

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

Thomas and Joyce Thelen,
Petitioners,

v

MTT Docket No. 366368

Township of Kochville,
Respondent.

Tribunal Judge Presiding
Victoria L. Enyart

OPINION AND JUDGMENT

Introduction

Petitioners, Thomas and Joyce Thelen, appeal the ad valorem property tax assessment levied by Respondent, Township of Kochville, against the real property owned by Petitioners for the 2009, 2010, and 2011 tax years. Francis J. Keating, attorney at Braun Kendrick, appeared on behalf of Petitioners. David B. Meyer, attorney at Smith Bovill, P.C., appeared on behalf of Respondent. Petitioners' witness was Andrew B. Chamberlain, State Certified General Appraiser. Respondent's witness was David J. Kern, Michigan Master Assessing Officer (4), contract assessor for Respondent.

The proceedings were brought before this Tribunal on February 9, 2012, to resolve the real property dispute.

Summary of Judgment

The Township of Kochville has assessed the property on the tax roll as follows:

Parcel No. 18-13-4-26-3005-000

	Respondent		
Year	TCV	SEV	TV
2009	\$878,400	\$439,200	\$367,532
2010	\$880,400	\$440,200	\$366,429
2011	\$798,400	\$399,200	\$372,658

Petitioner contends the values should be as follows:

Parcel No. 18-13-4-26-3005-000

	Petitioner		
Year	TCV	SEV	TV
2009	\$385,000	\$192,500	\$192,500
2010	\$390,000	\$195,000	\$195,000
2011	\$382,000	\$191,000	\$191,000

The Tribunal finds the values shall be:

Parcel No. 18-13-4-26-3005-000

Year	TCV	SEV	TV
2009	\$664,000	\$332,000	\$166,000
2010	\$664,000	\$332,000	\$165,502
2011	\$655,100	\$327,550	\$163,775

Background

At issue is the true cash value for the Fast Finance Auto Sales located at 6190 and 6170 Bay Road, Kochville Township, Michigan. The property has one parcel number with four buildings. The parcel has a total of 2.18 acres.

Petitioners' Arguments

Petitioners believe that the true cash value of the subject property for the tax years at issue should be reduced based on Petitioners' appraisal.

Petitioners' Exhibits admitted:

P-1 Appraisal of subject property.

R-1 Respondent's valuation disclosure was admitted by Petitioners.

Petitioner called David J. Kern, Michigan Master Assessing Officer (4), as an adverse witness. Kern is the assessor for the Township of Kochville. He did not conduct the cost less depreciation approach found on the property record cards, but did an income approach to determine the value of the property.

Kern prepared a valuation disclosure that was admitted as Exhibit R-1. It does not meet USPAP requirements. He did not measure the buildings or walk through them. He was on the property and observed from the exterior. He testified the purchase price of the subject property in 2000 was \$850,000.

Kern determined that the current use is the highest and best use. The size of the subject site was sufficient to support the current used car sales, zoning was legally permissible, and the subject is leased and occupied as a used car sales lot making it financially feasible.

He stated that Petitioners' agent refused to supply the historical expenses or lease data.

Kern found through the use of personal property statements the market lease for

automotive-related buildings as well as storage buildings. He explained that the triple net leases are generally 3-5 year terms.

Kern found ten comparable rentals that ranged in square footage from 2,016 to 5,990 square feet. The annual triple net rent per square foot ranged from \$3.31 to \$11.90.

Petitioners went through the rent comps and found that some (Comparable 3, 4, 6, 8, and 9) were not arm's length transactions. In addition, Comparable 2 had an additional 2,592 square feet not shown on the record. Comparable 5 was a 1986 lease. Comp 7 was also an old lease, and had questionable square footage; it also had a memo of a September 2003 lease from Tuffy Corporation. It is not known if this is an arm's length lease. Comparable 8 is leased back to its owner. Comparable 9 has the same business owner as the building lessee; it wasn't considered an arm's length lease. Kern's last lease, Comparable 10, was a 2007 lease, 2,500 square feet with office and warehouse in good condition. It leased for \$7.20 per square foot. The subject property was 38 years old and in average condition.

The leases indicated a range from \$8.00 to \$12.00 per square foot. Kern used \$9.00 for building 1 (9,600 square feet) and \$5.00 per square foot for the other two buildings. (The fourth building generated no income and was in poor condition.) After determining market rent, 30% was deducted for typical landlord-related expenses. Kern also deducted 10% vacancy and credit allowance.

Kern utilized a band of investment method from discussions with local appraisers to determine the reasonable and typical commercial rate. This resulted in an 11.02% overall capitalization rate.

Kern's final value using the income approach was \$870,000 as of December 31, 2008, and \$780,000 for both December 31, 2009, and December 31, 2010.

Petitioners' valuation witness was Andrew B. Chamberlain, State Certified General Appraiser, who prepared an appraisal for the subject property for all three years. Chamberlain testified that he was an Accredited Senior Appraiser, with an emphasis on urban property.

He explained that his appraisal meets USPAP requirements with an extraordinary assumption that the subject property is not compliant with the current zoning. The property owners believed that the subject properties were grandfathered for zoning. Respondent's documents indicate, however, that the subject property does not meet zoning requirements. Chamberlain stated that there are several tenants including a long-term one, Kevin Smith Enterprises, which could not get an occupancy permit from the township. He explained that most tenants do not have the time or money to appeal zoning.

Due to a taking from the Michigan Department of Transportation in January 2002, the subject property suffers from insufficient parking. The 6170 Bay Road is not rentable as the township has not allowed a business license. Chamberlain suggests that this building be razed to provide parking. In addition, he suggests that the two rear buildings also be demolished as they do not contribute to value.

The subject property is located in a commercial B-3 zoning with nominal site improvements. The improvements consist of four buildings. The largest building is 9,600 square feet used for administrative offices and repair; this is the northwest building. The southwest retail and automobile preparation building is 7,000 square feet; the rear 2,000 square feet is where cars are washed. The northeast building is 5,040 square feet of storage. The southeast building is 1,479 of general storage that was constructed around 1930.

Chamberlain opined that the only building that contributes to value is the 9,600 square foot former retail building that is used for office and a repair area. He indicated that the other three buildings should be razed, which would allow the office to meet zoning requirements. In addition, the buildings are older and not attractive to a commercial retail user.

Chamberlain did a cost new less depreciation and a sales comparison approach. The income approach was not performed due to lack of data relative to the distinctive nature

of the subject property and the reduction of market transactions in the current economic climate.

Marshall Valuation Services was utilized by Chamberlain to estimate the cost new of the northwest building. It was separated into 4,800 square feet for office and 4,800 square feet for repair. Chamberlain determined that the effective age of the subject building was 20 years with the life expectancy of an office at 50 years and a repair shop approximately 35 years. The cost approach for each separate classification was calculated. Chamberlain found that the physical depreciation for the office was 17% and the repair area at 39%. He deducted 33% functional obsolescence due to the parking constraints. (He states that the subject's front yard parking is compacted.) It was his opinion that a 33% deduction was appropriate.

After determining the cost new less depreciation, Chamberlain's next step was to determine the value of the land. He determined that \$1.50 per square foot was appropriate for the value of the land for all three years at issue.

The conclusion for the cost approach is \$385,000 as of December 31, 2008, \$400,000 as of December 31, 2009, and \$380,000 as of December 31, 2010.

Chamberlain next applied a sales comparison approach using the following three sales:

Sale Comps	Sale Date	Size	Sale Price	SP/SF
1	Sep-10	16,580	\$650,000	\$39.20
2	Dec-09	12,908	\$650,000	\$50.36
3	Jan-08	14,819	\$450,000	\$30.37

He stated that “Appraisers make two types of adjustments – quantitative (dollar amount or percentage adjustment) or qualitative (better or worse). It is my practice to mimic the market – and use qualitative adjustments.” (Exhibit P-1, p 29)

Chamberlain made no adjustments, but had a brief discussion of the sales, which ranged from \$30 per square foot to \$50 per square foot.

Sale 1 (1580 Tittabawassee) was the most relevant. The improvement is a commercial/industrial building that is used for RV sales and service. Sale 2 (5570 Bay Road) is a commercial furniture store, Ethan Allen, that sold to Aaron’s Rent-To-Own. Chamberlain found this was superior in quality to the subject property and had adequate parking. Sale 3 (4505 Bay Road) is a commercial retail building with a better location but an inferior improvement. Chamberlain opined that this property should be adjusted upward. His final opinion was \$40.00 per square foot for all three tax years at issue for a true cash value of \$384,000.

Chamberlain, upon cross-examination, admitted that Sale 1 was not listed on the market but was offered to the buyer who owned other RV sales and service businesses. The arms-length transaction that was relied upon by Chamberlain was brought into question for Sale 1.

Respondent's Arguments

Respondent argues that the zoning defects are curable; however, Petitioners have never sought a variance or appealed to the Zoning Board of Appeals.

Respondent's Exhibits admitted:

R-1 Assessor's valuation disclosure was admitted through Petitioners during the examination of Kern as an adverse witness.

R-2 June 2, 2001, Zoning Board of Appeal minutes from MDOT taking.

R-3 Thelen, Inc., business license application dated November 3, 2009.

R-4 Denial of November 3, 2009, business license.

R-5 GIS report for 6190 Bay Road as of January 9, 2012.

R-6 October 30, 2007 denial of business license to Kevin Smith Enterprises.

R-7 November 1, 2007 letter to Zoning Administrator re: Kevin Smith Enterprises denial of business license.

R-8 Undated letter from Kochville Township; re: requirements for 6170 Bay Road.

R-9 November 15, 2007 letter Dale E. Klein, Zoning Administrator to Fast Finance Auto Sales re: Business License Application for Kevin Smith Enterprises at 6190 Bay Road.

R-10 December 18, 2007 Letter from Fast Finance Auto Sales to Dale F. Klein, Zoning Administrator re: Business License Application for Kevin Smith Enterprises at 6190 Bay Road.

R-11 December 28, 2007, Letter from Dale F. Klein, Zoning Administrator to Fast Finance Auto Sales re: Business License Application for Kevin Smith Enterprises at 6190 Bay Road.

R-12 Kochville Township Zoning Ordinance.

Randy Jerome, Kochville Township Code Enforcement Officer, testified regarding the zoning ordinance and variances. He testified that he looked at the township records and found no code enforcement or citations for the subject property; however, he has never visited the subject property.

Jerome testified that he prepared Respondent's Exhibit 4, but did not forward it to Petitioners. The report was a memo for the file. He was not the author of Respondent's Exhibit 8, but explained the deficiencies as he understood them.

Tribunal's Findings of Fact

1. Subject property is located at 6190 and 6170 Bay Road, Kochville Township, Saginaw County.
2. Subject property contains four buildings located on 2.46 acres with 236 feet of frontage on Bay Road.
3. Building 1 contains 9,600 square foot office, automotive showroom with a service garage that was built in 1972.
4. Building 2 contains 7,000 square feet retail and automotive service building constructed in 1977.
5. Building 3 contains 4,860 square feet of storage constructed in 1982.
6. Building 4 contains 1,344 square foot garage that was built in the 1920's.
7. Petitioners prepared an appraisal.
8. Respondent prepared a valuation disclosure containing the income approach to value only.

Applicable 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.

The Michigan Supreme Court, in *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473; 473 NW2d 363 (1991), 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*, 420 Mich 265, 277; 362 NW2d 632 (1984).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737(3); MCL 211.27(1); *Meadowlanes, supra*. “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.” *Jones & Laughlin Steel 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).

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. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff'd 380 Mich 390 (1968); *Antisdale*, at 276. 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. *Antisdale*, at 277. Petitioners utilized a cost-new-less-depreciation and a sales comparison approach. Respondent used an income approach to value the subject property.

The Tribunal may not automatically accept a respondent's assessment but must make its own finding of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d 566 (1979). The Tribunal is not bound to accept either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). 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. *Meadowlanes*, at 485-486; *Wolverine Tower Associates v City of Ann Arbor*, 96 Mich App 780; 293 NW2d 669 (1980); *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982).

Conclusions of Law

Petitioners presented an appraisal that was questionable. The subject property has four buildings; Chamberlain determined that only one building contributed to the value of the subject property. The assumption was that there could be an issue with zoning. It was not clear if the zoning violation or non-compliance parking issue could be resolved. Chamberlain opined that it would cost \$150,000 to \$200,000 to cure the parking issue in 2000. He worked on the 2000 Michigan Department of Transportation ("MDOT") taking

of some frontage for the subject property and recalled a cost to cure; however, no cost estimates were provided. In fact, it was not a part of his appraisal.

The cost to cure the inadequacy of the parking was not actually part of either party's proofs. Chamberlain suggested that Buildings 2, 3, and 4 be razed and that would allow conformance to the zoning in his opinion. He did not include any costs to raze the three buildings or prove that they needed to be razed. He also did not opine how the true cash value of the subject property would be influenced by the removal of the three buildings.

The Tribunal agrees that there could be a loss in value due to the age of the three buildings, and the fact that Petitioners have been denied a business license. Petitioners argue that they have been denied a business license as verified by Respondent's exhibits and testimony from the enforcement officer. Respondent did not have an expert who could determine the value loss of the non-compliance in zoning. Petitioners were not successful in proving that the market value of subject property is harmed by the issue with noncompliance. The loss of income as evidenced by Petitioners in not procuring a tenant for the second building would be evidence of a loss in value; however, Petitioners' appraiser did not include an income approach. He merely excluded the buildings that in his opinion would "cure" any noncompliance with parking.

Petitioners' appraisal left some information up to the reader to decide. Chamberlain's sales comparison approach contained three sales. He relied on Petitioners' Sale 1, Hamilton's RV, which was not listed for sale on the open market. Respondent spoke to the buyer, Mr. Selvius. Mr. Selvius stated that the sellers, Mr. and Mrs. Hamilton, approached him offering to sell the property to him and their initial offer was for \$1.14 million dollars. Mr. Selvius explained that he had purchased another RV business in Mt. Morris under the same circumstances, where the seller knew him from their relationship in RV sales, understood that that's where the market was for sale of the businesses and the property, the real estate features for others. The property sold on a land contract with Mr. Selvius determining the allocation between real estate and inventory.

MCL 211.27 states:

- (1) As used in this 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 the 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. The usual selling price may include sales at public auction held by a nongovernmental agency or person if those sales have become a common method of acquisition in the jurisdiction for the class of property being valued. The usual selling price does not include sales at public auction if the sale is part of a liquidation of the seller's assets in a bankruptcy proceeding or if the seller is unable to use common marketing techniques to obtain the usual selling price for the property.

Market value is described as:

The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair-sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2010), p 23.

Value in exchange is described as:

The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion. Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2010), p 23. International Valuation Standards Committee, *International Valuation Standards*, 8th ed. (London, 2007) 76.

The Tribunal, in determining the true cash value of the subject property, considers the value in exchange is the proper market value that is sought. Petitioners' Sale 1 of the Hamilton RV property was not listed on the open market, instead, it was offered to a person who also owned and operated a similar business. Petitioners' valuation witness, Chamberlain, should have considered this in determining whether this sale was reflective of market value for subject property.

Chamberlain relied on Sale 1 as most relevant because it is "most similar to subject in terms of building construction, use, location and size." Exhibit P-1, p 30. This property sold for \$850,000, and has 16,580 square feet on an 11.81-acre parcel. Chamberlain accepted the purchaser's allocation between real estate and business value. The result was \$39.20 per square foot. This makes the Tribunal ponder what "similar" means to Chamberlain. The subject property has 2.17 acres; Chamberlain only valued 9,600 square feet of the total four buildings. The \$40.00 per square foot conclusion for the sales comparison approach would indicate that the Chamberlain property is slightly less valuable than the subject property. No quantitate adjustments were made to Sale 1.

The Tribunal finds that the sales comparison approach as utilized by Chamberlain leaves the reader to wonder what magic wand was used to wave over the subject property for “market” value.

Chamberlain explained his adjustments in the sales comparison approach as:

There are two types of adjustments that can be made for my profession. They are qualitative and quantitative.

And I made qualitative adjustments rather than quantitative adjustments. I've had the pleasure of testifying many times, and I've been proven that that is a better way of doing it. What I tend to do is mimic the market. I think that's the appraiser's job. After twenty-four years of doing this, I believe my job isn't to do anything other than try to read the market. And what we do as appraisers is we get comparables in the sales comparison approach, use them to tend to provide a bracket and then we choose a number within that bracket based on reasons. So in this bracket I have a bracket of essentially a dollar thirty a square foot up to forty a square foot. It's my opinion that Rite Aid is the highest. It occurred before the economic downfall, it's at a light, signalized intersection and therefore it's much better. My property, the property I am appraising, in other words, would be less valuable than that. TR pp. 160, 161.

One issue for the Tribunal to determine is if Petitioners' cost-new-less-depreciation approach is the best method for determining the market value of a 37-year-old building. The alternative is Respondent's income approach where rents are from an undetermined date, with undisclosed terms. Kern's income approach does not contain sufficient arms-length transactions that the Tribunal can use in determining the true cash value of the subject property.

Respondent argues that the Tribunal should consider *Oak Grove Cemetery v Amber Township*.

Petitioner has not requested any zoning variance for a purpose for which the subject property is being used or for the intended use as a cemetery. Respondent has not denied any zoning variance request by Petitioner and has not cited Petitioner for any activity that would require such a variance. This issue is not properly before the Tribunal as there is no final decision or action by Respondent for Petitioner to have appealed related to zoning variances or use that is not permitted. *Oak Grove Cemetery v Amber Township*, MTT Docket No. 307475.

Respondent pleads that Petitioners have never requested a zoning variance and, therefore, should not be able to use the lack of parking as a way to lower the value of the subject property.

The Tribunal, having considered the exhibits, testimony, and valuation disclosures exchanged in this matter, finds that the cost-new-less-depreciation approach is not appropriate for the subject property. Neither Petitioners nor Respondent credibly testified or explained the depreciation that would be applied to an older property that appears to have compliance issues with its zoning. The income approach would be valuable if market rents and expenses would have been applied; however, this was not the case. Petitioners quickly impeached the information gathered by Kerns using the personal property statements. Rents and expenses require more data gathering than gleaned information from personal property statements. A party should follow through and investigate whether the information is relative, and how it should be applied.

This leaves Petitioners' flawed sales comparison approach. Petitioners' three sales were not adjusted for differences, except as an overall judgment call on Chamberlain's behalf. The meager three and one-half pages devoted to the sales comparison approach and the three comparable properties lacked depth, and required testimony to explain his methodology. The three sales were not adjusted nor were any differences in amenities, location, quality, whether they met zoning, etc. discussed. Chamberlain accepted Mr. Sevius' statement that it was an arm's-length transaction. Respondent spoke to the parties and determined that Sale 1 was not listed on the open market, but rather, was offered to Mr. Sevius and, after negotiations, sold. While this does not appear to meet the "exposed to the open market" criteria it is nevertheless an indication of value.

Petitioners were not able to prove that three out of the four buildings should be razed or that the subject property should be discounted 33% for its obsolescence without documentation. The \$40 per square foot in Petitioners' meager sales comparison approach is the only piece of evidence that this Tribunal finds of any assistance in determining market value for the subject property. The \$40 per square foot is applied to the northwest and southwest buildings only. The Tribunal agrees the two buildings on the east have no value contribution. This does result in a slight decrease in the true cash value of the subject property. The subsequent years are adjusted the same percentage as the commercial property in the area based on the increase/decrease of the assessment.

JUDGMENT

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

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year 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, the 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, (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (xvi) after December 31, 2010, at the rate of 1.12% for calendar year 2011, and (xvi) after December 31, 2011, at the rate of 1.09 for calendar year 2012.

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

MICHIGAN TAX TRIBUNAL

Entered: February 24, 2012

By: Victoria L. Enyart