

STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
MICHIGAN TAX TRIBUNAL

Rent-A-Center,  
Petitioner,

v

MTT Docket No. 335816, 335817,  
335818, 335819, 335820, 335821,  
335822, and 335823

City of Detroit,  
Respondent.

Tribunal Judge Presiding  
Victoria L. Enyart

**OPINION AND JUDGMENT**

Introduction

Petitioner, Rent-A-Center, appeals ad valorem property tax assessments levied by Respondent, City of Detroit, against the personal property owned by Petitioner for the 2007 tax year. Anthony J. Kostello, attorney, appeared on behalf of Petitioner. Perry L. Yun, attorney, appeared on behalf of Respondent. Witnesses appeared on behalf of both parties. They include, for Petitioner, Rick Riffe, Regional Director for Rent-A-Center, and Doug Savage, Vice President of Savage, Savage, and Brown. Anita Louise Brown, Certified Michigan Assessor Evaluator III, appeared for Respondent.

The proceedings were brought before this Tribunal on October 6, 2010, to resolve the personal property dispute.

The parties' contentions are as follows:

22994137.09

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$138,719	\$69,360	\$69,360	\$357,380	\$178,790	\$178,790

13990581.00

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$158,552	\$79,276	\$79,276	\$379,440	\$189,720	\$189,720

16992179.01

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$190,051	\$95,026	\$95,026	\$449,720	\$224,860	\$224,860

20990568.01

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$172,501	\$86,251	\$86,251	\$437,680	\$218,840	\$218,840

1992274.03

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$182,993	\$91,497	\$91,497			

22991927.02

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$185,659	\$92,830	\$92,830	\$427,300	\$236,150	\$236,150

16990601.00

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$145,952	\$72,976	\$72,976	\$430,740	\$215,370	\$215,370

22990499.02

		Petitioner		Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2007	\$196,468	\$98,224	\$98,224	\$499,120	\$249,560	\$249,560

Respondent's revised contentions are:

22994137.09

Year	TCV	SEV	TV
2007	\$318,391	\$159,200	\$159,200

13990581.00

Year	TCV	SEV	TV
2007	\$306,194	\$153,100	\$153,100

16992179.01

Year	TCV	SEV	TV
2007	\$413,328	\$206,670	\$206,670

20990568.01

Year	TCV	SEV	TV
2007	\$375,678	\$187,840	\$187,840

1992274.03

Year	TCV	SEV	TV
2007	\$0	\$0	\$0

22991927.02

Year	TCV	SEV	TV
2007	\$438,827	\$219,420	\$219,420

16990601.00

Year	TCV	SEV	TV
2007	\$330,787	\$165,400	\$165,400

22990499.02

Year	TCV	SEV	TV
2007	\$439,893	\$219,950	\$219,950

The Tribunal finds the following values:

22994137.09

Year	TCV	SEV	TV
2007	\$318,391	\$159,200	\$159,200

13990581.00

Year	TCV	SEV	TV
2007	\$306,194	\$153,100	\$153,100

16992179.01

Year	TCV	SEV	TV
2007	\$413,328	\$206,670	\$206,670

20990568.01

Year	TCV	SEV	TV
2007	\$375,678	\$187,840	\$187,840

1992274.03

Year	TCV	SEV	TV
2007	\$0	\$0	\$0

22991927.02

Year	TCV	SEV	TV
2007	\$438,827	\$219,420	\$219,420

16990601.00

Year	TCV	SEV	TV
2007	\$330,787	\$165,400	\$165,400

22990499.02

Year	TCV	SEV	TV
2007	\$439,893	\$219,950	\$219,950

Background and Introduction

At issue is the true cash value for eight separate Rent-to-Own locations in Detroit for personal property. Petitioner states that the mass appraisal does not consider the quality and wear and tear of the assets.

Respondent states that the properties are fairly assessed using the proper depreciation multipliers from the State Tax Commission.

Petitioner's Arguments

Petitioner believes that the true cash value of the subject property for the tax years at issue should be reduced based on an individual basis. The mass assessment is not a good measure of true cash for the subject properties. The assets are abused, obsolete in months as the average product life is eighteen months. Petitioner requests that the Tribunal set a new multiplier category to reflect the true cash value of the assets. The furniture category would over value the property.

Petitioner's admitted exhibits: P-7 Rental purchase agreement.

Rick Riffe, Regional Director for Rent-A-Center, states the approximately thirteen stores in Detroit are under his management. They rent 90 days same as cash, computers, TV, stereos, kitchen appliances and furniture, including mattresses.

Riffe explained the process of the rental agreement, indicating that there is no credit check performed, but four personal references and picture identification are required. There is no minimum time an asset has to be kept. The item can be returned or kept. When items are returned, if possible, the items are refurbished and put back on the floor. Petitioner keeps track of how long an asset remains in stock. Eighteen months is the average. At the end of its life the asset is sold or junked.

DVD players, for example, are thrown away because they are cheaper to purchase than to repair. The TV's also are not cost effective to repair. Mattresses are abused and do

not generally resell. Petitioner had photographs that were not exchanged in advance and were objected to by Respondent.

Riffe stated that the renter's agreement states that if the equipment is abused renters may be taken to court. He acknowledged that it is not cost effective to do so.

Doug Savage, Vice-President of Savage, Savage and Brown, was Petitioner's next witness. He oversees 9,000 properties nationwide and represents 120 companies for proper valuation. He is a licensed property tax consultant in Colorado and Texas. His business is representing Petitioner on a national basis, which includes filing personal property renditions, valuation and process appeals. Rent-to-Own is their largest client. Dallas Williams is the employee that is responsible for the returns. Savage reviews all the fixed assets and places the property in the correct category.

Savage testified that Petitioner is a unique company because the rental property is in a different environment; it is marketed to low income and bad credit clients. He works to value the property and discussed the factors on the personal property statements. He has represented Petitioner and other clients for over twenty years. His job is to make sure that the tax basis is equitable, he personally checks every personal property renditions negotiates value, and stated that he appraises value. His qualification for

doing so is a certified personal appraiser through IPT Texas, he is and a property tax consultant.<sup>1</sup>

Savage stated that he takes the information supplied by clients, applies the proper depreciation multiplier or suggests new valuation conclusions based on his multipliers, and submits personal property statements to the jurisdiction. He reviews everything that Dallas Williams does. He does appraisals, for example, in Detroit but when he plugged the cost into the tables the value did not reflect true cash value, so he made adjustments. When he finds large economic obsolescence, an adjustment is required. He created the "Rental Merchandise" attachment to several personal property statements.

Savage authored the following:

Functional obsolescence- The constant change and rapid growth in technology in the electronics field outdates units quickly and creates functional obsolescence. Example: Flat Screen TV vs. Analog TV, DVD player vs. VCR.

Economic Obsolescence – The rapidly falling prices in the electronics field from year to year creates an economic obsolescence in models that are less than a year old. Example the introduction of the DVD player several years ago with a retail price exceeding \$300 and a current model today with improved technology retails for \$100. R-1, p11.

Savage testified that these pages describe that applying the multipliers to electronics doesn't equal true cash value. He would first apply the normal depreciation, and then

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<sup>1</sup> The Tribunal did not as requested qualify this witness as a valuation expert who would be allowed to testify to true cash value. This witness did not prepare a valuation disclosure nor was he listed as a valuation expert.

on a four year life reduce it from an additional 20% for year one, 40% for year two, 60% for year three, and 80% for the final year.

Savage explained the Rent-A-Center Terming Matrix as an internal document that shows how Petitioner charges off all assets on hand at the year end. It also includes a product life report. He states that this document corresponds to Riffe's testimony.

Thirty-three photographs were discussed, and taken on one day in Oklahoma to assist Savage in determining the true cash value of the subject properties located in Detroit. The photographs indicate the additional wear and tear of the equipment. The photographs were not admitted into evidence due to relevance.

#### Respondent's Arguments

Respondent states that it is relying on the State Tax Commission ("STC") approved multipliers. The true cash value of the subject properties was amended twice. The first time the personal property statements were misread. They were recalculated to properly classify the assets. They were put on an Excel spreadsheet; however, there was an error and the assets in Section F were counted twice. The second error was in the Excel formula.

Anita Louise Brown, CMAE 3, personal property examiner, was Respondent's only witness. Brown is familiar with the subject properties. She stated that Petitioner's statement misclassified assets; she put them in the proper category. Petitioner also

attached to various properties the Rental Merchandise page. She was aware that the assets were added to Section F "Computer Equipment" per the Rental Merchandise page. The assets should be reported in Section A "Furniture and Fixtures."

Brown testified that parcel 1992274.03 is contained on another parcel identification number and has no value.

Brown testified that they received information that Petitioner was not to be given additional depreciation. She spoke to the STC, Tim Schnelle, who advised her that the property was not considered as "daily" rental property.

Brown testified that the STC multipliers were applied properly. It was Brown's understanding that original cost is suppose to be reported and Petitioner did report original costs, but requested additional depreciation.

#### Tribunal's Findings of Fact

The Tribunal finds that Petitioner was not able to successfully carry its burden of proving that the assessments exceed 50% of market value. Petitioner's entire case rested on an opinion from Savage that additional depreciation should be applied. However, Savage is a property tax consultant, and advocate for Petitioner. He was successful in convincing Texas that rental property has a shorter life than other assets. Petitioner advocates an 18 month life for subject properties.

This Tribunal's charge is to determine the true cash of the subject properties as of December 31, 2006. Petitioner presented no valuation evidence of market value of any of the assets. Petitioner had some evidence but no witness that prepared or was familiar with the evidence to indicate or prove that the obsolescence requested influences the true cash value of the subject properties.

The proper venue to change depreciation multipliers for personal property is the State Tax Commission. Proving true cash value is another method of determining that the multipliers are obsolete. However, Petitioner in this instance has failed to prove that the true cash value of the subject properties is incorrect using the mass assessment technique of original cost new less depreciation.

Absent an appraisal or other evidence, testimony is insufficient to carry Petitioner's burden of proof.

#### Conclusions of Law

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value. The Michigan Legislature has defined true cash value to mean the usual selling price at the place where the property to which the term is applied is at the time of the assessment, being the price which could be obtained for the property at private sale, and not forced or auction sale. See MCL 211.27(1). The Michigan Supreme Court in *CAF Investment Co*

*v State Tax Commission*, 392 Mich 442, 450 (1974), has also held that true cash value is synonymous with fair market value.

In that regard, the Tribunal is charged in such cases with finding a property's true cash value to determine the property's lawful assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767 (1981). The determination of the lawful assessment will, in turn, facilitate the calculation of the property's taxable value as provided by MCL 211.27a. A petitioner does, however, have the burden of establishing the property's true cash value. See MCL 205.737(3) and *Kern v Pontiac Twp*, 93 Mich App 612 (1974).

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...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%....; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963 Art IX , Sec 3.

As used in the General Property Tax Act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1).

“True cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974). The Michigan Supreme Court, in *Meadowlanes, supra*, acknowledged that the goal of the assessment process is to determine “the usual selling price for a given piece of property.” In determining a property’s true cash value or fair market value, Michigan courts and the Tribunal recognize the three traditional valuation approaches as reliable evidence of value. See *Antisdale v Galesburg, supra*.

“The petitioner has the burden of establishing the true cash value of the property...” MCL 205.737(3); MCL 211.27(1); *Meadowlanes Limited\_Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 483-484; 473 NW2d 363 (1991). “This burden encompasses two separate concepts: (1) the burden persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party.” *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992) at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77(1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707(1984).

*Producers Color v City of Clawson*, MTT Docket No. 216818, states in part:

Therefore, Petitioner’s burden of proof, in challenging Respondent’s use of the STC Manual and multiplier methodology, is to provide convincing evidence of the subject’s market value. Since “true cash value” means “the usual selling price,” which is synonymous with “fair market value,” the valuation problem here is best addressed by use of applicable and reliable market data, applied to a market-based methodology. That “market-based methodology” for personal property is preferably the market/sales

comparison approach, but when appropriate data is not fully available, a cost-less-depreciation approach with market data input; only in unusual circumstances is an income analysis appropriate.

Therefore, critical to a Tribunal finding is consideration of whether Petitioner has presented market methodology and analysis capable of making a *prima facie* case in attempting to carry the burden of proof. Offset against that presentation is further consideration of Respondent's challenge found in its case for rebuttal, and offering of alternate methodology and conclusions for acceptance of its own valuation work. Finally, the Tribunal will make an independent determination of true cash value, for which the results may include these options: (1) accepting Petitioner's case as having met its burden; (2) finding Petitioner to have failed in its burden, and Respondent having succeeded in both rebuttal and presentation of its valuation; (3) a finding resulting from an acceptance in part of one or the other valuation proofs, but with modification to the portion(s) found not to be acceptable; (4) acceptance in part of each of the valuation proofs, with the finding being a combination of each; (5) rejection of both, with a finding based on acceptable data and components excerpted from one, the other, or each party's valuation proofs. (*Meadowlanes* at 485-486; *Tatham* at 597). p 10.

The importance of market data to implement the standard cost approach was stated in *Uniroyal Goodrich Tire Company v City of Troy*, 8 MTT 361 (1994) at 376:

Since market-based answers are mandatory in assessment matters, the valuation expert is faced with a difficult situation where there is a strong reliance upon only the cost approach, or cost-based support. For example, in the cost approach it is essential that available and applicable market data support all components of the cost approach, beginning with cost new, extending into the various forms of value loss (physical deterioration, function and external obsolescence), and ending with land value.

It appears to the Tribunal that the STC Multiplier method is a valuation process better employed as a mass appraisal technique for its uniformity of result and ease of administration. The method does not appear well-suited to defense as a market-based methodology in Tribunal appeals. A more effective process would be to employ market data directly in support of a market-based appraisal methodology. Respondent had that choice, the choice of changing valuation systems in challenging Petitioner's proofs and defending its own position. It was not necessary that the true cash value upon which the assessment is based be defended by the same assessment mass appraisal system used in its derivation. p 14.

In this case, the Tribunal concludes that the evidence, testimony, and law indicate that the subject property is properly assessed at 50% of market value. An appraisal of fair market value requires a determination of the property's "highest and best use," which is "the reasonably probable and legal use of vacant land or an improved property that is legally permissible, physically possible, financially feasible, and that results in the highest value." Appraisal Institute, *Appraising Residential Properties*, (Chicago, 3<sup>rd</sup> ed., 1999), p 211. The Tribunal received no valuation evidence from Petitioner, and testimony itself is not sufficient market evidence.

The Tribunal is charged in a valuation appeal to determine the true cash value of the subject property as of each tax year at issue. Petitioner was not able to prove by a preponderance of its evidence that the assessment of the subject property should be modified.

### JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax year at issue are AFFIRMED as set forth in the *Introduction* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 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 as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 1995 at the rate of 6.55% for calendar year 1996, (ii) after December 31, 1996 at the rate of 6.11% for

calendar year 1997, (iii) after December 31, 1997 at the rate of 6.04% for calendar year 1998, (iv) after December 31, 1998 at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999 at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000 at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001 at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003 at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004 at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005 at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006 at the rate of 5.42% for calendar year 2007, and (xiii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010.

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

MICHIGAN TAX TRIBUNAL

Entered: November 12, 2010

By: Victoria L. Enyart