales in R-1 and R-2 were similar, so no adjustments were made.

Condition of sale refers to whether the sale was sold as an arm's length transaction, if not, an adjustment must be made. Petitioner's appraiser was of the opinion that all sales were transacted at arm's length, so no adjustments were necessary. Respondent's appraiser also concluded that that the sales in R-1 and R-2 were at arm's length, so no adjustments were required.

On occasion, the buyer may find it necessary to make *expenditures* immediately after closing the transaction and takes these expenditures into consideration when negotiating the purchase of the property. For example, the expenditures might be for reasons such as safety, abnormal wear and tear, or code violations. The Petitioner's appraiser made no adjustments for expenditures because none of the sales required expenditures immediately after closing the sale. Respondent's appraiser did not address in his report whether any of his sales in R-1 and R-2 required expenditures immediately after closing, so consequently no adjustments were contemplated.

Market conditions adjustments are necessary to reflect the changes in market conditions after closing the comparable sale transaction. In appreciating market conditions, a positive adjustment is made reflecting improving market conditions. In softening or downward market conditions, a negative adjustment is applied. It was Mr. Tomlinson's' opinion that since COVID-19, beginning in early 2020, there has been a general fluctuation in the market.²⁴⁰ To reflect that change from the third quarter of 2021 through tax day 2023, it is the Petitioner's appraiser's opinion a 2.0% adjustment per year from date of sale to the valuation date. The basis of the market condition adjustment was a combination of pre- and post-COVID-19 change in unemployment rate, capitalization rate for power centers, and observation of the marketplace based on his experience in retail and other properties.²⁴¹ Sales #1 and #2 were adjusted 2% for their respective closing dates nine months and 13 months preceding December 31, 2021, equating to 0.22%/month for Sale #1 and 0.15%/month for Sale #2. Sales #3 and

²³⁹ P-1 at 65.

²⁴⁰ Tr. Vol 1, 53:2 through 60:22 and 123:22 through 124:7. See also P-11 and P-12.

²⁴¹ Tr. Vol 1, 55:3-7.

#4 were adjusted 3.0% or 0.19%/month for 16 months preceding tax day 2023 and 0.16%/month for 19 months, respectively. Sale #5 was adjusted 5.0% or 0.16%/month for this sale closing 32 months prior to tax day.²⁴²

Respondent's appraiser approached *market conditions* adjustments slightly different. He relied on variability of change in Walker home sales reflecting about 9.5% year-over-year increase between 2019 and 2023, benchmarked against general commercial property sales increases of about 8% year-over-year between 2019 and 2022.²⁴³ Mr. Van Stensel reconciled the market conditions adjustment of 6.0%/year noting no negative adjustment for the small downturn in 2022 due to variability in the data. He further determined there was no data available supporting an overall decrease in the overall market value. To that end, the lower adjustment at 6.0% was utilized in R-1 and R-2 as the North had stabilized rents over the past few years with continued year-over-year increases due to indexed contract rent rate increases.²⁴⁴ R-1 Sales #1 and #5 were adjusted 8% for their respective closing dates 16 months preceding December 31, 2021, equating to 0.50%/month. Sales #2 and #4 were adjusted 6% for their respective closing dates 12 months and 13 months preceding December 31, 2021, equating to 0.50%/month and 0.46%/month, respectively. Sale #3 was adjusted 5.0% or 0.50%/month for this sale closing 10 months prior to tax day.²⁴⁵ R-2 Sale #2 was adjusted 2.0% or 0.40%/month for this sale closing five months prior to tax day. R-2 Sales #1, #3 and #4 were also used in R-1's sales adjustment grid and received the same market conditions adjustments in both.²⁴⁶

Mr. Tomlinson expressed that he felt all improved sales had a similar *location*, so no adjustments were made. Similarly, Mr. Van Stensel considered all R-1 sales had similar location characteristics except Sale #2, which was given a 20% adjustment.²⁴⁷ Respondent's appraiser determined all R-2 comparable sales possessed a similar location, so no adjustments were made.

The North's average traffic count and median household income were 38,045 vehicles and \$63,878, respectively.²⁴⁸ R-1 Sale #2's average daily traffic count was 13,933 vehicles; however, Norton Shores median income was slightly higher at \$65,727 leading the appraiser to make a +20% adjustment.²⁴⁹ Respondent's appraiser testified that the reason for the +20% adjustment in R-1 was because Sale #2 had an inferior location due to there being "much less traffic. . . . it's less interesting to the buyer than the one that had higher traffic counts."²⁵⁰ He further explained to Petitioner's representative that traffic count is one factor, and the other is household income. Income may not just be in the Norton Shores community, but the adjustment also includes people travelling from

²⁴² P-1 at 66-67.

²⁴³ R-1 at 38 and R-2 at 37.

²⁴⁴ R-1 at 32-34 and R-2 at 33-35.

²⁴⁵ R-1 at 35.

²⁴⁶ R-2 at 36.

²⁴⁷ R-1 at 35.

²⁴⁸ R-1 at 38 and R-2 at 39.

²⁴⁹ R-1 at 38.

²⁵⁰ Tr. Vol 2, at 127:2-14.

neighboring communities. Petitioner's representative asked Mr. Van Stensel how he made his location adjustment and if traffic was just one factor. He further explained that this information is not contained in his report and went on to say the household incomes between Norton Shores and Walker were similar, but Norton Shores connects to Muskegon and that there is a lot of poor neighborhoods coming off US-31, and it takes into consideration the incomes of people in the community. He also clarified that Norton Shores is one of the best parts of Muskegon and that Muskegon County is pretty poor compared to Kent County. Mr. Van Stensel also testified there is a Target located on the north end of the shopping center, a Menards at the south end, and a Meijer store across the street and that it is a good retail exit off from US-31, and Sale #2 has US-31 visibility frontage.²⁵¹ The Tribunal is not persuaded based on the evidence and testimony that Sale #2's location based on traffic count and household income is inferior to the subject property and the other comparable sales supporting a +20% adjustment.

Petitioner's appraiser states properties that have a smaller *building size* generally sell for less than larger properties. As a single economic unit, North's two retail building size have a GBA of 213,005 sq. ft. Sale #1 is 166,100 sq. ft. being 46,905 sq. ft. or 22% smaller. Sale #2 is 209,000 sq. ft. being 4,005 sq. ft. or about 2% smaller. Sale #3 is 136,388 sq. ft. being 76,617 sq. ft. or 36% smaller. Sale #4 is 121,074 sq. ft. being 91,931 sq. ft. or 43% smaller, and Sale #5 is 154,883 sq. ft. being 58,122 sq. ft. or 27% smaller than the North. In his report, he states that Sale #4 is smaller than the North so he applied a -5% adjustment. He also remarked that the remaining improved sales are similar in size, so no adjustments were necessary.²⁵²

Respondent's appraiser appraised parcels -008, -009, and -018 as two separate economic units. The *building size* of R-1 (parcel -008) contains 94,555 sq. ft., and five sales were identified ranging in size from 74,250 sq. ft. to 350,077 sq. ft. For R-2 (parcel -018), which is 120,991 sq. ft., Mr. Van Stensel identified four comparable sales. R-1 Sale #1 is 74,250 sq. ft. being 20,305 sq. ft. or 21% smaller than the subject property. Sale #2 is 350,077 sq. ft. being 255,522 sq. ft. or 270% larger. Sale #3 is 167,661 sq. ft. being 73,106 sq. ft. or 77% larger. Sale #4 is 211,138 sq. ft. being 116,583 sq. ft. or 123% larger, and Sale #5 is 136,468 sq. ft. being 41,913 sq. ft. or 44% larger than North. Mr. Van Stensel states that the sales have similar suite sizes and that "all sales are similar in size with no adjustment required."²⁵³

The *building size* of R-2 (parcel -018) is 120,991 sq. ft., and the appraiser identified four sales ranging from 60,523 to 209,000 sq. ft. Sale #1 is 136,468 sq. ft. being 15,477 sq. ft. or 13% larger than the subject property. Sale #2 is 60,523 sq. ft. being 60,468 sq. ft. or 50% smaller. Sale #3 is 209,000 sq. ft. being 88,009 sq. ft. or 72% larger, and Sale #4 is 167,661 sq. ft. being 46,670 sq. ft. or 39% larger than the North. Respondent's appraiser concluded that Sales #1 and #2 building sizes bracket the size of the subject, so they do not require a size adjustment because they "have a similar mix of large and small suites." Sales #3 and #4, however, "are similar in size but require a positive

²⁵¹ Tr. Vol 3, at 62:13 through 67:25.

²⁵² P-1 at 67.

²⁵³ R-2 at 36.

adjustment due to their mix of large tenant suites. . . . larger suites lease for less than smaller suites under 10,000 sq. ft.”²⁵⁴ Sales #3 and #4 were adjusted upward +25% which equates to \$26.75 and \$32.88/sq. ft., respectively.²⁵⁵

Mr. Van Stensel provided testimony in support of bracketing a mix of large and small suite sizes with traditional building size adjustment in a multi-tenant retail development:

So when you're typically looking at a property, a lot of times when something's bigger, it sells for less per square foot, but when you're dealing with multitenant retail and you've got a lot of suite sizes that are a similar mix, you wind up having no adjustment for size because they're buying income stream and they're paying as much for the income stream for the 350,000 square foot building as they are for the 74,000 square foot building, so a buyer is just looking at the income stream per square foot. It's not changing because the suites are smaller and similar and size so you don't make an adjustment because the value is not changing because something's bigger.

If this were a scenario like an industrial building where I had a 74,000 square foot single tenant user versus a 350, there would be a size adjustment there because you're going to pay less per square foot. That's a little different. So in this case, because the suite sizes are similar, you don't make an adjustment.²⁵⁶

Upon extensive review of each comparable sale's property data sheet contained in R-1 and R-2 including Respondent's appraiser's testimony, there is no record of what constitutes a large and small suite.²⁵⁷ The number of large and small suites in each comparable and the size of suites in each comparable, in which the appraiser relies upon supporting, no adjustment was required. Specific to R-1, the appraiser concludes no building size adjustment is required because the comparables have a similar mix of large and small suites without any comparison or supporting documentation.²⁵⁸ Furthermore, and specific to R-2, there is no record of supporting documentation and explanation of why no adjustment should be made to Sales #1 and #2 other than these comparables bracket the North's building size despite being 13% larger and 50% smaller and they have similar (unknown) size suites. Respondent's appraiser states Sales #3 and #4 are similar in size to the North even though Sale # 3 is 72% larger and Sale #4 is 39% larger than the subject property but require a +25% adjustment due to their mix of unknown large and small tenant suites.²⁵⁹ Based on the foregoing, the Tribunal finds Respondent's size adjustments to be unsupported and unpersuasive.

²⁵⁴ R-2 at 40-41.

²⁵⁵ Sale #3 adjusted sales price is \$107.01/sq. ft. x 25% = \$26.75/sq. ft. Sale #4 adjusted sales price is \$131.52 x 25% = \$32.88/sq. ft.

²⁵⁶ Tr. Vol 2, at 130:4 through 131:3. See also Tr. Vol 2 at 211:7 through 212:18.

²⁵⁷ The Tribunal takes note that the last sentence in the Size section found in R-2 at pg. 41 states, "These larger suites lease for less than smaller suites under 10,000 sq. ft."

²⁵⁸ R-1 at 39.

²⁵⁹ R-2 at 40-41.

Age/Condition of the comparable sales building improvements relative to the subject property adjusts the sales age/condition to the subject property. North was built between 1988 and 1989, and the appraisers generally do not dispute it is in average condition. Petitioner's appraiser determined Sales #1, #2, and #4 to be in good condition so -5% adjustment was applied. Sale #3 was considered to be in fair condition so a +5% adjustment was made. Sale #5 was estimated to be in average condition similar to the subject, so no adjustment was necessary.²⁶⁰

Respondent's R-1 appraisal notes Sales #2, #3, and #5 were built between 1965 through 2002 and all are in average condition, so no adjustment was required. Mr. Van Stensel estimated Sale #1 built between 1995 and 1998 to be in average+ condition, so a downward -10% adjustment was applied. Sale #4 is newer and was built in 2001 and 2010, is in average condition, so it was given a downward -10% adjustment.²⁶¹ R-2 Sales #1 and #4 have a similar age and average condition, so no adjustment was required. Sales #2 and #3 are newer but have a similar average condition, so a downward -10% was made.²⁶²

According to Marshall Valuation Service cost manual, Petitioner's appraiser considered the North's *quality of construction* to be average Class C. Petitioner's appraiser also considered the comparable sales improvement to be the same, so no adjustments were made.²⁶³

Respondent's appraiser also considered *quality of construction* to be average. R-1 Sales #2 was considered to be average, so no adjustment was required. Sales #1, #3, and #5 were considered to be slightly superior deserving an average+, so a -10% adjustment was applied. Sale #4 was considered to be slightly inferior, deserving an average- and was given a +15% adjustment.²⁶⁴ R-2 Sale #1 was considered similar with average quality of construction, so no adjustment was necessary. Sales #2 and #3's quality was considered inferior due to larger suites and interior finishes deserving a +10% and +25% adjustment, respectively. Sale #4 was considered slightly superior due to better interior and exterior finishes deserving an average+ and a -10% adjustment.²⁶⁵

As a single economic unit, the North's land size 18.23 acres with a land to building ratio of 3.73:1. Petitioner's appraiser opined that 3.73:1 is adequate for zoning setback, sufficient parking, and for vehicles to maneuver. Sales #2 and #4 have a larger land to building ratio being about 71% and 42%, respectively, greater than the subject adjusted by a downward -5%. Sales #1 and #3 have a similar ratio, about 4% and 14% greater, so no adjustment was made. Sale #5 has a much lower land to building ratio at -52%, so a +5% adjustment was applied.²⁶⁶

²⁶⁰ P-1 at 68.

²⁶¹ R-1 at 35.

²⁶² R-2 at 36.

²⁶³ P-1 at 68.

²⁶⁴ R-1 at 35.

²⁶⁵ R-2 at 36.

²⁶⁶ P-1 at 67-68.

Respondent's appraiser appraised the subject property as two separate economic units, so the results were different. R-1 (parcel -008 and -009) building size was 94,555 sq. ft. and total land area of parcels -008 and -009 was 7.29 acres with a land to building ratio of 3.35:1. R-2 (parcel -018) building size 120,991 sq. ft. and total land area for parcel -018 is 10.94 acres with a land to building ratio of 3.91:1. The appraiser opined that for the comparable sales identified in both R-1 and R-2 the land sizes varied and that no adjustments were necessary as the land to building ratio were similar with similar use and utility.²⁶⁷

Petitioner's appraiser identified examples of obsolescence contributing to vacancy at the North²⁶⁸ to make an adjustment for *other factors*.²⁶⁹ Mr. Tomlinson selected Sales #4 and #5 because they were examples of forms of functional and economic obsolescence contributing to high vacancy at these properties. Sale #4 is a shopping center located in North Auroa, IL, a western suburb of Chicago, suffering from high vacancy attributable to slow "rooftop" growth westward from city. Sale #5 was chosen as an example of functional obsolescence due to the shopping center being built with a 65,000 sq. ft. second floor or mezzanine that is unleaseable. Mr. Tomlinson felt these two comparable sales possess forms of both external and functional obsolescence to a degree present in the subject property. The appraiser's calculated adjustment was a -50%, however, he reduced the adjustment downward to a -25% because he felt 50% was a bit excessive. The appraiser paired high vacancy Sales #4 and #5 to Sales #1, #2, and #3 with no vacancy to derive an adjustment for obsolescence and applied the -25% adjustment to Sales #1, #2, and #3.²⁷⁰ Based on insufficient documentary evidence and unsupported testimony of Petitioner's appraiser, the Tribunal is not persuaded the -25% adjustment of Sales #1, #2, and #3 for "other factors" for dissimilarities with the North has been satisfactorily substantiated.

Petitioner's comparable sales unadjusted sales price/sq. ft. ranged from \$58.02 to \$129.70/sq. ft. GBA. After adjusting for market conditioners, the adjusted sales price/sq. ft. ranged from \$59.76 to \$133.59/sq. ft. GBA. After adjusting the comparable sales for dissimilarities, including other factors, to the North, Petitioner's appraiser's adjusted sales price/sq. ft. ranged from \$50.80 to \$106.88/sq. ft. GBA. Mr. Tomlinson gave equivalent weight to each comparable sale. He concluded that the value for North via the sales comparison approach was \$75.00/sq. ft. GBA or \$16,000,000.²⁷¹

As previously noted, the Tribunal is not persuaded by Petitioner's appraiser's -25% other factors adjustment is sufficiently supported so after excluding the appraiser's -25% other factors adjustment, the Tribunal has determined the revised final adjusted price/sq. ft. range to be \$50.80 to \$140.27/sq. ft. GBA with an average price of \$94.77/sq. ft. and median of \$92.68/sq. ft. GBA. The estimated value is \$95.00/sq. ft. or \$20,200,000.

²⁶⁷ R-1 at 39 and R-2 at 41.

²⁶⁸ Tr. Vol 1, at 180:4 through 196:6.

²⁶⁹ Tr. Vol. 1, at 120:2-18. Also see Tr. Vol 2, at 42:18 through 46:21.

²⁷⁰ P-1 at 67-68.

²⁷¹ *Id.* at 67.

Respondent's R-1 comparable sales unadjusted sales price/sq. ft. ranged from \$92.95 to \$134.68/sq. ft. GBA. After adjusting for market conditions, the adjusted sales price/sq. ft. ranged from \$98.53 to \$145.45/sq. ft. GBA. After adjusting the comparable sales for dissimilarities to North's parcels -008 and -009, Respondent's appraiser's adjusted sales price/sq. ft. ranged from \$111.23 to \$126.00/sq. ft. GBA with an average of \$118.04/sq. ft. Mr. Van Stensel concluded that the value for parcels -008 and -009 via the sales comparison approach was \$118.00/sq. ft. GBA or \$11,160,000.²⁷²

Respondent's R-2 comparable sales unadjusted sales price/sq. ft. ranged from \$100.96 to \$148.70/sq. ft. GBA. After adjusting for market conditions, the adjusted sales price/sq. ft. ranged from \$107.01 to \$151.68/sq. ft. GBA. After adjusting the comparable sales for dissimilarities, excluding building size, to North's parcel -018, Respondent's appraiser's adjusted sales price/sq. ft. ranged from \$140.00 to \$151.68/sq. ft. GBA with an average of \$148.18/sq. ft. Mr. Van Stensel concluded that the value for parcel -018 via the sales comparison approach was \$148.00/sq. ft. GBA or \$17,900,000.²⁷³

The Tribunal further notes, the Tribunal was not persuaded that Respondent's appraiser's -25% building size adjustment of R-2 Sales #3 and #4 was sufficiently supported, so after excluding the appraiser's +25% building size adjustment, the Tribunal has determined the revised final adjusted price/sq. ft. range to be \$118.36 to \$151.68/sq. ft. GBA with an average price of \$132.61 and median of \$130.19/sq. ft. GBA. The estimated value is \$130.00/sq. ft. or \$15,700,000.

The sales comparison, cost, and income approaches are linked by the principle of *substitution*²⁷⁴ In this context, Petitioner's appraiser researched and analyzed the sales of large shopping centers while Respondent's appraiser researched and analyzed sales as if the North was two separate neighborhood strip centers. Petitioner's appraisal report differs from Respondent's appraiser's reports such that Petitioner's appraiser valued North as a single economic unit as opposed to Respondent valuing the property as two separate economic units partly due to the appraisal assignment SOW. Consequently, Respondent's appraiser prepared two separate appraisal reports one valuing a 94,555 sq. ft. building and the second with a 120,991 sq. ft. building as opposed to a single economic unit with 213,005 sq. ft. building possibly contributing to not accounting for economies of scale.²⁷⁵ The permissibility of such an analysis is noteworthy even though the economics of a single or two economic units should have resulted in lower difference in the resulting sales comparison valuation. Nonetheless, Petitioner's comparable sale write-ups and sales comparison adjustment grid carry greater weight than Respondent's comparative analysis. Respondent's sales comparison approach is not more persuasive than Petitioner's sales analysis.

²⁷² R-1 at 35 and 40.

²⁷³ R-2 at 36 and 41.

²⁷⁴ The Appraisal of Real Estate at 25.

²⁷⁵ "Economies of Scale" means a "[r]eduction in cost of production per unit due to a large number of items produced." *The Dictionary of Real Estate Appraisal* at 60.

Overall, after the Tribunal's revisions, Petitioner's five sales were adjusted downward to the North. Respondent's appraiser failed to satisfactorily support his determination of multiple economic units as well as bracketing of building size, number of large and small suites supporting any sales adjusting upward to the subject. As reasoned and reconciled, Petitioner's Sales #1, #2, and #3 sold in 2021 and 2022 and are located in west Michigan. After the Tribunal's revisions, Sale #1 had a net adjustment of -5%, Sale #2 was -10%, and Sale #3 was adjusted upward +5% and are considered the most similar to North in building size. Again, after Tribunal's revisions of Sales #1, #2 and #3, the adjusted price/sq. ft. of these sales ranges between \$92.94 and \$140.27/sq. ft. with an average of \$118.57/sq. ft. Given the similar locations and similar west Michigan economic attributes of each comparable sale, the indication of market value rests at the midrange of the adjusted range of Petitioner's sales. Therefore, the Tribunal's independent determination of TCV from Petitioner's West Michigan adjusted sales is \$116.00/SF GBA or \$24,700,000 rounded.²⁷⁶

Income Approach

"In the income capitalization approach, the present value of the anticipated future benefits of property ownership is measured. . . . In direct capitalization, the relationship between one year's income and value is reflected in either a capitalization rate or an income multiplier."²⁷⁷

Green Ridge Square is an income producing commercial retail property. In other words, the property is not owner-occupied but consists of 20 tenant-occupied leased spaces. As examined above, each party developed an income approach to value. North had existing tenant leases on December 21, 2021, when Petitioner acquired the property and remained in place as of tax day 2023 with some vacancies. Existing shopping centers located in west Michigan, specifically Kent and Ottawa counties were researched, reviewed, and analyzed. As articulated below, the Tribunal considered each income element to arrive at an independent determination of market value from the income approach to value.

Rental Rate Analysis

To begin, each party's appraiser's respective rental rate analyses were reasonably researched and presented. Each appraiser reviewed rental data in a comparative analysis adjustment grid. Both appraisers reviewed the North's rent roll as of December 31, 2022, and opined current contract rents were reflective of current market rents. Common to each party's rent analysis were comparable rentals located within west Michigan's Kent and neighboring Ottawa counties.

Petitioner's appraiser reasonably separated and pooled the market rental data analysis for typical size smaller inline units and larger size anchor units (Best Buy, BB&B,

²⁷⁶ 213,005 sq. ft. x \$116.00/sq. ft. = \$24,708,580, rounded \$24,700,000

²⁷⁷ The Appraisal of Real Estate at 36.

Burlington, Michaels). Respondent's appraiser performed both currency and analysis of existing contract rent as well as performed an analysis based on large and small market rents reported in R-1 and R-2. Similar to both appraiser's sales comparative analysis, the appraiser's comparable rental adjustments grids were reasoned and easily understood.

With regards to Petitioner's appraiser's pooling, he grouped his rental comparables into three pools based on rental suite area: Pool 1: from 30,000 sq. ft. and above; Pool 2: between 10,000 sq. ft. and 29,999 sq. ft.; and Pool 3: below 9,999 sq. ft. Petitioner's appraiser identified four rental comparables in Pool 1, four in Pool 2, and three in Pool 3. Pool 1 ranged in size from 30,713 to 43,000 sq. ft. Pool 2 ranged 12,820 to 22,950 sq. ft., and Pool 3 ranged from 1,028 to 5,550 sq. ft.²⁷⁸ Respondent's appraiser selected separate rental comparables for parcel -008 and parcel -018. Parcel -008 had five comparables ranging in size from 8,456 to 40,000 sq. ft.²⁷⁹ For Parcel -018, Respondent's appraiser identified six rental comps ranging in size from 1,707 to 40,000 sq. ft.²⁸⁰ Each appraiser analyzed all comparable rentals for typical small size units and larger size units to derive base rental rates. As shown later in Tables 5 and 6, after adjustments, each appraiser's adjusted price/sq. ft. was not far apart.

Description of Adjustments.

Lease terms found in Petitioner's North are NNN and most common in the subject's shopping center market. All of Petitioner's rental comparables have NNN leases, so no adjustments are necessary. Similarly, Respondent's lease rental rates are NNN, so no adjustments were made.

Condition of Lease is the analysis of whether the lease terms are at arm's-length. Adjustments are made if the lease terms are above or below market. Petitioner's appraiser indicated Pool 1 Rentals #2, #3, and #4, Pool 2 Rentals #1, #2, and #3 and all Pool 3 lease terms are at arm's-length, so no adjustments are necessary. Pool 1 Rental #1 and Pool 2 Rental #2 are listings for-lease, so an adjustment of -15% adjusting the list price to an estimated transaction price was applied to both.²⁸¹ Respondent's appraiser made no adjustments for condition of lease.

Market condition adjustment is adjusting the rental rate for time from date of transaction to tax day 2023. Both appraisers made a market condition adjustments of 2%/year.²⁸² Based on the evidence and testimony of appraiser, 2%/year is reasonable.

Location of the North as determined by Petitioner's appraiser is average. Petitioner's Pool 1 Rentals #1, #3, and #4 are located on 28th Street in Grand Rapids, Cascade Township, and Kentwood, respectively, the appraiser felt 28th Street was a superior location than Alpine Avenue, so they were adjusted downward -10%. Pool 1 Rental #2's location was consider similar to the North, so no adjustment for location was

²⁷⁸ P-1 at 86, 95, and 101.

²⁷⁹ R-1 at 101-114.

²⁸⁰ R-2 at 105-120.

²⁸¹ P-1 at 86-101.

²⁸² Id. at 132 and R-1 at 45.

necessary. Pool 2 Rentals #2, #3, and #4, also located on 28th Street and Beltline Avenue, respectively, have a superior location, so they were adjusted downward -10%. Rental #1 is located on Wilson Avenue with a similar location, so no adjustment was made. Pool 3 Rentals #1 and #2 are located on 28th Street with a superior location, so a downward -10% adjustment was required. Rental #3, also located on Alpine Avenue, possesses a similar location, so no adjustment was necessary.²⁸³ As listed in Respondent's R-1, all rental comparables were noted as having a similar location to the subject, so no adjustments were made.²⁸⁴ R-2 listed Rental #1 on 28th Street SE in Cascade Township as inferior to the subject due to lower traffic counts, so an upward +20% adjustment was made. Rentals #2 through #6 were considered the same as the subject location, so no adjustments were made.²⁸⁵ The appraisers did not materially dispute the adjustments of the comparables for the more desirable, commercially developed 28th Street rental market supported by the demographics shown in the comparable data sheets and surveys such as CoStar, as referenced by the appraisers.

Tenant size adjusts the comparable rental rate for size of the rental comparable to the subject property. Generally speaking, smaller rental units in a multi-tenant shopping center will rent at a higher-lease rate than larger rental units, all other factors being equal. Both Petitioner's appraiser and Respondent's appraiser do not dispute that all rental properties are similar, so no adjustment for tenant size was necessary as they bracket the grouped pool suite sized in the North.

Age/condition adjusts the rate primarily based on the observed general condition and age of the rent comparable compared to the subject property. Petitioner's appraiser estimated the condition of North to be average for a 33-year old building constructed in 1988-1989. Pool 1 Rentals #2 and #3 are newer and considered to be in superior condition receiving a downward -10% adjustment. Rental #4 was considered to be in similar condition, so no adjustment was taken. Rental #1 was considered to be inferior condition receiving an upward +10% adjustment. Pool 2 Rentals #1, #2, and #4 were all considered superior, newer conditions, so they were given a downward -10% adjustment. Whereas Rental #3 was considered similar condition, so no adjustment was taken. Pool 3 Rental #1 was older than the subject and condition was considered inferior, so it was adjusted upward +10%. Rentals #2 and #3 were both considered superior but slightly newer, so they were adjusted -5% and -10%, respectively.²⁸⁶ Respondent's parcel -008 observed condition was average. R-1 Rentals #1, #2, and #4 were considered similar, so no adjustments were required. Rentals #3 and #5 were newer and in superior condition and required downward -5% adjustments.²⁸⁷ R-2 Rentals #1, #2, and #4 are newer and considered to be in superior condition, so a downward -5% adjustment was made. Rentals #3, #5, and #6 were considered to be similar in age and condition, so there was no required adjustment.²⁸⁸

²⁸³ P-1 at 86-101.

²⁸⁴ R-1 at 44.

²⁸⁵ R-2 at.

²⁸⁶ P-1 at 86-101.

²⁸⁷ R-1 at 44.

²⁸⁸ R-2 at 45.

Quality of construction for the North was estimated to be Class C, average. Quality of construction for Petitioner's Pools 1, 2, and 3 were all considered to be similar to the North,, so no adjustments were necessary.²⁸⁹ Respondent's appraiser considered quality of construction for parcel -008 and all R-1 rentals to be average, so no adjustments were necessary.²⁹⁰ R-2 Rentals #1, #2, #4, #5, and #6 are similar, so no adjustments were necessary. Rental #3's quality was considered superior, so a downward -10% adjustment was necessary.²⁹¹

As noted above, both appraisers reviewed the current contract rental rates and have compared them to the current market rents. The appraisers have concluded that even though many of the existing lease agreements are several years old and some have been extended more than once, they have kept pace with current market rates possibly through annual contract indexing. Regardless, the appraisers felt the current contract rent is reflective of current market rent.

While Petitioner's appraiser may be comfortable with contract rent, he did take the next step developing a market rent analysis and comparative rental comparison grid. Mr. Tomlinson grouped his rental rate analysis by large rental unit and smaller rental unit sizes. Table 5 summarizes three grouped pool sizes along with Petitioner's adjusted rental rate/sq. ft.

Petitioner's appraiser estimates market rental rate for Pool 1 rental units ranges from \$10.10 to \$11.90/sq. ft. NNN. The average adjusted rental rate is \$10.76/sq. ft. NNN and median is \$10.26/sq. ft. NNN. Mr. Tomlinson estimates the 30,000 sq. ft. and above rental is \$10.50/sq. ft. NNN.²⁹²

Market rental rate for Pool 2 rental units ranges from \$9.27 to \$11.70/sq. ft. NNN. The average adjusted rental rate is \$10.45/sq. ft. NNN and median is \$9.32/sq. ft. NNN. Mr. Tomlinson estimates the between 10,000 sq. ft. and 29,999 sq. ft. rental is \$11.00 NNN.²⁹³

Market rental rate for Pool 3 rental units ranges from \$12.14 to \$20.35/sq. ft. NNN. The average adjusted rental rate is \$15.88/sq. ft. NNN and median is \$15.15/sq. ft. NNN. Mr. Tomlinson estimates the below 9,000 sq. ft. rental is \$16.00/sq. ft. NNN.²⁹⁴ The Tribunal finds Petitioner's rental rate analysis creditable and persuasive.

²⁸⁹ P-1 at 86-101.

²⁹⁰ R-1 at 44.

²⁹¹ R-2 at 45.

²⁹² P-1 at 86.

²⁹³ *Id.* at 95.

²⁹⁴ *Id.* at 101.

Table 5: Petitioner’s Adjusted Rental Rate Summary²⁹⁵

	30,000 sq. ft. & above		Below 29,999 to 10,000 sq. ft.		Below 9,999 sq. ft.	
	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft
Comparable 1	43,000	\$ 11.90	19,262	\$ 11.70	3,216	\$ 20.35
Comparable 2	35,164	\$ 10.10	18,945	\$ 11.44	5,500	\$ 12.14
Comparable 3	34,250	\$ 10.42	12,820	\$ 9.27	1,028	\$ 15.15
Comparable 4	30,713	\$ 10.63	22,950	\$ 9.37	N/A	N/A
Maximum	43,000	\$ 11.90	22,950	\$ 11.70	5,500	\$ 20.35
Minimum	30,713	\$ 10.10	12,820	\$ 9.27	1,028	\$ 12.14
Mean	35,782	\$ 10.76	18,494	\$ 10.45	3,248	\$ 15.88
Median	34,707	\$ 10.53	19,104	\$ 10.41	3,216	\$ 15.15
Adjusted Rental Rate		\$ 10.50		\$ 11.00		\$ 16.00

Based on Respondent’s appraiser’s review and analysis of current contract rent reflecting current market rent, Mr. Van Stensel adopted and incorporated contract rent blended with current market rent to be used to estimate PGI of vacant units as of tax day 2023. From all accounts of both appraiser’s treatment of the quality of contract and market rental data, the Tribunal finds Mr. Van Stensel’s treatment of the rent analysis creditable.

Based on Respondent’s rent analysis, the final adjusted rent/sq. ft. for rental unit GSII-1 is \$11.50/sq. ft. NNN, GSII-2 is \$12.00/sq. ft. NNN, vacant GSII-3 is \$8.01/sq.ft., and vacant units GSI-5 and GSI-14 is \$19.00/sq. ft.²⁹⁶

Table 6: Respondent’s Adjusted Rental Rate Summary²⁹⁷

	Parcel -008		Parcel -018			
	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft
Comparable 1	25,939	\$ 10.66	20,373	\$ 21.72		

²⁹⁵ *Id.* at 86, 95, and 101.

²⁹⁶ R-1 at 43. Also see R-2 at 47.

²⁹⁷ R-1 at 44 and R-2 at 45.

	Parcel -008		Parcel -018			
	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft	sq. ft	Adjusted Rent / sq. ft
Comparable 2	22,050	\$ 11.00	12,124	\$ 18.41		
Comparable 3	15,811	\$ 11.97	7,800	\$ 16.52		
Comparable 4	25,993	\$ 15.08	1,707	\$ 21.79		
Comparable 5	8,456	\$ 11.29	25,939	\$ 10.66		
Comparable 6	N/A	N/A	22,050	\$ 11.00		
Maximum	25,993	\$ 15.08	25,939	\$ 21.79		
Minimum	8,456	\$ 10.66	1,707	\$ 10.66		
Mean	19,650	\$ 12.00	14,999	\$ 16.68		
Median	22,050	\$ 11.29	16,249	\$ 17.47		
Adjusted Rental Rate	Above 30,000		29,999 to 10,000		Below 9,999	
GSII-1	44,854	\$ 11.50				
GSII-2	34,820	\$ 12.00				
GSII-3			11,759	\$ 8.01		
GSI-5					4,400	\$ 19.00
GSI-14					4,400	\$ 19.00

In summary, the parties have utilized common comparable rental properties located in Kent and Ottawa counties. Petitioner’s market rent analysis was more persuasive than Respondent’s analysis of current contract rent supplemented by current rental comparables. Therefore, the Tribunal finds Petitioner’s indication of market rents for the subject is the most reliable and credible valuation evidence for the income analysis.

Potential Gross Income

Based on the foregoing rent analysis, the subject’s PGI is calculated by applying the market supported base rental rate to the subject’s NRA of 205,129 sq. ft. Petitioner’s PGI is \$2,514,592.²⁹⁸ The Tribunal’s independent determination of PGI is \$2,514,592 for the North.

²⁹⁸ P-1 at 102.

Table 7: Potential Gross Income²⁹⁹

Description	sq. ft.	Rate/sq. ft.	Income
Units >30,000 sq. ft.	79,674	\$10.50	\$836,577
Units >10,000 & <29,999 sq. ft.	65,853	\$11.00	\$724,383
Units <9,999 sq. ft.	59,602	\$16.00	\$953,632
Total PGI	205,129	\$12.26	\$2,514,592

Vacancy and Credit Loss

The next element in the income analysis is developing a vacancy and credit loss rate sufficient to achieve a stabilized frictional rate³⁰⁰. Petitioner estimates the vacancy and credit loss at 17.0%³⁰¹ and Respondent's rate is 6.0%.³⁰²

Because the North's NRA is a mixture of 29.06% smaller inline stores typically found in strip centers and 70.94% larger big box spaces found in power centers, Petitioner developed a vacancy rate for North by blending the published vacancy survey rate for strip center units of 5.5% adopted for South with larger power center space of 22.8% as reported by CoStar for strip and power centers located in the Grand Rapids MSA and more specifically Comstock/Alpine Avenue submarket. The result was an overall rate of 17.76%, which he determined 16.0% to be more appropriate. The Tribunal notes that while Mr. Tomlinson concluded 5.5% was more appropriate for a strip center vacancy rate, he reported South's vacancy was projected to be 7.0% for tax year 2022.³⁰³ Credit loss is another element of the overall vacancy and credit loss, Petitioner's appraiser estimated the 1% credit loss was appropriate for North increasing the overall vacancy and credit loss to 17.0%.

Mr. Tomlinson provided testimony that the actual vacancy of North on tax day 2023 was 10.02%.³⁰⁴

Respondent's appraiser testified he applied the 6.0% vacancy and credit loss rate for both parcels -008 and -018. In determining vacancy rate, the appraiser examined the actual vacancy history looking back a couple of years. His review of "historical information" showed the actual vacancy was less than 10% during the period. When estimating the 6.0% vacancy rate, Mr. Van Stensel also considered Petitioner's opinion that the North more appropriately should be classified as a power center, and we should be looking at the CoStar reported power center upper rate of 22.8%. Respondent's appraiser testified the property looked and felt like a power center, but it did not meet his definition of power center because North was less than 250,000 sq. ft. and was made up of multiple parcels. He further testified the CoStar report only classified Green

²⁹⁹ *Id.* at 103.

³⁰⁰ "Frictional Vacancy" is the "amount of vacant space needed in a market for its orderly operation. Frictional vacancy allows for move-ins and move-outs." *The Dictionary of Real Estate Appraisal* at 79.

³⁰¹ P-1 at 103. Petitioner's vacancy rate = 16%, credit loss = 1%; total vacancy and credit loss = 17%.

³⁰² R-2 at 48.

³⁰³ P-1 at 35, 37.

³⁰⁴ Tr. Vol 1, at 126:17 through 129:22.

Orchard Shopping Center, located in the Comstock/Orchard submarket, as a power center, so only Green Orchard Shopping Center was included in the CoStar vacancy survey as a power centers. He further felt that since the CoStar Comstock/Alpine Avenue submarket survey was made up of only one power center property, one property did not make a market so there was insufficient power center data to rely upon. Relying on the CoStar survey for the Comstock/Alpine Avenue submarket strip center data showing a vacancy rate of 5.5%,³⁰⁵ he concluded that the rate was less than 10% and “I just said we’re going with 6 but makes sense for this building and this site...”³⁰⁶

Based on the evidence and testimony presented by the parties, the Tribunal is not persuaded the appropriate vacancy and credit loss rate for a power center is either 6.0% or 22.8% but may more appropriately fall within the range of 6.0% and 17.0%.

Mr. Van Stensel testified that his review of the property’s historical records indicated the vacancy rate was less than 10.0% indicating the rate is somewhere in the single digit range. Based on the documentary evidence and testimony provided, the actual vacancy rate for North on tax day 2023 was 10.02%, and the Tribunal calculates the actual vacancy rate for both North and South was 10.94%. The record also reflects within two months after tax day 2023 the vacancy rate for North increased to 27%. Regardless of the CoStar commercial publication’s inclusion or exclusion of Green Ridge Square as a power center in its survey, based on the Appraisal Institute’s definition and this Tribunal’s finding to the contrary, the North’s actual 27% vacancy rate within two months of the publication day relative to the Green Orchard Shopping Center’s published vacancy rate of 22.8% both collaborate the fact that the Comstock/Alpine Avenue submarket rental of large space faces lease-up headwinds as of December 31, 2022, going into the 2023 tax year. Having said that, the Tribunal finds that the actual vacancy rate as of December 31, 2022, in the amount of 10.02% is the most convincing evidence presented. Therefore, in its independent determination of vacancy and credit loss, the Tribunal finds the most appropriate rate for North to be 10.0%.

Reimbursable Operating Expenses

Petitioner’s existing lease agreements are mostly NNN, so there are CAM and other operating expenses paid directly by Petitioner passed back to its tenants and treated as reimbursable other income. Petitioner’s appraiser’s income approach adds reimbursable income in the amount of \$1,103,594 attributable to CAM and other operating expenses.³⁰⁷ The appraiser subtracts reimbursable expense income as an operating expense effectively offsetting the reimbursable income. Respondent’s appraiser, on the other hand, treated the lease as NNN lease, so he did not add reimbursable income in his income approach and did not subtract these CAM and other operating expenses. The Tribunal finds it unnecessary to add reimbursable expense income and subtract the equivalent in its independent finding of value.

³⁰⁵ R-5 at 18-19.

³⁰⁶ Tr. Vol 2, at 156:9-24.

³⁰⁷ P-1 at 103.

Other Income

Other income is revenue attributable to non-rent income generated on the property to be factored into the property's value. In this case Petitioner rents space on the West parcel parking lot for storage purposes. Other non-rent revenue sources include signs and recycle bins for donations. The Tribunal notes that the revenue generated from storage rental located on the West parcel may be attributable to the value of West, but the West appeal was resolved by the parties. The Tribunal assumes the parties did not include the storage revenue in the settled value of West and will include in the North income approach value calculations. According to Petitioner's appraisal report, non-rent revenue is approximately \$35,000/year and was obtained from historical statements.³⁰⁸ Respondent's income approach does not factor in other income as it is believed to be de minimis.

Effective Gross Income

Following vacancy and credit loss is calculating the EGI. The EGI was determined by taking the PGI of \$2,514,592, deducting the vacancy and credit loss of 10.0% or \$251,459, and adding the other income of \$35,000. The resulting EGI is \$2,298,133 or \$11.20/sq. ft.

Operating Expenses

Operating expenses³⁰⁹ typically include reimbursable and non-reimbursable expenses of the subject property being appraised. Since the Tribunal has decided to disregard reimbursable expenses, that analysis will be waived. This leaves non-reimbursable expenses. The appraisers do not dispute non-reimbursable expenses including management fees³¹⁰ and reserves for replacement.³¹¹

While researching market-based management fees, Petitioner's appraiser had discussions with management companies as to a basis for estimating market management fees typically paid. It is the appraiser's understanding property owners typically pay between 2.0% and 4.0% of EGI. In his analysis, Mr. Tomlinson expects the management fee to be 3.0% of the EGI or \$68,944.³¹² As noted above, Mr. Van Stensel testified he relied on Petitioner's income and expense statement to estimate a management fee of 6.8% of EGI as supported from documentation provided by the

³⁰⁸ *Id.*

³⁰⁹ Operating Expenses" are "[t]he periodic expenditures necessary to maintain the real estate and continue production of the effective gross income, assuming prudent and competent management." *The Dictionary of Real Estate Appraisal* at 135.

³¹⁰ "Management Fee" is "[t]he amount charged by a management firm to manage property for an owner. In income and expense analysis, a management fee is typically treated as a variable operating expense, usually expressed as a percentage of effective gross income." *The Dictionary of Real Estate Appraisal* at 114.

³¹¹ "Replacement Allowance" is "[a]n allowance that provides for the periodic replacement of building components that wear out more rapidly than the building itself and must be replaced during the building's economic life; sometimes referred to as reserves or reserves for replacement." *The Dictionary of Real Estate Appraisal* at 183.

³¹² P-1 at 108.

building owner.³¹³ The management fee deducted in R-1 income approach statement is \$65,697, and R-2 is \$104,739, for a sum of \$170,436 equaling 6.8% of EGI.³¹⁴ Reconciling Respondent's 6.8% of EGI back to Site Centers Corp. income statement reported in R-1 at 48 and R-2 at 49, Petitioner's listed residual management fee is \$177,866 which when divided by the estimated 6.8% of EGI, the product equals the income statement report gross base rent of \$2,615,676. After thorough review of the documents and testimony provided, the Tribunal is unclear of the origin of the 6.8% of EGI management fee. Based on the above analysis, the Tribunal finds Petitioner's testimony creditable and persuasive.

Petitioner's appraiser relied on RealtyRates.com's third quarter 2022 surveyed reserve requirement for support of reserve requirements for the retail industry. RealtyRates.com reports reserve account ranges from \$0.38 to \$1.15/sq. ft. with a typical reserve of \$0.76/sq. ft. Mr. Tomlinson estimated a reserve of \$0.75/sq. ft. GBA, or \$153,847.³¹⁵ Respondent's appraiser estimates a reserve for replacement to be \$0.76/sq. ft. based on the average reserve obtained from the fourth quarter RealtyRates.com survey.³¹⁶ The Tribunal finds that there is no dispute of the typical or average reserve rate of \$0.76/sq. ft. NRA and makes an independent determination of \$0.75/sq. ft. NRA.

Therefore, consideration and weight is given to the parties' respective indications of operating expenses, which bracket the Tribunal's independent determination for this element at \$235,880 NNN or \$1.15/sq. ft. NRA.³¹⁷

Net Operating Income

Net operating income³¹⁸ is the calculation by subtracting operating expenses from EGI. As previously and independently determined, the operating expenses of \$235,880 are deducted from the EGI of \$2,298,133. The resulting NOI is \$2,062,253.

Direct Capitalization

As the appraisers in this case testified, direct capitalization or calculated by a capitalization rate analysis parallels the level of risk associated with the subject property.

Petitioner's capitalization analysis included 1) market derived rates abstracted from market sales 2) investor survey supporting market rates by RERC, and 3) mortgage and

³¹³ R-1 at 48.

³¹⁴ *Id.* at 52 and R-2 at 53.

³¹⁵ P-1 at 109.

³¹⁶ R-1 at 48 and R-2 at 49.

³¹⁷ Operating expenses calculation ($\$2,298,133 \times 3.0\%$) + ($222,583 \text{ GBA} \times \0.75) = $\$68,943 + \$166,937$ = $\$235,880$, or $\$1.15/\text{sq. ft. NRA}$

³¹⁸ "Net Operating Income" (NOI or IO). "The actual or anticipated net income that remains after all operating expenses are deducted from effective gross income but before mortgage debt service and book depreciation are deducted. Note: This definition mirrors the convention used in corporate finance and business valuation for EBITDA (earnings before interest, taxes, depreciation, and amortization)." *The Dictionary of Real Estate Appraisal* at 131.

equity methodology (“band of investment” aka “BOI”). Petitioner’s appraiser concluded that his final capitalization rate was 9.50% and loaded capitalization rate of 9.87%.³¹⁹

Respondent’s capitalization analysis included 1) BOI method, 2) market capitalization rates extracted from market sales, and 3) market survey rates by RealtyRates.com. Respondent’s appraiser’s indication of an overall capitalization rate is 7.5%.³²⁰

To begin, Petitioner’s appraiser began by analyzing market rate sales of shopping centers located from west Michigan through south central Michigan to southeastern Michigan. There were a total of seven sales, four transacting in 2022 and three closing in 2019. The seven sales ranged in size from 125,760 to 296,000 sq. ft. with an average of 162,541 sq. ft. The capitalization rates ranged from 8.22% to 16.61% with an average rate of 10.19%. Eliminating the 16.61% outlier and 10.33% Roseville Towe Center because it was considered as having unstable vacancy, the adjusted average cap rate is 8.87%.³²¹ Examining the market capitalization rates grouped by year of transaction, the more recent sales in 2022 had cap rates ranging from 8.22% to 9.00% with an average of 8.68%. The 2019 sales cap rates ranged from 9.67% to 16.91% with an average of 12.21%. Eliminating the 16.61% outlier and Roseville sale because it was reported to have an unstable frictional vacancy, the 2019 adjusted cap rate is 9.67%.³²²

Respondent’s appraiser provided 13 strip center and multi-tenant centers ranging from 6.75% to 11.20% with an average of 8.32%.³²³

Petitioner’s provided documentary evidence and Petitioner’s appraiser’s testimony that he analyzed investment grade property criteria published by RERC to assist in estimating a capitalization rate for the North. He localized the survey area to the Midwest and narrowed it to 2nd Tier market properties. Mr. Tomlinson defined investment grade properties as incoming producing with a location in a strong market, attractive physical attributes, strong credit tenants, and values greater than \$10,000,000. He further explained a Tier-1 property is new shopping center development property, Tier-2 is a former Tier-1 property that is aging, still in good condition, and average location.³²⁴ The appraiser opined that the subject Green Ridge Square physical and valuation characteristics align with RERC’s definition of a Tier-2 shopping center, along with its size and value as demonstrated by the 2021 transaction price of \$23,250,000, the subject qualifies as an investment-grade property. Turning to the RERC survey data provided in P-13 at 4, a retail power center during the fourth quarter 2022 shows the average going-in capitalization rate ranging from 8.40% to 11.00% with an average of 9.40%. Similarly, RERC reports the neighborhood retail shopping center’s going-in rate ranging from 7.0% to 12.0% with an average of 8.9%. Petitioner’s appraiser pointed out that the difference in average rates for a power center and neighborhood center was separated by 0.50%. Respondent’s appraiser

³¹⁹ P-1 at 110-113.

³²⁰ R-1 at 49-50 and R-2 at 50-51.

³²¹ Tr. Vol 1 at 161:8-12.

³²² P-1 at 110.

³²³ R-1 at 51 and R-2 at 52.

³²⁴ Tr. Vol 1, at 57:18 through 60:14.

alternatively analyzed market cap rate survey data published by RealtyRates.com for the fourth quarter 2022, Retail-All Types. The RealtyRates.com data indicated the capitalization rate falls within the range of 5.41% to 14.67% with an average of 9.42%.³²⁵

An appraiser's BOI method begins with establishing the prevailing equity or loan to value ratio. In this case, the appraisers agree 30% loan or 70% loan to value ratio is fairly common from lending institutions so for purposes of their analysis they both used a 30/70 equity to loan ratio. Petitioner's appraiser assumed a 5.66% mortgage interest rate amortized over 28 years, loan constant of 0.0712, RealtyRates.com equity dividend yield ranging from 7.76% to 16.18%.³²⁶ Slightly different, Respondent assumed a 5.0% interest rate for a 25-year period, 0.07015 loan constant, and 8.5% equity dividend rate.³²⁷ Petitioner's developed BOI capitalization rate ranges from 7.29% to 9.84% with an average of 8.56%. Falling in between Petitioner's BOI, Respondent's BOI was 7.50%.

Table 7: Parties Capitalization Rate Summary

Description	Minimum	Maximum	Average
Petitioner's Market Sales Rate	8.22%	16.61%	10.19%
Respondent's Market Sales Rate	6.75%	11.20%	8.32%
Petitioner's Survey Rate	8.40%	11.00%	9.40%
Respondent's Survey Rate	5.41%	14.67%	9.42%
Petitioner's BOI Rate	7.29%	9.84%	8.56%
Respondent's BOI Rate	7.50%	7.50%	7.50%
Average Rate	7.26%	11.80%	8.90%

As noted above, Petitioner's appraiser gave greater weight to the RERC survey for power centers estimating a final capitalization rate to be 9.50%.³²⁸ Respondent's appraiser gave greater weight to the BOI method concluded a final capitalization rate of 7.50%.³²⁹ The Tribunal notes the average capitalization rate between the parties is 8.50%.

The Tribunal notes that both appraisers provided equally credible and persuasive testimony and evidence supporting their respective analyses and conclusions in the development of their respective direct capitalization rate. The Tribunal notes that in this case it finds neither capitalization rate is more superior over the other. Therefore, consideration and weight is equally given to the parties' respective indications of direct capitalization rate which bracket the Tribunal's independent determination for this element, the Tribunal finds the appropriate overall capitalization rate to be 8.90%.

³²⁵ R-1 at 50 and R-2 at 51.

³²⁶ P-1 at 111.

³²⁷ R-1 at 50 and R-2 at 51.

³²⁸ P-1 at 106 and

³²⁹ R-1 at 51 and R-2 at 52.

Modified Overall Tax Capitalization Rate

Petitioner provided documentary evidence and testimony that the overall capitalization rate should be adjusted to account for property tax expenses that are not reimbursed due to the actual higher than market vacancy rate. As discussed above, the existing lease agreements are NNN permitting Petitioner to seek reimbursement from tenants their proportionate share of property tax expenses. As Petitioner's appraiser explained, if reimbursable expense income such as property taxes is neither added to income or equally offset as an operating expense, any property tax expense incurred by Petitioner attributable to higher than market vacancy rate would in fact be an incurred expense not deducted from the property's operating expense possibly understating the property's NOI.³³⁰ Petitioner's appraiser demonstrated that the proper way to handle the unreimbursed property tax is to add an apportioned amount of the effective property tax rate based on stabilized vacancy rate. Petitioner provided evidence that the total 2022 millage rate for all tax levying jurisdictions including city, county, and school district is 45.76370 plus the 1% administrative fee equals a total millage rate equivalent of 46.22134 mills. After converting mills to a rate of mills/1000, Petitioner estimates the rate to be .02311.³³¹ In order to allocate the millage rate by the Tribunal's corrected vacancy rate of 10%, the allocated reimbursable property tax ETR is .00023. Adding the allocated property tax rate to the overall capitalization rate of 8.90%, the modified overall tax capitalization rate equals 8.92%. The Tribunal finds Petitioner's argument creditable and persuasive, supported by documentary evidence. Therefore, consideration and weight given to Petitioner's revised rate calculation and the Tribunal's independent determination for this element, the Tribunal finds the appropriate modified overall tax capitalization rate to be 8.92%.

Estimated TCV "As Stabilized"

Based on the operating expenses of \$235,880 deducted from the EGI of \$2,298,133 resulting in a NOI is \$2,062,253, and modified overall tax capitalization rate to be 8.92%, the Tribunal's independent determination of TCV "as stabilized" via the income approach to value is \$23,119,428, rounded \$23,100,000 or \$112.60/sq. ft. RNA.

Lease-Up Expenses

Petitioner's appraiser provided testimony that the property's TCV "as stabilized" accounts for loss in EGI up to market vacancy and credit loss allowance but does not account for future unrealized expenses attributable to anticipated expenses to be incurred such as opportunity rent loss from vacant rentable space, unrecovered expenses from vacant NNN lease spaces, previous amortized tenant improvements cost of vacated spaces, and future leasing commissions of vacated spaces. Petitioner's appraiser testified the proper treatment of such future lease-up expenses is quantify these identifiable expenses over the number of estimated months to fill the vacant

³³⁰ P-1 at 113 and revised 113.

³³¹ P-1 at 113.

space assuming the vacant spaces will be properly exposed and marketed in the open marketplace.³³²

Petitioner's appraiser prepared a lease-up analysis³³³ indicating the total NRA is 205,129 sq. ft. of which 161,509 sq. ft. is occupied. Petitioner's appraiser estimates 84% occupancy or 172,308 sq. ft. must be achieved in order to attain stabilized occupancy. He further estimates it will take approximately eight quarters or 24 months to lease the 10,799 sq. ft. with an estimated total lease-up cost of \$480,000. Petitioner's appraiser also explained that estimated TCV "as stabilized" should be reduced by the estimated lease-up cost to get a true estimated value "as is" via the income approach to value.

Other than providing testimony on how to quantify and deduct for lease-up costs, Mr. Tomlinson did not provide any documentation citing proper authority and accepted appraisal theory treatment of lease-up costs. To that end, Mr. Davis testified on day-one of the trial that seller and Petitioner had negotiated the purchase of the subject property and before the closing on December 21, 2021, BB&B's decision to surrender its space had no effect on the decision to close on or the terms of the deal.

Looking for guidance on the subject of proper appraisal treatment of lease-up cost, the Tribunal references the Appraisal Institute's Shopping Center Appraisal and Analysis within the context of a development project analysis:

The staging of cash flows in a DCF analysis might proceed as it does for a proposed development project, with different discount rates chosen to reflect varying levels of risk in different phases of the project. Discount rates would be supported by survey and interview data from experienced developers and managers in the local submarket. This research process may indicate that prospective cash inflow shortfalls during a lease-up phase should be discounted at a rate lower than the rate for stabilized operations in order to produce a higher adjustment. In some markets, developers report they give [n]o consideration at all to prospective cash flows that they will generate in the future with their development program, meaning that they will price an opportunity *based only on the cash flows in place*. [Emphasis added]³³⁴

Based on the foregoing, the Tribunal finds that Petitioner has not provided sufficient credible and persuasive testimony and documentation supporting an adjustment for future lease-up costs.

³³² P-1 at 45. Petitioner's appraiser estimates exposure and marketing times to be 12-18 months.

³³³ P-1 at revised 114.

³³⁴ Shopping Center Appraisal and Analysis at 244.

Reconciliation of Value

The income analysis considered the North’s contract rent and market rent in the context of west Michigan data. Likewise, even though the Tribunal determined the North to be a retail power center with anchor tenants, the parties’ respective sales comparison analyses considered the sales of retail strip centers in west Michigan, southeast Michigan, and suburbs of Chicago. There is some testimonial evidence on the record of external or functional obsolescence attributable to a portion of the tenant rental units facing south, away from Alpine Avenue, impacting the subject’s TCV, but the record lacked creditable and persuasive evidence supporting such claims. Again, the parties’ rental and sales data proved the existence of commercial retail power centers and strip centers in the subject market area and other communities of Kent county. The Tribunal’s independent determination of TCV from the parties’ income data and analysis is \$23,100,000. The Tribunal also considered the parties’ respective sales comparative analysis. As previously stated, Petitioner’s sales comparison approach, as revised in part by the Tribunal, was considered creditable and persuasive and given greater weight. Respondent’s comparable sales, analysis, and adjustments provided the Tribunal with guidance but were less persuasive. The Tribunal’s independent determination of market value from Petitioner’s sales data and analysis, as revised by the Tribunal, is \$24,700,000. Based on the overall data and the attributes of the subject and subject market area, the Tribunal’s independent determination of market value for the subject property is \$23,100,000 as of December 31, 2022, for the 2023 tax year.

Allocation of TCV and TV to the Assessment Parcels

Table 8 reflects the percentage allocation value based on the 2023 values as confirmed by the City of Walker BOR. Based on the BOR final values, the Tribunal will proportionally allocate its independent finding of TCV and TV based on the parcel percentage of total value in Table 8 below. The TV to TCV ratio is 45.17%³³⁵

Table 8

Parcel Number	TCV	Parcel % of Total TCV	TV	Parcel % of Total TV
41-13-01-151-008	\$8,698,000	37.26%	\$3,948,525	37.45%
41-13-01-151-009	\$1,236,400	5.30%	\$560,910	5.32%
41-13-01-151-018	\$13,408,000	57.44%	\$6,033,615	57.23%
Total	\$23,342,400	100.00%	\$10,543,050	100.00%

³³⁵ \$10,543,050 / \$23,342,400 = 45.17%.

Based on the 2023 BOR parcel percentages and the TCV in the amount of \$23,100,000, the TCV is apportioned as follows in Table 9. Based on the original TV to TCV ratio of 45.17%, the revised 2023 TVs are as follows.³³⁶

Table 9

Parcel Number	TCV	Parcel % of Total TCV	TV	Parcel % of Total TV
41-13-01-151-008	\$8,607,060	37.26%	\$3,907,634	37.45%
41-13-01-151-009	\$1,224,300	5.30%	\$555,103	5.32%
41-13-01-151-018	\$13,268,640	57.44%	\$5,971,533	57.23%
Total	\$23,100,000	100.00%	\$10,434,270	100.00%

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that for the 2023 tax year the subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's SEV and TV for the tax year 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

³³⁶ \$23,100,000 x .4517 = \$10,434,270.

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%, (xiii) after December 31, 2022, through June 30, 2023, at the rate of 5.65%, (xiv) after June 30, 2023, through December 31, 2023, at the rate of 8.25%, (xv) after December 31, 2023, through June 30, 2024, at the rate of 9.30%, (xvi) after June 30, 2024, through December 31, 2024, at the rate of 9.50%, (xvii) after December 31, 2024, through June 30, 2025, at the rate of 9.47%, and (xviii) after June 30, 2025, through December 31, 2025, at the rate of 8.66%.

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 or disabled veterans 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.

Alternatively, you may file a claim of appeal with the Michigan Court of Appeals. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal of right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." A copy of the claim of appeal must be filed with the Tribunal to certify the record on appeal. There is no certification fee.

By  _____

Entered: July 15, 2025

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 provided by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk