

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

MJC Chesterfield,
Petitioner,

v

MTT Docket No. 327410

Township of Chesterfield,
Respondents.

Tribunal Judge Presiding
Victoria L. Enyart

FINAL OPINION AND JUDGMENT ON REMAND

Introduction

The Court of Appeals, in an unpublished opinion on May 17, 2011, reversed and remanded this case to the Tribunal “to clarify its methodology and to utilize properly supported inflationary rates, as provided by our state’s department of treasury’s annual average CPI’s.”

Petitioner, MJC Chesterfield, appeals ad valorem property tax assessments levied by Respondent, Township of Chesterfield (also “Township”), against the real property owned by Petitioner for the 2006, 2007 and 2008 tax years. David B. Marmon, attorney, appeared on behalf of Petitioner. Lawrence W. Dloski, attorney, appeared on behalf of Respondent. Witnesses appeared on behalf of both parties. They include: Beth Brennan, Controller for MJC Chesterfield, and Respondent’s County Equalization Director, Steve Mellen.

The proceedings were brought to this Tribunal on August 24, 2009 to resolve the real property dispute. The Tribunal did have three telephonic conferences with the parties. The result was a decision that they were not able to resolve the issue of “additions.”

MCL 211.34d(1)(a) states in pertinent part:

(a) For taxes levied before 1995, “additions” means all increases in value caused by new construction or a physical addition of equipment or furnishings, and the value of property that was exempt from taxes or not included on the assessment unit’s immediately preceding year’s assessment roll.

(b) For taxes levied after 1994, “additions” means, except as provided in subdivision (c), all of the following:

(iii) New construction. As used in this subparagraph, “new construction” means property not in existence on the immediately preceding tax day and not replacement construction....[f]or purposes of determining the taxable value of property under section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

The Tribunal’s original decision was calculated using an Excel spreadsheet to multiply the prior year’s taxable value by the appropriate CPI. Excel automatically rounds the calculation up unless a “truncate” formula is included. The following Summary of Judgment values were truncated; therefore, the resulting taxable values were not rounded up per MCL 211.27a. The Tribunal also failed to calculate the building improvement additions to the taxable value. The property record cards were admitted into evidence and were used as the basis for the recalculation.

Summary of Judgment

The following spreadsheet sets forth the Tribunal’s calculations used to determine the taxable value of the subject properties, excluding \$4,100 from the land values and including the building “additions.”

2006

Parcel No.	SEV	Base For Cap (2005 TV)	C.P.I.	Additions For Bldg. Improvements	MTT TV
15-009-017-402-004	\$66,964	\$61,815	1.033	\$0	\$63,854
15-009-017-402-005	\$70,258	\$66,954	1.033	\$0	\$69,163
15-009-017-402-072	\$57,000	\$1,309	1.033	\$48,000	\$49,352
15-009-017-402-079	\$57,000	\$1,309	1.033	\$48,000	\$49,352
15-009-017-402-080	\$62,132	\$1,309	1.033	\$53,132	\$54,484
15-009-017-402-081	\$59,275	\$1,309	1.033	\$50,275	\$51,627
15-009-017-402-082	\$59,275	\$1,309	1.033	\$50,275	\$51,627
15-009-017-402-083	\$62,132	\$1,309	1.033	\$53,132	\$54,484
15-009-017-402-084	\$57,000	\$1,309	1.033	\$48,000	\$49,352
15-009-017-402-085	\$57,000	\$1,309	1.033	\$48,000	\$49,352
15-009-017-402-086	\$62,132	\$1,309	1.033	\$53,132	\$54,484
15-009-017-402-087	\$59,275	\$1,309	1.033	\$50,275	\$51,627
15-009-017-402-088	\$59,393	\$1,309	1.033	\$50,393	\$51,745
15-009-017-402-089	\$62,251	\$1,309	1.033	\$53,251	\$54,603
15-009-017-402-090	\$59,824	\$1,309	1.033	\$50,824	\$52,176
15-009-017-402-113	\$71,648	\$1,309	1.033	\$32,648	\$64,990
15-009-017-402-170	\$71,508	\$1,309	1.033	\$62,508	\$63,860
15-009-017-402-175	\$54,177	\$1,309	1.033	\$45,177	\$46,529
15-009-017-402-176	\$59,006	\$1,309	1.033	\$50,006	\$51,358
15-009-017-402-179	\$59,006	\$1,309	1.033	\$50,006	\$51,358
15-009-017-402-180	\$54,177	\$1,309	1.033	\$45,177	\$46,529
15-009-017-402-181	\$54,177	\$1,309	1.033	\$45,177	\$46,529
15-009-017-402-182	\$59,006	\$1,309	1.033	\$50,006	\$51,358
15-009-017-402-185	\$59,119	\$1,309	1.033	\$50,119	\$51,471
15-009-017-402-187	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-188	\$21,502	\$1,309	1.033	\$12,502	\$13,854
15-009-017-402-189	\$20,830	\$1,309	1.033	\$11,830	\$13,182
15-009-017-402-190	\$20,830	\$1,309	1.033	\$11,830	\$13,182
15-009-017-402-191	\$21,502	\$1,309	1.033	\$12,502	\$13,854
15-009-017-402-192	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-193	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-194	\$21,502	\$1,309	1.033	\$12,502	\$13,854
15-009-017-402-195	\$20,830	\$1,309	1.033	\$11,830	\$13,182
15-009-017-402-196	\$20,857	\$1,309	1.033	\$11,857	\$13,209
15-009-017-402-197	\$21,530	\$1,309	1.033	\$12,530	\$13,882
15-009-017-402-198	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-199	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-200	\$21,502	\$1,309	1.033	\$12,502	\$13,854
15-009-017-402-201	\$20,830	\$1,309	1.033	\$11,830	\$13,182
15-009-017-402-202	\$20,830	\$1,309	1.033	\$11,830	\$13,182
15-009-017-402-203	\$21,502	\$1,309	1.033	\$12,502	\$13,854
15-009-017-402-204	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-205	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-206	\$21,502	\$1,309	1.033	\$12,502	\$13,854

15-009-017-402-207	\$20,830	\$1,309	1.033	\$11,830	\$13,182
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2006

Parcel No.	SEV	Base For Cap (2005 TV)	C.P.I.	Additions For Bldg. Improvements	MTT TV
15-009-017-402-208	\$20,857	\$1,309	1.033	\$11,857	\$13,209
15-009-017-402-209	\$21,530	\$1,309	1.033	\$12,530	\$13,882
15-009-017-402-210	\$20,294	\$1,309	1.033	\$11,294	\$12,646
15-009-017-402-211	\$37,235	\$1,309	1.033	\$28,235	\$29,587
15-009-017-402-212	\$40,254	\$1,309	1.033	\$31,253	\$32,605
15-009-017-402-213	\$38,574	\$1,309	1.033	\$29,574	\$30,926
15-009-017-402-214	\$38,574	\$1,309	1.033	\$29,574	\$30,926
15-009-017-402-215	\$40,254	\$1,309	1.033	\$31,254	\$32,606
15-009-017-402-216	\$37,235	\$1,309	1.033	\$28,235	\$29,587
15-009-017-402-217	\$37,235	\$1,309	1.033	\$28,235	\$29,587
15-009-017-402-218	\$40,254	\$1,309	1.033	\$31,254	\$32,606
15-009-017-402-219	\$38,574	\$1,309	1.033	\$29,574	\$30,926
15-009-017-402-220	\$38,643	\$1,309	1.033	\$29,643	\$30,995
15-009-017-402-221	\$40,324	\$1,309	1.033	\$31,324	\$32,676
15-009-017-402-222	\$37,235	\$1,309	1.033	\$28,235	\$29,587
15-009-017-403-029	\$72,525	\$63,807	1.033	\$0	\$65,912
15-009-017-403-056	\$71,899	\$59,026	1.033	\$0	\$60,973
15-009-017-403-075	\$39,137	\$1,309	1.033	\$31,626	\$32,978
15-009-017-403-079	\$54,206	\$1,309	1.033	\$45,206	\$46,558

Parcel No.	TCV	2007 SEV	Base For Cap (2006 TV)	C.P.I.	Additions For Bldg. Improvements	MTT TV
15-009-017-402-004	\$136,258	\$68,129	\$63,854	1.037	\$0	\$66,216
15-009-017-402-005	\$141,430	\$70,715	\$69,163	1.037	\$0	\$70,715
15-009-017-402-080	\$125,080	\$62,540	\$54,484	1.037	\$0	\$56,499
15-009-017-402-086	\$125,080	\$62,540	\$54,484	1.037	\$0	\$56,499
15-009-017-402-176	\$143,976	\$71,988	\$51,358	1.037	\$13,261	\$66,519
15-009-017-402-185	\$144,260	\$72,130	\$51,471	1.037	\$13,290	\$66,665
15-009-017-402-187	\$63,984	\$31,992	\$12,646	1.037	\$12,222	\$25,335
15-009-017-402-188	\$68,900	\$34,450	\$13,854	1.037	\$13,528	\$27,894
15-009-017-402-189	\$66,766	\$33,383	\$13,182	1.037	\$12,801	\$26,470
15-009-017-402-190	\$66,766	\$33,383	\$13,182	1.037	\$12,801	\$26,470
15-009-017-402-192	\$63,984	\$31,992	\$12,646	1.037	\$12,222	\$25,335
15-009-017-402-193	\$63,984	\$31,992	\$12,646	1.037	\$12,222	\$25,335
15-009-017-402-195	\$66,766	\$33,383	\$13,182	1.037	\$12,801	\$26,470
15-009-017-402-197	\$69,014	\$34,507	\$13,882	1.037	\$13,558	\$27,953
15-009-017-402-198	\$63,984	\$31,992	\$12,646	1.037	\$12,222	\$25,335
15-009-017-402-200	\$94,350	\$47,175	\$13,854	1.037	\$26,923	\$41,289
15-009-017-402-201	\$91,150	\$45,575	\$13,182	1.037	\$25,475	\$39,144
15-009-017-402-202	\$91,150	\$45,575	\$13,182	1.037	\$25,475	\$39,144
15-009-017-402-203	\$94,350	\$47,175	\$13,854	1.037	\$26,923	\$41,289
15-009-017-402-204	\$86,976	\$43,488	\$12,646	1.037	\$24,323	\$37,436

Parcel No.	TCV	2007	Base For Cap (2006 TV)	C.P.I.	Additions For Bldg. Improvements	MTT TV
		SEV				
15-009-017-402-205	\$86,976	\$43,488	\$12,646	1.037	\$24,323	\$37,436
15-009-017-402-206	\$94,350	\$47,175	\$13,854	1.037	\$26,923	\$41,289
15-009-017-402-207	\$91,150	\$45,575	\$13,182	1.037	\$25,475	\$39,144
15-009-017-402-208	\$91,320	\$45,660	\$13,209	1.037	\$25,535	\$39,232
15-009-017-402-209	\$94,520	\$47,260	\$13,882	1.037	\$26,983	\$41,378
15-009-017-402-210	\$86,976	\$43,488	\$12,646	1.037	\$24,323	\$37,436
15-009-017-402-216	\$131,808	\$65,904	\$29,587	1.037	\$29,949	\$60,630

2008

Parcel No.	TCV	SEV	Base For Cap (2007 TV)	C.P.I.	Additions For Bldg. Improvements	MTT TV
15-009-017-402-004	\$120,238	\$60,119	\$66,216	1.023	\$0	\$60,119
15-009-017-402-005	\$127,400	\$63,700	\$70,715	1.023	\$0	\$63,700
15-009-017-402-080	\$112,928	\$56,464	\$56,499	1.023	\$0	\$56,464
15-009-017-402-185	\$129,940	\$64,970	\$66,665	1.023	\$0	\$64,970
15-009-017-402-187	\$79,960	\$39,980	\$25,335	1.023	\$11,971	\$37,888
15-009-017-402-188	\$85,692	\$42,846	\$27,894	1.023	\$13,250	\$41,785
15-009-017-402-190	\$81,260	\$40,630	\$26,470	1.023	\$12,695	\$39,773
15-009-017-402-193	\$79,960	\$39,980	\$25,335	1.023	\$11,971	\$37,888
15-009-017-402-197	\$85,850	\$42,925	\$27,953	1.023	\$13,281	\$41,876
15-009-017-402-200	\$85,692	\$42,846	\$41,289	1.023	\$0	\$42,238
15-009-017-402-202	\$81,260	\$40,630	\$39,144	1.023	\$0	\$40,044
15-009-017-402-203	\$85,692	\$42,846	\$41,289	1.023	\$0	\$42,238
15-009-017-402-204	\$79,960	\$39,980	\$37,436	1.023	\$0	\$38,297
15-009-017-402-205	\$79,960	\$39,980	\$37,436	1.023	\$0	\$38,297
15-009-017-402-206	\$130,818	\$65,409	\$41,289	1.023	\$26,502	\$65,409
15-009-017-402-207	\$81,260	\$40,630	\$39,144	1.023	\$0	\$40,044
15-009-017-402-210	\$79,960	\$39,980	\$37,436	1.023	\$0	\$38,297

The Tribunal finds that the 2006 taxable values included \$4,100 in additions to the land value. The Tribunal corrects the taxable value to the prior year's taxable value (2005), multiplied by the appropriate CPI (1.033 for 2006, 1.037 for 2007 and 1.023 for 2008). Any "additions" to the improvements are then added at 50% of market value for a total taxable value. The preceding charts indicate the State Equalized Value ("SEV") doubled for the True Cash Value ("TCV"), the prior years' Taxable Value ("TV") which is

multiplied by the appropriate CPI and any additions for building improvements are added to the TV. The result is the MTT TV for tax years 2006, 2007 and 2008.

The 2008 taxable value for parcels 15-09-17-402-004, 15-009-017-402-005, 15-009-17-402-080, 15-09-017-402-185, and 15-06-017-402-206 were reduced to reflect the SEV.

The taxable value may be the same as the state equalized value, but it cannot exceed the state equalized value.

The parties' original contentions as found in the original opinion and judgment were:

2006 Parcel No.	Assessor SEV	Assessor TV	Petitioner's TV	TV in Dispute
15-009-017-402-004	\$66,964	\$63,854	\$39,449	\$24,405
15-009-017-402-005	\$70,258	\$69,163	\$39,449	\$29,714
15-009-017-402-072	\$57,000	\$53,452	\$37,506	\$15,946
15-009-017-402-079	\$57,000	\$53,452	\$30,059	\$23,393
15-009-017-402-080	\$62,132	\$58,584	\$30,059	\$28,525
15-009-017-402-081	\$59,275	\$55,727	\$30,059	\$25,668
15-009-017-402-082	\$59,275	\$55,727	\$30,059	\$25,668
15-009-017-402-083	\$62,132	\$58,584	\$30,059	\$28,525
15-009-017-402-084	\$57,000	\$53,452	\$30,059	\$23,393
15-009-017-402-085	\$57,000	\$53,452	\$30,059	\$23,393
15-009-017-402-086	\$62,132	\$58,584	\$30,059	\$28,525
15-009-017-402-087	\$59,275	\$55,727	\$30,059	\$25,668
15-009-017-402-088	\$59,393	\$55,845	\$30,059	\$25,786
15-009-017-402-089	\$62,251	\$58,703	\$30,059	\$28,644
15-009-017-402-090	\$59,824	\$56,276	\$30,059	\$26,217
15-009-017-402-113	\$71,648	\$69,090	\$39,553	\$29,537
15-009-017-402-170	\$71,058	\$67,960	\$38,368	\$29,592
15-009-017-402-175	\$54,177	\$50,629	\$31,355	\$19,274
15-009-017-402-176	\$59,006	\$55,458	\$31,355	\$24,103
15-009-017-402-179	\$59,006	\$55,458	\$31,355	\$24,103
15-009-017-402-180	\$54,177	\$50,629	\$31,355	\$19,274
15-009-017-402-181	\$54,177	\$50,629	\$31,355	\$19,274
15-009-017-402-182	\$59,006	\$55,458	\$31,355	\$24,103
15-009-017-402-185	\$59,119	\$55,571	\$31,355	\$24,216
15-009-017-402-187	\$20,294	\$16,746	\$10,200	\$6,546
15-009-017-402-188	\$21,502	\$17,954	\$10,200	\$7,754
15-009-017-402-189	\$20,830	\$17,282	\$10,200	\$7,082

15-009-017-402-190	\$20,830	\$17,282	\$10,200	\$7,082
15-009-017-402-191	\$21,502	\$17,954	\$10,200	\$7,754
15-009-017-402-192	\$20,294	\$16,746	\$10,200	\$6,546
15-009-017-402-193	\$20,294	\$16,746	\$10,200	\$6,546
15-009-017-402-194	\$21,502	\$17,954	\$10,200	\$7,754
15-009-017-402-195	\$20,830	\$17,282	\$10,200	\$7,082
15-009-017-402-196	\$20,857	\$17,309	\$10,200	\$7,109
15-009-017-402-197	\$21,530	\$17,982	\$10,200	\$7,782
15-009-017-402-198	\$20,294	\$16,746	\$10,200	\$6,546
15-009-017-402-199	\$20,294	\$16,746	\$9,837	\$6,909
15-009-017-402-200	\$21,502	\$17,954	\$9,837	\$8,117
15-009-017-402-201	\$20,830	\$17,282	\$9,837	\$7,445
15-009-017-402-202	\$20,830	\$17,282	\$9,837	\$7,445
15-009-017-402-203	\$21,502	\$17,954	\$9,837	\$8,117
15-009-017-402-204	\$20,294	\$16,746	\$9,837	\$6,909
15-009-017-402-205	\$20,294	\$16,746	\$9,837	\$6,909
15-009-017-402-206	\$21,502	\$17,954	\$9,837	\$8,117
15-009-017-402-207	\$20,830	\$17,282	\$9,837	\$7,445
15-009-017-402-208	\$20,857	\$17,309	\$9,837	\$7,472
15-009-017-402-209	\$21,530	\$17,982	\$9,837	\$8,145
15-009-017-402-210	\$20,294	\$16,746	\$9,837	\$6,909
15-009-017-402-211	\$37,235	\$33,687	\$15,360	\$18,327
15-009-017-402-212	\$40,254	\$36,706	\$15,360	\$21,346
15-009-017-402-213	\$38,574	\$35,026	\$15,360	\$19,666
15-009-017-402-214	\$38,574	\$35,026	\$15,360	\$19,666
15-009-017-402-215	\$40,254	\$35,706	\$15,360	\$20,346
15-009-017-402-216	\$37,235	\$33,687	\$15,360	\$18,327
15-009-017-402-217	\$37,235	\$33,687	\$15,360	\$18,327
15-009-017-402-218	\$40,254	\$36,706	\$15,360	\$21,346
15-009-017-402-219	\$38,574	\$35,026	\$15,360	\$19,666
15-009-017-402-220	\$38,643	\$35,095	\$15,360	\$19,735
15-009-017-402-221	\$40,324	\$36,776	\$15,360	\$21,416
15-009-017-402-222	\$37,235	\$33,687	\$15,360	\$18,327
15-009-017-403-029	\$72,525	\$65,912	\$43,957	\$21,955
15-009-017-403-056	\$71,899	\$60,973	\$45,977	\$14,996
15-009-017-403-075	\$39,137	\$37,078	\$33,283	\$3,795
15-009-017-403-079	\$54,206	\$52,147	\$37,282	\$14,865

2007 Parcel No.	SEV	Assessor TV	Petitioner's TV	TV in Dispute
15-009-017-402-004	\$68,129	\$68,216	\$39,449	\$28,767
15-009-017-402-005	\$70,715	\$70,715	\$39,449	\$31,266
15-009-017-402-080	\$62,540	\$60,751	\$38,509	\$22,242
15-009-017-402-086	\$62,540	\$60,751	\$38,542	\$22,209
15-009-017-402-176	\$71,988	\$70,770	\$39,460	\$31,310
15-009-017-402-185	\$72,130	\$70,917	\$39,725	\$31,192
15-009-017-402-187	\$31,992	\$29,587	\$23,616	\$5,971

15-009-017-402-188	\$34,450	\$32,146	\$23,616	\$8,530
15-009-017-402-189	\$33,383	\$30,722	\$23,616	\$7,106
15-009-017-402-190	\$33,383	\$30,772	\$23,616	\$7,156
15-009-017-402-192	\$31,992	\$29,587	\$23,616	\$5,971
15-009-017-402-193	\$31,992	\$29,587	\$23,616	\$5,971
15-009-017-402-195	\$33,383	\$30,722	\$23,782	\$6,940
15-009-017-402-197	\$34,507	\$32,205	\$23,616	\$8,589
15-009-017-402-198	\$31,992	\$29,587	\$23,616	\$5,971
15-009-017-402-200	\$47,175	\$45,541	\$28,192	\$17,349
15-009-017-402-201	\$45,575	\$43,396	\$28,192	\$15,204
15-009-017-402-202	\$45,575	\$43,393	\$28,192	\$15,201
15-009-017-402-203	\$47,175	\$45,541	\$28,192	\$17,349
15-009-017-402-204	\$43,488	\$41,688	\$28,192	\$13,496
15-009-017-402-205	\$43,488	\$41,688	\$28,192	\$13,496
15-009-017-402-206	\$47,175	\$45,541	\$28,192	\$17,349
15-009-017-402-207	\$45,575	\$43,396	\$28,192	\$15,204
15-009-017-402-208	\$45,660	\$43,484	\$28,192	\$15,292
15-009-017-402-209	\$47,260	\$45,630	\$28,192	\$17,438
15-009-017-402-210	\$43,488	\$41,688	\$28,192	\$13,496
15-009-017-402-216	\$65,904	\$64,882	\$38,295	\$26,587

2008	Assessor	Petitioner's	TV
Parcel No.	SEV	TV	TV in Dispute
15-009-017-402-004	\$60,119	\$60,119	\$39,452
15-009-017-402-005	\$63,700	\$63,700	\$39,452
15-009-017-402-080	\$56,464	\$56,464	\$39,757
15-009-017-402-185	\$64,970	\$64,970	\$39,757
15-009-017-402-187	\$39,980	\$39,980	\$31,546
15-009-017-402-188	\$42,846	\$42,846	\$31,546
15-009-017-402-190	\$40,630	\$40,630	\$31,546
15-009-017-402-193	\$39,980	\$39,980	\$31,546
15-009-017-402-197	\$42,925	\$42,925	\$31,546
15-009-017-402-200	\$42,846	\$42,846	\$35,565
15-009-017-402-202	\$40,630	\$40,630	\$35,835
15-009-017-402-203	\$42,846	\$42,846	\$35,565
15-009-017-402-204	\$39,980	\$39,980	\$35,548
15-009-017-402-205	\$39,980	\$39,980	\$36,431
15-009-017-402-206	\$65,409	\$65,409	\$37,688
15-009-017-402-207	\$40,630	\$40,630	\$36,596
15-009-017-402-210	\$39,980	\$39,980	\$36,346

Background and Introduction

At issue for tax years 2006, 2007 and 2008 is Petitioner's taxable value for a multiple parcel residential condominium project. Petitioner believes that additional taxable value

increases above the Consumer Price Index (“CPI”) for infrastructure improvements were included in the 2005 or 2006 taxable value. Petitioner requests that the taxable value exclude the infrastructure that the Supreme Court found unconstitutional because, once the subdivision has been dedicated, those public service improvements are dedicated as part of the municipality, especially roads, water, sewer, etc.

Petitioner believes that the property record cards show that for 61 of the 65 parcels the taxable value of just the land increased to \$5,452 for each lot.

Parcel No. 015-009-017-402-072 is used to illustrate the taxable value increase above the CPI for tax years 2005 and 2006. The following information is on the property record card:

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal other	Taxable Value
2005	\$3,411	\$0	\$3,411			\$1,309
2006	\$9,000	\$48,000	\$57,000	\$57,000		\$53,452

Petitioner contends that if the total taxable value has a deduction for taxable value of the building only, the difference is the \$5,452 as the new taxable value for land for 61 parcels. The 2006 CPI was 3.3%; the taxable value of the land value should only have increased from \$1,309 to \$1,352. It increased \$4,100 above the allowable CPI.

Therefore, Petitioner believes that the \$4,100 difference between the two land figures indicates that the taxable value has been illegally increased above the CPI.

Petitioner's contentions for the taxable value for 2007 at a 3.7% CPI for each lot should be \$1,402. The 2008 taxable value contention for each of the 61 lots is \$1,434 per parcel.

Steven Mellen, Equalization Director for Macomb County, was an adverse witness for Petitioner. Macomb County took over the assessing duties for Chesterfield Township on June 1, 2008. Mellen testified that he does not directly know how the 2006 or 2007 assessments were done as the previous assessor was in charge.

Mellen, using P-9, page three, parcel number 015-99-017-402-072, explained that the 2005 taxable value was \$1,309; the land value was \$3,411. The 2006 taxable value increased to \$53,452, the assessment for building value only was \$48,000, and the difference between the two is \$5,452. Mellen testified that residual is the 2006 taxable value attributable to the land was \$5,452.

Petitioner's next witness was Beth Ann Brennan, controller for MJC Homes, Inc., the management company overseeing MJC Chesterfield, LLC, and the builder/developer of the subject condominiums. She prepared Exhibit P-1, a list which included a summary of the vertical costs for buildings. Respondent objected to P-1 for the purpose of relevancy of the vertical costs and allocation of land to a Toll Brothers case. Petitioner stated that there are additions on each parcel for subsequent years. Petitioner did not know how the additions were put on the parcel and submitted its rendition of what was spent for each building on each parcel for each relevant tax year. Petitioner argues that the addition is half of the value of any building addition for the taxable value calculations.

Respondent argued that Petitioner was moving away from a Toll Brothers issue and, now at trial, is contesting the true cash value of building additions and attempting to submit untimely evidence. Respondent stated its objection as to the relevancy of vertical costs and allocation of land to a Toll Brothers case. TR, p 46.

Petitioner stated that P-1 was Petitioner's valuation disclosure for what it believes the true cash value is for the vertical improvements. P-1 was not admitted because it was a valuation disclosure not timely exchanged. Valuation disclosures were due June 2008, the valuation disclosure was clearly not exchanged timely.

Tribunal's Findings of Fact

The Tribunal found that the taxable value of the land only exceeds the CPI.

Respondent's testimony was not of assistance in determining the reason why the taxable value exceeded the CPI for the 2006 tax year. It was quite apparent that the taxable value of the land only portion is the only portion of the taxable value that exceeds the CPI.

Petitioner's secondary argument, that the true cash value of the vertical costs of the buildings exceeds market value, was inadequate because sufficient proof was not timely filed or exchanged. Respondent's SEV of the buildings, as indicated on the property record cards, was utilized to indicate the new construction.

The taxable value calculations are in excess of the Consumer Price Index, which is clearly a violation of statute.

The Tribunal deducts the additional taxable value included in the land value that exceeds the CPI. The reduction in taxable value affects 61 of the 65 lots. The 2005 taxable value for parcels 15-009-017-402-004, 15-009-017-402-005, 15-009-17-402-113, 15-009-017-403-029 and 15-009-017-403-056 for tax year 2005 already included improvements that increased the taxable value.

The Tribunal used the same methodology to determine taxable value for each year at issue. The taxable value for the land only portion of the taxable value is \$1,352 for 2006; the application of the consumer price index of 1.037 and any "additions" to the property for new construction is then added to the taxable value for tax year 2007. The taxable value for 2007 is multiplied by the consumer price index of 1.023, and any "additions" to the improvements are added to result in the taxable value for tax year 2008.

The taxable value for each lot is \$1,352 for 2006, \$1,402 for 2007, and \$1,434 for tax year 2008.

The Tribunal calculates the taxable values in accordance with MCL 211.27a, which states:

Property tax assessment; determining taxable value; adjustment; exception; "transfer of ownership" defined; qualified agricultural property; notice of transfer of property; applicability of subsection (10); definitions. Sec. 27a.

(1) Except as otherwise provided in this section, property shall be assessed at 50% of its true cash value under section 3 of article IX of the state constitution of 1963.

(2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

(a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.

(b) The property's current state equalized valuation.

(3) Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer.

(4) If the taxable value of property is adjusted under subsection (3), a subsequent increase in the property's taxable value is subject to the limitation set forth in subsection (2) until a subsequent transfer of ownership occurs. If the taxable value of property is adjusted under subsection (3) and the assessor determines that there had not been a transfer of ownership, the taxable value of the property shall be adjusted at the July or December board of review. Notwithstanding the limitation provided in section 53b(1) on the number of years for which a correction may be made, the July or December board of review may adjust the taxable value of property under this subsection for the current year and for the 3 immediately preceding calendar years. A corrected tax bill shall be issued for each tax year for which the taxable value is adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. For purposes of section 53b, an adjustment under this subsection shall be considered the correction of a clerical error.

(5) Assessment of property, as required in this section and section 27, is inapplicable to the assessment of property subject to the levy of ad valorem taxes within voted tax limitation increases to pay principal and interest on limited tax bonds issued by any governmental unit, including a county, township, community college district, or school district, before January 1, 1964, if the assessment required to be made under this act would be less than the assessment as state equalized prevailing on the property at the time of the issuance of the bonds. This inapplicability shall continue until levy of taxes to pay principal and interest on the bonds is no longer required. The assessment of property required by this act shall be applicable for all other purposes.

The vertical additions for new construction were not proven by Petitioner. No valuation disclosures were exchanged in advance of the hearing, which precluded Petitioner from presenting them at the hearing. The increases in value for the new construction were taken from the property record cards which were admitted into evidence. The Tribunal has considered the additions and found same to be reasonable. Therefore, Petitioner did not meet the burden of proof that the “additions” of the new construction were over assessed.

A proceeding before the Tax Tribunal is original, independent and de novo. MCL 205.735(1); MSA 7.650(35)(1). The Tribunal's factual findings must be supported by competent, material and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Department of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence. *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

Judgment

IT IS ORDERED that the property's assessed and taxable values for the tax years 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 years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by the Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. 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 this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 1995, at a rate of 6.55% for calendar year 1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a 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 (xvi) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (xvii) after December 31, 2010 at the rate of 1.12% for calendar year 2011.

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

MICHIGAN TAX TRIBUNAL

Entered: November 22, 2011

By: Victoria L. Enyart