STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Garfield Investments,
Petitioner,

v

MTT Docket No. 14-001512

City of Hamtramck,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT

The Tribunal, having given due consideration to the file in the above-captioned case, finds that a Proposed Opinion and Judgment ("POJ") was issued on December 21, 2015. The POJ states, in pertinent part, "[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available,** if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions)."

Neither party has filed exceptions to the POJ.

The Administrative Law Judge ("ALJ") considered the testimony and evidence submitted and made specific findings of fact and conclusions of law. The ALJ's determination is supported by the testimony, evidence and applicable statutory and case law.

Given the above, the Tribunal adopts the POJ as the Tribunal's final decision in this case.[1] The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

a. The properties' TCV, SEV, and TV, as established by the Board of Review for the tax years at issue, are as follows:

	2014			2015		
Parcel Number	TCV	AV	TV	TCV	AV	TV
82-41-006-02-0019-000	$453,400	$226,700	$113,538	$445,200	$222,600	$115,354
82-41-006-02-0014-000	$116,800	$58,400	$39,216	$112,400	$56,200	$39,843
82-41-006-02-0013-000	$141,400	$70,700	$31,712	$138,400	$69,200	$32,219
82-41-006-02-0011-301	$142,000	$71,000	$35,560	$142,000	$71,000	$36,128
82-41-006-02-0010-301	$257,800	$128,900	$68,237	$249,000	$124,500	$69,328
82-41-006-02-0008-000	$285,800	$142,900	$70,714	$279,800	$139,900	$71,845
82-41-006-02-0003-000	$166,400	$83,200	$42,672	$160,200	$80,100	$43,354

[1] See MCL 205.726.

b. The properties' TCV, SEV, and TV, as determined by the Tribunal for the tax years at issue, are as follows:

	2014			2015		
Parcel Number	TCV	SEV	TV	TCV	SEV	TV
82-41-006-02-0019-000	$148,600	$74,300	$74,300	$145,900	$72,950	$72,950
82-41-006-02-0014-000	$60,600	$30,300	$30,300	$58,300	$29,150	$29,150
82-41-006-02-0013-000	$71,000	$35,500	$31,712	$69,500	$34,750	$32,219
82-41-006-02-0011-301	$109,800	$54,900	$35,560	$109,800	$54,900	$36,128
82-41-006-02-0010-301	N/A	N/A	$31,750	N/A	N/A	$32,258
82-41-006-02-0008-000	$139,400	$69,700	$69,700	$136,500	$68,250	$68,250
82-41-006-02-0003-000	$76,600	$38,300	$38,300	$73,800	$36,900	$36,900

IT IS SO ORDERED.

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 provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.[2] 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, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, and (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%.

This Final Opinion and Judgment resolves the last pending claim and closes this case.

[2] See MCL 205.755.

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 required filing fee within 21 days from the date of entry of the final decision.[3] Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.[4] A copy of the motion must be served 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.[5] Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[6]

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."[7] A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.[8] The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[9]

By Steven H. Lasher

Entered: January 29, 2016
sms

[3] See TTR 261 and 257.
[4] See TTR 217 and 267.
[5] See TTR 261 and 225.
[6] See TTR 261 and 257.
[7] See MCL 205.753 and MCR 7.204.
[8] See TTR 213.
[9] See TTR 217 and 267.

STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Garfield Investments,
Petitioner,

v

MTT Docket No. 14-001512

City of Hamtramck,
Respondent.

Administrative Law Judge Presiding
Peter M. Kopke

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

Petitioner appealed the ad valorem property tax assessments levied by Respondent against Parcel Nos. 82-41-006-02-0019-000, 82-41-006-02-0014-000, 82-41-006-02-0013-000, 82-41-006-02-0011-301, 82-41-006-02-0010-301, 82-41-006-02-0008-000, and 82-41-006-02-0003-000 for the 2014 and 2015 tax years.[1] Myles B. Hoffert and Julia S. Rosen, Attorneys, represented Petitioner and Stephen J. Hitchcock, Attorney, represented Respondent.

A hearing on this matter was held on October 26, 2015, and November 13, 2015. Petitioner's witness was Daniel J. Tomlinson, MAI, Tomlinson Valuation and Consulting, LLC. Respondent's witnesses were Jumara Judeh, MAI, CCIM, MCAT, MRICS and Jay Singh, City of Hamtramck Assessor.

As established by Respondent's March Board, the true cash value ("TCV"), assessed value ("AV"), and taxable value ("TV") of the subject properties are as follows:[2]

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[1] The petition filed in MTT Docket No. 14-001512 addressed all of the parcels at issue. Parcel Nos. 82-41-006-0019-000 and 82-41-006-0003-000 are not, however, contiguous to each other or contiguous to any of the other parcels at issue and the Tribunal entered an Order severing those parcels and assigning the parcels to MTT Docket Nos. 15-005960 and 15-005961, respectively. See TTR 227(2)(a). The Tribunal did, however, also enter an Order consolidating those cases with the instant case based on common questions of fact and law. See TTR 201(1) and R 792.10118(b).

[2] The Tribunal entered an Order in MTT Docket No. 450891 ("prior case") correcting the Consent Judgment entered in the prior case, as the taxable value established by that Consent Judgment for Parcel No. 82-41-006-02-0014-000 was not in compliance with MCL 211.27a(2). The Order established $38,599 as the parcel's taxable value for the 2013 tax year and the required recalculation of taxable value for the 2014 and 2015 tax years results in taxable values of $39,216 and $39,843, respectively. See MCL 211.27a(2) and Michigan State Tax Commission Bulletin No. 6 of 1999. Further, the taxable values of Parcel No. 82-41-006-0010-301 for the 2014 and 2015 tax years were also purportedly corrected by Respondent's 2015 July Board of Review under MCL 211.53b(1) based on an alleged qualified error relating to omitted property.

Year	2014			2015		
Parcel Number	TCV	AV	TV	TCV	AV	TV
82-41-006-02-0019-000	$453,400	$226,700	$113,538	$445,200	$222,600	$115,354
82-41-006-02-0014-000	$116,800	$58,400	$39,216	$112,400	$56,200	$39,843
82-41-006-02-0013-000	$141,400	$70,700	$31,712	$138,400	$69,200	$32,219
82-41-006-02-0011-301	$142,000	$71,000	$35,560	$142,000	$71,000	$36,128
82-41-006-02-0010-301	$257,800	$128,900	$68,237	$249,000	$124,500	$69,328
82-41-006-02-0008-000	$285,800	$142,900	$70,714	$279,800	$139,900	$71,845
82-41-006-02-0003-000	$166,400	$83,200	$42,672	$160,200	$80,100	$43,354

Based on the evidence (i.e., testimony and admitted exhibits), the case file and applicable law, the Tribunal finds that TCV, state equalized value ("SEV"), and TV of the subject properties are as follows:[3]

Year	2014			2015		
Parcel Number	TCV	SEV	TV	TCV	SEV	TV
82-41-006-02-0019-000	$148,600	$74,300	$74,300	$145,900	$72,950	$72,950
82-41-006-02-0014-000	$60,600	$30,300	$30,300	$58,300	$29,150	$29,150
82-41-006-02-0013-000	$71,000	$35,500	$31,712	$69,500	$34,750	$32,219
82-41-006-02-0011-301	$109,800	$54,900	$35,560	$109,800	$54,900	$36,128
82-41-006-02-0010-301	N/A	N/A	$31,750	N/A	N/A	$32,258
82-41-006-02-0008-000	$139,400	$69,700	$69,700	$136,500	$68,250	$68,250
82-41-006-02-0003-000	$76,600	$38,300	$38,300	$73,800	$36,900	$36,900

PETITIONER'S CONTENTIONS

Petitioner contends that the evidence presented in this case supports a determination that the subject property's AV for the tax years at issue is in excess of 50% of its TCV. Specifically, Petitioner contends[4] that (i) the subject properties consist of six tax parcels with "older" buildings located in Respondent's central business district, which is considered a "stable trade area,"[5] (ii) the properties are not "investment grade properties," as they have "a high rollover risk," (iii) the highest and best use "is for continued use of the existing improvements as a mix

[3] The true cash value of Parcel No. 82-41-006-02-0010-301 is not being contested by Petitioner for either tax year, as indicated herein. Petitioner is, however, contesting the parcel's taxable values for both tax years. Further, Petitioner filed a Motion requesting that it be permitted to amend its petition to include a claim relative to the action taken by Respondent's 2015 July Board of Review to increase those taxable values. Those values are, however, already pending and, as such, the Motion was unnecessary.

[4] See Exhibit P-1.

[5] Exhibit P-1 does, however, also indicate that "negative economic signs" were present in the market, as of the valuation date at issue (i.e., December 31, 2013). See MCL 211.2(2). The valuation disclosure also indicates that overall retail market vacancy rates ranged from 9.8% for the first quarter of 2012 to 8.8% for the fourth quarter of 2014, which raises questions regarding Petitioner's estimated vacancy rate of 14% particularly given the fact that the properties were "91% occupied with multiple tenants."

use development," (iv) the sales and income approaches were applied and both approaches should be given equal weight,[6] (v) its sales adjustments were based on paired sales and "other techniques such as trend analysis, cost analysis, relative comparison analysis, or interviews with market participants" given the properties' "unique nature," (vi) no "condition of sale" adjustments were required because the comparables sold in arm's-length transactions, and (vii) a negative annual "market conditions" adjustment of 5% was made "between the date of sale for the comparable sale and year ending 2012."

As determined by Petitioner's valuation expert, the subject properties' TCV and TV for the tax years at issue should be as follows:[7]

Year	2014		2015	
Parcel Number	TCV	TV	TCV	TV
82-41-006-02-0019-000	$150,000	$75,000	$150,000	$75,000
82-41-006-02-0014-000	$35,000	$17,500	$35,000	$17,500
82-41-006-02-0013-000	$45,000	$22,500	$45,000	$22,500
82-41-006-02-0011-301	$35,000	$17,500	$35,000	$17,500
82-41-006-02-0010-301	N/A	$22,500	N/A	$22,860
82-41-006-02-0008-000	$100,000	$50,000	$100,000	$50,000
82-41-006-02-0003-000	$55,000	$27,500	$55,000	$27,500

PETITIONER'S ADMITTED EXHIBITS[8]

P-1 Valuation Disclosure prepared by Daniel J. Tomlinson dated June 29, 2015.[9]
P-2 Lease of 10334 Joseph Campau (i.e., Parcel No. 82-41-006-0019-00).
P-3 Lease of 10242 Joseph Campau (i.e., Parcel No. 82-41-006-0014-00).
P-4 Lease of 10338 Joseph Campau – Apt. No. 1 (i.e., Parcel No. 82-41-006-0019-00).
P-5 Lease of 10338 Joseph Campau – Apt. No. 2 (i.e., Parcel No. 82-41-006-0019-00).
P-6 Lease of 10338 Joseph Campau – Apt. No. 3 (i.e., Parcel No. 82-41-006-0019-00).
P-7 Lease of 10234 Joseph Campau.
PR-1 Millage Rates for the 2014 tax year.

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[6] See also the October 26, 2015 Transcript ("TR1") at pp 21-2 and pp 57-8.
[7] Petitioner's valuation disclosure concluded to values for the 2014 tax year only. The valuation disclosure also did not address the valuation of Parcel No. 82-41-006-0010-301 for either tax year at issue and Petitioner's attorneys stated prior to the hearing that Petitioner was contesting that parcel's taxable values only.
[8] Respondent objected to the admission of Exhibits P-2, P-3, P-4, P-5, P-6, and P-7 on the basis of relevance. The objection was noted and the exhibits were admitted. See TR1 at pp 60-2. Respondent also objected to Petitioner's Rebuttal Exhibit Nos. 1 and 2 (i.e., PR-1 and PR-2). Although PR-1 was admitted, neither party was able to verify the information provided by that exhibit. See TR1 at pp 120-2. As for PR-2, that exhibit was not admitted as it was a newspaper article and not a public record. See TR1 at pp 127-8.
[9] "Corrective pages" were offered and admitted. Those "corrective" pages are as follows: pp 1 and 2 of the Transmittal Letter and pp 2, 3, 34, 36, 58, 68, 70, 79, 80, 82, 83, 85, 86, 88, 89, 91, 92, 94, 97, and 99 of the Valuation Disclosure.

PETITIONER'S WITNESSES

Daniel J. Tomlinson

Daniel J. Tomlinson was Petitioner's only witness and Mr. Tomlinson was admitted as Petitioner's valuation expert. He testified that (i) the subject properties are not "investment grade" properties and the tenants are not "investment grade tenants" and, as such, there are issues relating to "creditworthiness" and "rollover" that "increases the risk of buying these properties,"[10] (ii) the condition of the subject properties was "fair," even though the majority of the properties had deferred maintenance issues,[11] (iii) there's an "oversupply" of such properties in the market and the market is a declining market,[12] (iv) the inspection of Petitioner's sales comparables consisted of a 2015 "drive-by" and he did not see if his Comparable No. 3 was open to the elements during his "drive-by" inspection,[13] (v) he relied on CoStar to determine whether the comparable sales were arm's length transactions subject to normal market pressures and did not verify that information by speaking to the sellers or buyers or by obtaining any property transfer affidavits or deeds, [14] (vi) he did not investigate the administrative expenses reflected on the financial statement and did not know (i.e., "exactly") whether those expenses included payments to Ms. Garfield that would otherwise be included in a management fee,[15] and (vii) he didn't know the subject properties' historical vacancy rate and felt that 14% would be "more appropriate" based on CoStar information and his driving down Joseph Campau.[16]

RESPONDENT'S CONTENTIONS

Respondent contends that the evidence presented in this case supports a determination that the subject property is assessed in excess of 50% of true cash value. Specifically, Respondent contends[17] that (i) the subject properties consist of seven parcels improved with commercial buildings with some residential apartments, (ii) the subject properties' highest and best use is "continued present use," (iii) the sales and income approaches were applied, but not the cost approach due to "the difficulty in accurately measuring all forms of accrued

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[10] See TR1 at p 22. See also TR1 at p 33 and p 59.
[11] Se TR1 at pp 22-4.
[12] See TR1 at p 34 and pp 40-1. See also TR1 at p 46 and p 95.
[13] See TR1 at pp 93-4, p 98 and pp 102-3.
[14] See TR1 at pp 99-106. See also TR1 at p 125 and p 127.
[15] See TR1 at pp 115-8.
[16] See TR1 at pp 122-3. See also See TR1 at pp 32-3 and pp 94-5.
[17] See Exhibit R-2.

depreciation" and the fact that the subject properties are "located in a densely developed older community making the establishment of an opinion of value for the land as vacant misleading," (iv) the subject properties are located in Respondent's central business district and the district is "aged and exhibits a great deal of wear and tear," (v) commercial vacancy rates for the district "range around 10-15% with supply and demand in balance," (vi) residential vacancy rates for the district "[hover] around 10% depending on the street . . . . [with supply] and demand . . . also in balance," and (vii) the district is considered "a fair investment risk" even though it is in its "decline life cycle."[18]

As determined by Respondent's valuation expert, the subject properties' TCV and TV for the tax years at issue should be as follows:[19]

Year	2014		2015	
Parcel Number	TCV	TV	TCV	TV
82-41-006-02-0019-000	$270,000	$135,000	$270,000	$135,000
82-41-006-02-0014-000	$100,000	$38,599	$100,000	$38,599
82-41-006-02-0013-000	$100,000	$33,295	$100,000	$33,295
82-41-006-02-0011-301	$130,000	$43,686	$130,000	$43,686
82-41-006-02-0010-301	N/A	$67,163	N/A	$67,163
82-41-006-02-0008-000	$220,000	$136,396	$220,000	$136,396
82-41-006-02-0003-000	$110,000	$47,385	$110,000	$47,385

RESPONDENT'S ADMITTED EXHIBITS

R-1 The subject properties' Property Record Cards for the 2014 tax year.[20]
R-2 Valuation Disclosure prepared by Jumara Judeh dated July 6, 2015.[21]
R-3 Tribunal Consent Judgment entered in MTT Docket No. 450891 on July 10, 2014.

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[18] See also TR1 at pp 191-8.
[19] Respondent's valuation disclosure concluded to values for the 2014 tax year only. Further, Respondent's contentions of taxable value for all parcels for both tax years are contrary to law. See MCL 211.27a(2).
[20] Petitioner objected to the admission of R-1 "for other purposes." See TR2 at pp 69-74. More specifically, Petitioner objected to R-1 for valuation purposes, as the record cards were not timely filed and exchanged for such purposes. Although the record cards were admitted for the offered purpose only (i.e., to provide "basic information about the properties"), it should be noted that the record cards, although printed in 2013, "reflected" the property's assessment for the 2014 tax year and were "incomplete." See TR2 at pp 69-70, pp 73-4 and pp 87-93.
[21] Petitioner objected to the admission of R-2 on the basis that Respondent's valuation disclosure was a restricted appraisal report that required the appraiser's work file for "proper understanding" and the work file was not provided. See TR1 at pp 154-6. At the time of Petitioner's objection to R-2 the exhibit had, however, already been admitted. In that regard, Petitioner was given an opportunity to object and did not object to its admission. See TR1 at p 131. Nevertheless, Petitioner's objection is being treated as a Motion to Strike and that Motion must be denied, as the failure to comply with USPAP standards does not preclude the consideration of the report, as such evidence is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. See MCL 205.746(1). As a result, the Tribunal is required to admit the report and determine the weight that it should be given. See *Comstock Village Ltd Dividend Housing Ass'n v Comstock Twp*, 168 Mich App 755, 760; 425 NW2d 702 (1988).

R-4 Photographs of Petitioner's sales comparables.[22]
R-5 The Property Record Cards for Petitioner's sales comparables.[23]
R-6 Photographs of the subject properties.
R-7 Notice sent to Petitioner regarding Respondent's 2015 July Board of Review meeting.[24]

RESPONDENT'S WITNESSES

Jumara Judeh

Jumara Judeh was Respondent's first witness and Ms. Judeh was admitted as Respondent's valuation expert. She testified that (i) she has done "three to five appraisals" in the City of Hamtramck "within the last five years" and is "very familiar with Hamtamck,"[25] (ii) she "focused" on the sales approach given her "experience" with the City and used the income approach "in a supporting capacity,"[26] (iii) she could not find "a lot of rental data on Joseph Campau" and "did not want to use the rental data" for other properties owned by Petitioner because she wanted "external data" that was not "influenced" by Ms. Garfield's "management skills,"[27] (iv) she did not use the cost approach because "[t]he buildings are just too old" and "[t]here's a lot of functional issues,"[28] (v) although she researched CoStar and MLS, she has a database of "over 10,000 sales" that she relied on and "whittled . . . down" to six comparable that she "felt represented arm's length transactions that were similar in characteristic" to the subject

[22] Petitioner objected to the admission of R-4 on the basis of relevancy. See TR2 at pp 80-7. In that regard, the photographs were offered to demonstrate the condition of Petitioner's sales comparables and the pictures were taken in 2015 and not in 2013 or 2014. Although R-4 was admitted, it is noted that the testimony provided in support of those photographs consisted of an opinion based on an "estimate" made by and hearsay statements made to the lay witness providing the opinion and said opinion was, at best, marginally helpful given Respondent's failure to offer the people that spoke to the witness, other than the DDA director, as witnesses themselves. See TR2 at pp 81-7. See also MCR 701.
[23] Petitioner objected to the admission of R-5 on the basis that Respondent did not cross-examine Petitioner's valuation expert on the sales information reflected by the record cards for Petitioner's comparables and the fact that "nobody has given testimony" regarding the reflected sales. See TR2 at pp 87-93. Notwithstanding Petitioner's objections, the records cards were admitted as public records. It is, however, noted that the witness testifying in support of those cards did not prepare the cards or have any "firsthand" information regarding the reflected sales.
[24] Petitioner objected to the admission of R-7 or, more specifically, the page entitled "Attachment to 2014 Petition/Docket # 14-001512" on that basis that the document was prepared for "compromise negotiations" in the prior case. See TR2 at pp 95-7. See also TR2 at pp 119-120. Although Respondent indicated that the document had been attached to the petition filed in this case, the document was not attached to the petition filed with the Tribunal. More importantly, the document was clearly prepared for compromise negotiations in the prior case and is not admissible pursuant to MRE 408. As such, R-7 was admitted with the exception of that document.
[25] See TR1 at pp 129-130 and p 135.
[26] See TR1 at pp 136-7.
[27] See TR1 at p 137.
[28] See TR1 at pp 137-8.

properties, which she then "vetted,"[29] (vi) she made an adjustment for "market conditions," as the market, although "recovering," was still "declining" as of the valuation date,[30] (vii) the subject properties "have been relatively well-maintained" and "are fully occupied,"[31] (viii) she has driven-by her comparables, been inside some of them, and appraised some of them,[32] (ix) her rental comparables from the City of Detroit were not only "indicative of the economic conditions" impacting the subject properties, but she is also "almost positive" that she appraised all of her rental comparables with the exception of the rental comparable in Hamtramck,[33] (x) in reconciling her approaches she "leaned" towards the income approach because of the strength of the data that she utilized with respect to her rental comparables,[34] (xi) she did not use contract rent in her income approach because she was not given the rent roll and she is appraising fee simple and not leased fee,[35] (xiii) her valuation disclosure is a restricted report and she is here to testify and explain her report,[36] (xiv) her adjusted price per square foot range from $20 to $60 is reasonable given "these property types in this market,"[37] (xv) she determined her size adjustment by calculating the difference and estimating "an effect on the difference,"[38] (xvi) "demand is very active in the City of Hamtramck,"[39] (xvii) she chose her vacancy rate of 25% as "a general figure . . . applied to measure risk based on the condition, style and appearance of the subject properties" and "[i]t probably should have been lower than that, but I wanted to err on the side of

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[29] See TR1 at pp 138-140. See also TR1 at pp 135-6. Although Ms. Judeh was asked to "walk us through" her comparables with respect to location and the characteristics that made them comparable, she did not "walk us through" those comparables because she needed her work file and didn't use the work file present to refresh her recollection regarding the comparables. See TR1 at pp 141-2. Ms. Judeh did, however, indicate that the comparables were located in the "Central Business District." See also the November 13, 2015 Transcript ("TR2") at p 7 and p 16.
[30] See TR1 at p 143 and TR2 at p 22.
[31] See TR1 at p 144 and TR2 at p 39.
[32] See TR1 at pp 145-6.
[33] See TR1 at pp 147-8.
[34] See TR1 at pp 149-150.
[35] See TR1 at pp 156-161.
[36] See TR1 at pp 164-5. Although a restricted report relies on the underlying work file to properly explain the report, the work file was neither offered nor admitted. Rather, Respondent is relying on Ms. Judeh's testimony to properly explain or otherwise support her report. In that regard, a subpoena was requested by Petitioner and issued requiring Ms. Judeh to bring her work file to the hearing. Nevertheless, Petitioner was not entitled to the work file, even though brought to the hearing, because Petitioner had notice and an opportunity to request that file prior to the closure of post-valuation disclosure discovery on September 1, 2015, and Petitioner admittedly failed to timely request the file. See TR1 at pp 168-171. See also the November 18, 2014 Prehearing General Call and Order of Procedure and TTR 247(10).
[37] See TR1 at pp 179-180.
[38] See TR1 at pp 180-1 and p 183. See also TR2 at pp 29-30.
[39] See TR2 at p 10.

caution,"[40] (xviii) she "assumed" her comparables were "well maintained" because they were "fully operational" based on her walking her comparables and "[m]ost of them [looked] like they're in the same condition . . . . [as] [t]hey're occupied . . . . [and] running,"[41] (xix) her size adjustments were based on "market behavior" because "[i]t's not a given that just because there's a size difference that the market will act accordingly . . . . [rather] it really depends on the demand,"[42] (xx) the Detroit neighborhood of her rental comparables "is similar to the neighborhood which encompasses" the subject properties,[43] (xxi) her rental comparables were "all single story commercial units" that "were utilized to measure rent for the . . . first floor,"[44] (xxii) in selecting her market rent from her five comparables she "went towards the middle at $5.50, which I felt was [neither] low nor high,"[45] (xxiii) she "estimated expenses" based on the "limited information" provided by her client and her "experience, which is rather extensive with these property types" and "thought" her expenses "were reasonable,"[46] (xxiv) she "pulled" her residential rentals "from MLS,"[47] and (xxv) she has no exhibits included with her valuation disclosure.[48]

Jay Singh

Jay Singh was Respondent's second and final witness. He testified that (i) the taxable value "presented" to Respondent's 2015 July Board of Review for correction under MCL 211.53b related to Parcel No. 82-41-006-02-0010-301 and that parcel consisted of "two distinct businesses" or "two parts" – a retail store and medical office building,[49] (ii) he could "fairly estimate" the condition of the sales comparables as of the valuation date at issue,[50] (iii) the comparable record cards reflect sales information not considered by Petitioner's appraiser,[51] (iv) the stipulation documents in the prior case listed the "two parts" for Parcel No. 82-41-006-02-0010-301 "under two different parcels" and he "believed" that the stipulation only valued the

[40] See TR2 at p 11.
[41] See TR2 at pp 13-4.
[42] See TR2 at p 30.
[43] See TR2 at p 32.
[44] See TR2 at p 33.
[45] See TR2 at p 35.
[46] See TR2 at pp 36-40.
[47] See TR2 at p 42.
[48] See TR2 at pp 52-3
[49] See TR2 at pp 71-3.
[50] See TR2 at p 80 and pp 82-7.
[51] See TR2 at pp 87-93.

10212 Joseph Campau "part,"[52] (v) the assessments established by Respondent's 2013 March Board of Review for Parcel Nos. 82-41-006-02-0010-301 and 82-41-006-02-0011-301 were correctly reflected on the stipulation even though the addresses for the parcels were incorrect,[53] (vi) he does not know whether there was any omitted property, rather he only knows the stipulation had wrong addresses,[54] and (vii) he provided Ms. Judeh with the millage she utilized, which was 74.501 for the 2014 assessment.[55]

FINDINGS OF FACT

The following facts were proven by a preponderance of the evidence:

1. The subject properties consist of seven parcels of property located at various addresses in Respondent's Central Business District. The true cash and taxable values are at issue for Parcel Nos. 82-41-006-02-0019-000, 82-41-006-02-0014-000, 82-41-006-02-0013-000, 82-41-006-02-0011-301, 82-41-006-02-0008-000, and 82-41-006-02-0003-000, while the taxable values only are at issue for Parcel No. 82-41-006-02-0010-301.
2. The subject properties are improved and are classified as commercial real.
3. The subject properties' highest and best use is, as indicated by both parties, for continued current use as mixed development.
4. Neither party utilized a cost approach to value the properties given the age of the subject improvements and the difficulty in accurately measuring all forms of depreciation.
5. Both parties agreed that the subject market, although stabilizing, is a declining market.
6. Both parties agree that smaller commercial buildings sell for higher price per square foot than larger commercial buildings.
7. Neither CoStar nor the MLS are reliable sources of information. Rather, the information provided by both needs to be verified for accuracy (i.e., "vetted").
8. Both parties relied on CoStar research for his sales information, while Respondent also relied on MLS research. In that regard, Mr. Tomlinson admitted that he did not, unlike Ms. Judeh, "vet" his comparables. As for Ms. Judeh, she testified that she has a database of sales and "whittled" that database of 10,000 sales to six sales and "vetted" those sales. She did not, however, explain or otherwise provide documentation indicating how that database was compiled, how she "whittled" that database from 10,000 to six sales, or how she "vetted" those sales.
9. Both parties agreed that the subject properties were in "fair" condition.
10. It is unclear from the evidence whether Mr. Tomlinson's sales adjustments were market-based, as he admittedly relied on "other techniques" (i.e., trending, cost analysis, etc.) without providing an explanation or documentation to support those other techniques.

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[52] See TR2 at p 94.
[53] See TR2 at pp 96-111. Parcel No. 82-41-006-02-0011-301 was also listed twice with incorrect identifiers and addresses. One of the two listings did, however, indicate the correct assessment established by Respondent's 2013 March Board of Review. See TR 2 at pp 108-11.
[54] See TR2 at p 106.
[55] See TR2 at pp 113-4.

11. Mr. Tomlinson assumed that the sales of his comparables were the result of arm's length transactions subject to normal market pressures and, as such, did not adjust those comparables to reflect "conditions of sale." His admission and Respondent's credible testimony was, however, sufficient to raise questions regarding whether the sales were, in fact, subject to normal market pressures. Respondent's testimony was also sufficient to raise questions as to the condition of Petitioner's Comparable No. 3 (i.e., "open to the elements").
12. Mr. Tomlinson failed to adjust his sales comparables to reflect the declining market or, more specifically, the admitted "negative economic signs" present in that market. In that regard, Mr. Tomlinson adjusted his 2012 sales comparables for market declines during 2012, but not for any declines, although admittedly present, beyond December 31, 2012.
13. Although a restrictive appraisal report is admissible, the underlying work file is necessary for the proper understanding of the report and the instant work file was not offered for admission or used by Respondent's appraiser in explaining the report. In that regard, Ms. Judeh admitted that the file was necessary for her to answer Respondent's question regarding the "characteristics" of her sales comparables and she did not use the file or otherwise testify as to the specific "characteristics" of those comparables.[56]
14. Respondent's adjustments to its sales comparables do not appear to be market-based (i.e., market behavior, estimated effect on difference, etc.) and appear on their face to be inconsistent. In that regard, they were not also supported by Ms. Judeh's testimony or her restricted appraisal report.
15. Respondent's square footages for the subject properties are based on Respondent's public assessing records and no testimony or documentation was provided by either party to explain or otherwise justify the discrepancies reflected by the parties' separate valuation disclosures for said square footages.[57] As such, Respondent's square footages, which are for the most part less than Petitioner's square footages, are determined to be the most reliable indicator of the properties' square footages.
16. The combination of sales from each of the parties' sales approaches supports the following valuation of the subject properties:

    a. Parcel No. 82-41-006-02-0019-000 – Petitioner's Comparable Nos. 7 and 8 sold closest to the relevant tax date (i.e., December 31, 2013) with the sale of Comparable No. 8 being sold closest to that date.[58] Comparable No. 8 is also closest in size to the subject property. Comparable No. 7 is, on the other hand, over three times larger than the subject property and should be excluded from consideration, as Petitioner's size adjustments are all plus or minus five percent regardless of the size difference. As for Respondent's comparables, Comparable Nos. 2 and 3 sold closest to the relevant tax date at issue with Comparable No. 2 having the least amount of net and gross adjustments, as it is the same property as Petitioner's Comparable No. 8 and also

[56] See TR1 at p 141. See also TR2 at p 28 (i.e., "don't remember").
[57] It is unclear from the testimony provided what assessment records, if any, Mr. Tomlinson was given.
[58] Petitioner's Comparable Nos. 1, 6, and 10 were sales occurring in March 2012, October 2011, and July 2012, respectively, and those sales were not adjusted for market conditions beyond December 31, 2012.

closest in size to the subject property.[59] As a result, Petitioner's Comparable No. 8 and Respondent's Comparable No. 2 are reliable indicators of value and justify a price per square foot for this property of $8.20.

b. Parcel No. 82-41-006-02-0014-000 – Petitioner's Comparable Nos. 4 and 5 sold closest to the relevant tax date with the sale of Comparable No. 5 being sold closest to that date.[60] Comparable No. 5 is, of those two comparables, also closest in size to the subject property. In that regard, Petitioner made no size adjustment to either comparable, although both comparables are smaller than the subject property. As for Respondent's comparables, Comparable No. 6 sold closest to the relevant tax date at issue, but that property is also over five times larger than the subject property with the greatest amount of net and gross adjustments (i.e., 44 to 78%). Of the remaining comparables, Comparable Nos. 4 and 5 had the least amount of net and gross adjustments with Comparable No. 4 having the least amount of adjustments as it is also closest in size to the subject property.[61] As a result, Petitioner's Comparable No. 5 and Respondent's Comparable No. 4 are reliable indicators of value and justify a price per square foot for this property of $22.43.

c. Parcel No. 82-41-006-02-0013-000 – Both parties used the same comparables for this subject property that they used in Parcel No. 82-41-006-02-0014-000 and the analysis provided above would be the same for this subject property with the exception that the amount of the net and gross adjustments for Respondent's Comparable No. 6 would be 42 to 73%. In that regard, Petitioner's Comparable No. 5 and Respondent's Comparable No. 4 are reliable indicators of value and justify a price per square foot for this property of $22.16.

d. Parcel No. 82-41-006-02-0011-301 – Both parties used the same comparables for this subject property that they used in Parcel Nos. 82-41-006-02-0014-000 and 82-41-006-02-0013-000. Nevertheless, the analysis provided above must be slightly altered as Petitioner's Comparable Nos. 1 and 2 are closest in size to the subject property. Those comparables did, however, sell on March 12, 2012, and July 13, 2012, respectively, and were not adjusted for market condition beyond December 31, 2012, and, as such, both must be excluded. Of the other comparables, Comparable No. 5 sold closest to the relevant tax date and is the remaining comparable closest in size to the subject property.[62] As for Respondent's comparables, Comparable Nos. 4 and 5 are closest in size to the subject property and sold in the approximate same time

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[59] Although Ms. Judeh made a 3% market condition adjustment based on the September 2014 date of sale for her Comparable No. 4 and October 2014 date of sale for her Comparable No. 5, she did not make an adjustment for the April 2013 sale date of Comparable No. 1.

[60] Petitioner's Comparable Nos. 1, 2, and 3 were sales occurring in March 2012, July 2012, and October 2012, respectively, and those sales were not adjusted for market conditions beyond December 31, 2012.

[61] Respondent's Comparable No. 1 sold in May, 2012, Comparable No. 2 is a two-story structure, and Comparable No. 3 is almost two times larger than the subject property.

[62] Petitioner's Comparable No. 3 sold October 2012, and Comparable No. 4 sold May 2013, and is over two (2) times smaller than the subject property.

frame as each other.[63] As such, Petitioner's Comparable No. 5 and Respondent's Comparable Nos. 4 and 5 are, with the most weight being given to Petitioner's Comparable No. 5, reliable indicators of value and justify a price per square foot for this property of $26.85.

e. Parcel No. 82-41-006-02-0008-000 – Petitioner's Comparable Nos. 8 and 9 sold closest to the relevant tax date with the sale of Comparable No. 9 being the closest to that date.[64] Comparable No. 9 is also closest in size to the subject property, as Comparable No. 8 is over two times smaller than the subject property.[65] As for Respondent's comparables, Comparable Nos. 2 and 3 sold closest to the relevant tax date at issue with Comparable No. 2 being closest in size to the subject property with the least amount of gross adjustments.[66] As a result, Petitioner's Comparable No. 9 and Respondent's Comparable No. 2 are reliable indicators of value and justify a price per square foot for this property of $8.80.[67]

f. Parcel No. 82-41-006-02-0003-000 – Both parties used the same comparables for this subject property that they used in Parcel Nos. 82-41-006-02-0014-000, 82-41-006-02-0013-000, and 82-41-006-02-0011-301and the analysis provided above for Parcel Nos. 82-41-006-02-0014-000 and 82-41-006-02-0013-000 would be the same for this property with the exception that the amount of the net and gross adjustments for Respondent's Comparable No. 6 would be 41 to 72%. In that regard, Petitioner's Comparable No. 5 and Respondent's Comparable No. 4 are reliable indicators of value and justify a price per square foot for this property of $22.02.

17. The parties' reliance on their respective income approaches to value the properties is misplaced. In that regard, the testimony provided in support of the respective approaches was inconsistent at best, as Mr. Tomlinson testified that there is an "oversupply" of such properties and the properties are not "investment grade properties." He also testified that the properties are subject to "high [tenant] rollover" that increases the risk of buying the

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[63] Respondent's Comparable No. 1 sold in May, 2012, Comparable No. 2 is a two-story structure that is over two times smaller than the subject property, Comparable No. 3 is one and one-half times larger than the subject property and has higher net and gross adjustments than Comparable Nos. 4 and 5, and Comparable No. 6 is over three times larger than the subject property with the highest amount of net and gross adjustments (i.e., 38 to 69%).

[64] Petitioner's Comparable Nos. 1, 6, and 7 were sales occurring in March, 2012, October, 2011, and March, 2013, respectively, and those sales were not adjusted for market conditions beyond December 31, 2012. Further, Comparable No. 7 is over three times larger than the subject property and should also be excluded from consideration.

[65] Notwithstanding the fact that Comparable No. 9 is closer in size than Comparable No. 8, Comparable No. 9 is 3,484 square feet larger than the subject property and Mr. Tomlinson did not adjust that comparable for the difference in square footage.

[66] Although Ms. Judeh made a 3% market condition adjustment based on the September 2014 date of sale for her Comparable No. 4 and October 2014 date of sale for her Comparable No. 5, she did not make an adjustment for the April 2013 sale date of Comparable No. 1. Further, Comparable Nos. 1 and 5 are over three times smaller than the subject property, while Comparable No. 6 is closer in size to the subject property than Comparable No. 3, but not Comparable No. 7.

[67] Respondent's Comparable No. 2 is the same property as Petitioner's Comparable No. 8 and is the best of Respondent's comparables for this property.

properties. As for Ms. Judeh, she testified that her sales approach was the most appropriate approach for valuing the subject properties given her "experience" with the City and yet "leaned" towards the income approach based on the strength of her rental data notwithstanding the "declining" life cycle of the instant rental market.

18. With respect to the particulars of the parties' respective income approaches, Petitioner's rental data was improperly "influenced" by the data for other rental properties owned by Petitioner,[68] while Respondent's rental data was from another rental market (i.e., Detroit versus Hamtramck) and not properly supported by testimony or documentation (i.e., first floor rental rates only, etc.).[69] Further, the parties' estimated vacancy rates of 14 and 25% and income statements were also not sufficiently supported to justify any reliance on them (i.e., 9% actual occupancy which is consistent with published vacancy rates ranging from 8.8 to 9.8% during the tax years at issue, 14% "felt" to be appropriate based on CoStar and personal observation, the cautious selection of a 25% vacancy rate despite district vacancy rates ranging "around 10-15%," no investigation relative to financial statement, "estimated expenses" because of "limited information," unverified millage rates, etc.).
19. The only indicator of value for the 2015 tax year provided by the parties are the subject properties' record cards or, more specifically, the market change from the 2014 to the 2015 tax year reflected by the assessments on those cards for those tax years.
20. Respondent admitted that the Stipulation in the prior case reflected the original assessment established by Respondent's 2013 March Board of Review for all of the "parts" of that parcel and that the assessment was increased by its 2015 July Board of Review under MCL 211.53b because the Stipulation reflected incorrect or missing addresses for that parcel and other parcels.

ISSUES AND 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 true cash value.[70] In that regard, the Michigan Legislature has, as directed by the Constitution, 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 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.[71]

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[68] Rent Comparable No. 1 was an actual lease and owned by Petitioner. Rent Comparable Nos. 2 through 5 were listings and Rent Comparable No. 3 was also owned by Petitioner. See also TR1 at pp 65-8.
[69] Although Ms. Judeh testified in support of her rental data, the data was not supported by any documentation and her testimony was not, by itself, sufficiently credible to justify any reliance on that data.
[70] See Const 1963, art 9, sec 3.
[71] See MCL 211.27(1).

In its review of that definition, the Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value.[72]

As for the Tribunal, the Tribunal must under MCL 205.737(1) find a property's true cash value in determining a lawful property assessment.[73] The Tribunal is not, however, bound to accept either of the parties' theories of valuation.[74] Rather, 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.[75]

Further, a proceeding before the Tribunal is original, independent, and de novo[76] and the Tribunal's factual findings must be supported by competent, material, and substantial evidence.[77] In that regard, "substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence."[78]

Additionally, "the petitioner has the burden of proof in establishing the true cash value of the property."[79] "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."[80] 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."[81]

As recognized by the courts of Michigan, 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.[82] The market approach is, however, the only valuation method

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[72] See *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).
[73] See *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).
[74] See *Teledyne Continental Motors v Muskegon Twp,* 145 Mich App 749, 754; 378 NW2d 590 (1985).
[75] See *Meadowlanes Ltd Dividend Housing Ass'n v Holland,* 437 Mich 473, 485; 473 NW2d 636 (1991).
[76] See MCL 205.735a(2).
[77] See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984) and *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-3; 462 NW2d 765 (1990).
[78] See *Jones & Laughlin Steel Corp, supra* at 352-3.
[79] See MCL 205.737(3).
[80] See *Jones & Laughlin Steel Corp, supra* at 354-5.
[81] See MCL 205.737(3).
[82] See *Meadowlanes, supra* at 484-85; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

that directly reflects the balance of supply and demand for property in marketplace trading.[83] Nevertheless, 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 true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.[84] Regardless of the approach selected, the value determined must represent the usual price for which the subject property would sell.[85]

The Tribunal is also required to consider the "highest and best use" of property in determining the property's true cash value, as that concept is fundamental to such determinations, as "it recognizes that the use to which a prospective buyer would put the property will influence the price which the buyer would be willing to pay. Further, land is appropriately valued 'as if available for development to its highest and best use, that most likely legal use which will yield the highest present worth."[86] In that regard, "highest and best use" of property is shaped by the competitive forces within the market where the property is located, and it provides the support for a thorough investigation of the competitive position of the property "in the minds of market participants."[87] Additionally, highest and best use analysis strongly influences the choice of comparable sales in the sales approach. Only properties with the same or similar highest and best uses are suitable for use as comparable sales.[88] "If the property being appraised is a single site, not a site whose use depends on assemblage with other sites, the highest and best use of the site alone is analyzed as it currently exists by itself. If the property being appraised consists of multiple sites as though sold in one transaction, the highest and best use analysis considers them as one large site."[89]

Finally, the Tribunal is also required to determine the subject property or properties' taxable values for the tax years at issue.[90]

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[83] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale*, *supra* at 276 n 1).
[84] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale*, *supra* at 277 and *Teledyne Continental Motors v Muskegon Twp*, 163 Mich App 188, 193; 413 NW2d 700 (1987), *lv den* 429 Mich 889 (1987)).
[85] See *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Meadowlanes*, *supra* at 485).
[86] See *Edward Rose Bldg Co v Independence Twp*, 436 Mich 620, 633; 462 NW2d 325 (1990).
[87] See *The Appraisal of Real Estate*, Appraisal Institute, 2013, 14th ed at p 331.
[88] See *The Appraisal of Real Estate*, *supra* at p 345.
[89] See *The Appraisal of Real Estate*, *supra* at p 334.
[90] See MCL 205.737(1). See also MCL 211.27a(2).

Here, the parties and the Tribunal agree that the subject properties' highest and best use is "continued use as mixed development." As for the parties' valuation approaches, neither party prepared a cost approach and that decision was appropriate given the age of the subject buildings and the difficulty in determining accrued depreciation as well as in determining the land values associated with such properties.[91] Of the two approaches prepared by the parties (i.e., sales and income), an income approach is generally preferred over a sales approach in determining the true cash value of such income-producing or investment-type properties. The instant rental market is, however, in a "decline life cycle" and the properties are not "investment grade" properties. Further, Petitioner's rental data is skewed by the inclusion of rental data from other properties owned by Petitioner, as those properties are also managed by Petitioner. While Respondent's rental data is from another rental market that is, contrary to Respondent's testimony, unlike the Central Business District within which the subject properties are located (i.e., four-lane roads, etc.). Additionally, the testimony and documentation provided raised more questions than support for the parties' respective income and expense statements and vacancy and millage rates. As a result, neither income approach is entitled to any weight leaving the parties' sales approaches. Although the sales approaches provided are not reliable indicators of value by themselves, the combination of sales from those approaches, as indicated above, provides the most accurate valuation of the subject properties for the 2014 tax year under the circumstances of this case.[92] In that regard, the selection of comparables that sold closest to the relevant tax date with the least amount of net and gross adjustments minimizes the parties' failures to properly adjust or otherwise explain the proper adjustment required to reflect declining market conditions and the differences between the subject properties and the comparables. With respect to the 2015 tax year, the only valuation evidence provided is the percentage or market change of the assessments from the 2014 to the 2015 tax year and that change when applied to the properties' revised assessments for the 2014 tax year also provides the most accurate valuation of the subject properties for the 2015 tax year under the circumstances of this case. Finally, Respondent failed to establish that property had been omitted from the assessment established by the Tribunal in the prior case for Parcel No. 82-41-006-02-0010-301 for the 2013 tax year. Rather, Respondent's

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[91] See *The Appraisal of Real Estate, supra* at pp 566-8.
[92] See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992).

actions were predicated solely on missing or inaccurate addresses and, as such, Respondent's July 2015 Board of Review had no authority under MCL 211.53b to increase that property's taxable values for the tax years at issue.

Based on the above, the Tribunal concludes that the subject properties' TCV, SEV, and TV for the tax years at issue are as listed in the Introduction Section of this Proposed Opinion and Judgment (POJ).

PROPOSED JUDGMENT

This is a proposed decision and not a final decision. As such, no action should be taken based on this proposed decision until a final decision is issued by the Tribunal.

After the expiration of the time period for the opposing party to file a response to the exceptions, the Tribunal will review the case file, including the POJ and all exceptions and responses, if any, and:

1. Issue a Final Opinion and Judgment (FOJ) adopting the POJ as the final decision.
2. Issue an FOJ modifying the POJ and adopting the Modified POJ as the final decision.
3. Issue an Order vacating the POJ and ordering a rehearing or such other action as is necessary and appropriate.

EXCEPTIONS

This POJ was prepared by the Michigan Administrative Hearings System. The parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available,** if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions). Exceptions are **limited** to the evidence submitted prior to or at the hearing and any matter addressed in the POJ. There is no fee for filing exceptions and the opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions.[93]

Exceptions and responses filed by *e-mail or facsimile* will **not** be considered in the rendering of the Final Opinion and Judgment.

A copy of a party's written exceptions or response **must** be sent to the opposing party **by mail or email, if** email service is agreed upon by the parties, and proof must be submitted to the Tribunal demonstrating that the exceptions or response were served on the opposing party.

By Peter M. Kopke

Entered: December 21, 2015
pmk

[93] See MCL 205.726.