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

Byron Terrace LLC,
Petitioner,

v MTT Docket No. 350618

City of Howell, Tribunal Judge Presiding
Respondent. Victoria L. Enyart

OPINION AND JUDGMENT

Introduction

Petitioner, Byron Terrace, LLC., appeals ad valorem property tax assessments levied by Respondent, City of Howell, against the real property owned by Petitioner for the 2008, 2009, 2010 and 2011 tax years. Daniel L. Stanley, attorney, appeared on behalf of Petitioner. Dennis L. Perkins, attorney, appeared on behalf of Respondent. Witnesses appeared on behalf of both parties. They include: L. Richard Parker, MAI, for Petitioner, and Gladys Niemi, CMAE3, Assessor for the City of Howell, for Respondent.

The proceedings were brought before this Tribunal on June 22, 2011, to resolve the real property dispute.

Petitioner's contentions are as follows[1]:

Parcel No. 4717-26-400-043

Year	TCV	SEV	TV
2008	$1,575,000	$787,500	$787,500
2009	$1,430,000	$715,000	$715,000
2010	$1,300,000	$650,000	$650,000
2011	$1,390,000	$695,000	$695,000

The property's TCV, SEV and TV as set by the Board of Review:

Parcel No. 4717-26-400-043

Year	TCV	SEV	TV
2008	$2,375,400	$1,187,700	$1,025,918
2009	$2,375,400	$1,187,700	$1,071,058
2010	$1,999,600	$998,800	$999,800
2011	$1,600,400	$820,000	$820,000

The Tribunal finds the values as set forth below:

Parcel No. 4717-26-400-043

Year	TCV	SEV	TV
2008	$1,575,000	$787,500	$787,500
2009	$1,430,000	$715,000	$715,000
2010	$1,300,000	$650,000	$650,000
2011	$1,390,000	$695,000	$661,050

Background and Introduction

At issue is the true cash value for the 66-unit garden apartments located in the City of Howell. Parcel Number 4717-26-400-043 is addressed as 607 Byron Road in the northwest quadrant of the City of Howell in Livingston County. The subject property consists of five separate buildings on 4.125 acres.

[11] TCV = true cash value; SEV = state equalized value; TV = taxable value

Petitioner argues that the largest disagreement appears to be adjustments in the Sales Comparison approach. Petitioner applied the sales comparison approach and the income approach for its final value estimates. Respondent applied a cost new less depreciation to set the assessments and a sales comparison approach.

Petitioner's Arguments

Petitioner believes that the true cash value of the subject property for the tax years at issue should be reduced based on its appraisal.

Petitioner's admitted exhibits:

P-1 Appraisal L.R. Parker and Associates, Inc.

L. Richard Parker, MAI, was Petitioner's valuation witness. He prepared an appraisal and provided an explanation of the appraisal. He explained that the subject property has been owned by Mr. Coopersmith or a related entity for over 20 years.

Parker explained that subject property has five buildings with basements in four out of the five buildings, typical construction with a common hall entrance. There is a total of 66 units, with a mix of eight one-bedroom apartments and fifty-eight two-bedroom apartments. The majority of the two-bedroom apartments are 780 square feet.

Parker testified that the cost approach was not relevant for a 40-year old property because 1) investors or the market are not interested in the cost to build the property, 2) extraction of market depreciation is very subjective, and 3) recent land sales to determine land value are nonexistent. The sales comparison approach and income approach were both used to determine the market value of the subject property with the greatest weight given to the income approach. A typical investor is looking at the cash flow that is generated by an apartment property.

The steps used to calculate the direct capitalization of income were quantified by Parker. The initial step was to determine the revenue of the subject property (potential gross income) based on market rent, then deduct the market vacancy for an effective gross income. He then deducts operating expenses to result in the net operating income. The net operating income is capitalized for an estimated value via the income approach.

The market rent for the one-bedroom units is $566 a month. The 790 square foot two-bedroom units market rent is $590. Market rent for the six 780 square foot two-bedroom units is $570, 12 units were estimated at $600 per unit. The potential gross income for tax year 2008 is $454,320.

The apartments were typically giving rent concessions of $70.00 off the first month's rent for the two-bedroom units to increase occupancy. The non-income unit was deducted, as complexes typically have one unit set aside rent free for the manager. The income from the coin-operated laundry was included in the income. Parker, using market information, reconstructed the income and expense statement that would be typical for subject property. Utilizing the market data, Parker determines the rent for each unit, adds the $10 a month balcony premium for the 36 units that have one, deducts the non-income-producing unit and adds ancillary income to reach his potential gross income. Market vacancy was deducted for the effective gross income. Expenses that are typical, including a management fee and reserves for replacement, were deducted for the net operating income. The net operating income is exclusive of debt service, depreciation and income taxes. The property taxes were not deducted as they were included as an effective tax rate and added to the capitalization rate.

Parker stated that he considered two methods of determining the direct capitalization rate. The first method extracts the overall capitalization rate from apartment properties that have sold. The second is the band of investment; the rate is built using the mortgage rate and equity rate to result in a combined overall capitalization rate. The market rate was 9.5%, then the effective 2.7% tax rate was added for an overall capitalization rate of 12.2%, which was rounded to 12.25%. The net operating income was divided by the overall capitalization rate to result in an indicated value. The rent concessions, based on $70.00 off the first month's rent with a 40% turnover (42 units), results in a deduction of $1,176. The rent concessions were deducted from the indicated value because it is not a typical annual expense.

The 2008 tax year income calculations are as follows:

Potential Gross Income		
8 1-BR	$560	$53,760
4 2-BR	$590	$28,320
6 2-BR	$550	$39,600
36 2-BR	$570	$246,240
12 2-BR	$600	$86,400
Potential Base Income		$454,320

Balcony Premium		<u>$4,320</u>
Potential Rental Income		$458,640
Minus Non-Income Unit		<u>$6,840</u>
Potential Rent Income		$451,800
Laundry Income		$6,630
Other Income		$7,800
Potential Gross Income		$462,120
Vacancy/Credit Loss		<u>$55,454</u>
Effective Gross Income		**$406,666**
Expenses		
Insurance	$18,150	
Utilities	$41,250	
Maint/Repair	$5,275	
Decorating/Turnover	$14,300	
Grounds	$16,800	
Advertising	$3,600	
Professional Fees	$7,925	
Office Expense	$6,600	
Payroll/Benefits	$65,300	
Management Fee	$18,300	
Total Operating Expenses		**<u>$197,500</u>**
Net Income		$209,166
Reserves/Replacement		$16,275
Net Operating Income		**$192,891**

Net Operating Income divided by Overall Rate = TCV

$192,891	divided by	**.1225** =	$1,574,620
Minus Rental Concessions			$1,176
True Cash Value			**$1,573,444**

Parker testified on cross-examination that some of the information came from his internal database. He has pro forma income and expense information from investors that he uses to determine whether categories contain the correct amount of expense for an item. The same income approach technique and analysis was used by Parker for all years at issue. The indicated value of the subject property via the income approach is: 2008 $1,575,000; 2009 $1,430,000; 2010 $1,300,000; 2011 $1,390,000.

The sales comparison approach was explained by Parker during his cross-examination. This approach was only used as a cross reference to determine the reliability of the income approach. Exhibit P- 1 (page 71) contains a summary of thirteen apartment sales. Parker used ten of the sales over the time periods to determine market value of subject property. The adjustment criteria for the ten sales include the following: property rights conveyed; financing terms; conditions or motivation surrounding a sale; changes in market conditions since the date of the sale; location; physical traits; and economic characteristics of the property. Exhibit P-1 (page 73) explains the economic characteristics as:

> In the analysis of the subject, upon making adjustments for the four initial elements of comparison, the data was then analyzed on a price per unit basis reflecting the NOI generated by each property at its sale date as the primary method of comparison. For apartment properties such as the subject, a study and analysis of comparable sales is significant primarily for providing certain economic relationships – e.g., income-productivity, gross income multiplier, overall capitalization rate (OAR)/net income multipliers – rather than a property-by-property comparison in light of location and the physical characteristics of the comparable vis-a-vis the subject.
>
> Income properties are typically traded in the marketplace based on their underlying economic characteristics. As such, (market) rent levels, occupancy, and the resultant level of NOI and the derived OAR and income multipliers implicitly reflect the property's location, quality and condition, aesthetic appeal, size and unit mix, amenities and similar physical items. Since the subject property would be bought and sold in the investment marketplace, an analysis regarding investment criteria was particularly germane.
>
> The comparables were adjusted to reflect their NOI-productivity at the time of sale as the primary adjustment criteria. As previously stated, the premise in this adjustment process was that a comparison between the comparables and the subject property regarding economic characteristics implicitly included necessary adjustments for location and physical traits. (Page 75)

Parker, in his sales comparison approach, adjusted for market conditions as of December 31st of the tax year at issue. He then divided the net operating income ("NOI") of each sale by the NOI of the subject property for the percentage adjustment for economic characteristics. These are the only two adjustments made to the sales. The negative adjustments range from -3.51% to -52.49%. As explained, the adjustments for physical characteristics and location are reflected in the economic characteristic adjustment.

Parker used the same technique of making an adjustment for time and the economic characteristic adjustment for the four tax years at issue. The indicated value via the sales comparison approach is:

2008 $1,550,000; 2009 $1,420,000; 2010 $1,250,000; 2011 $1,190,000.

Respondent's Arguments

Respondent requests that the Tribunal affirm the true cash value of the subject property based on its appraisal.

Respondent's admitted exhibits:

R-1 2008 Property Record.
R-2 2009 Property Record.
R-3 2010 Property Record.
R-4 2011 Property Record.`
R-8 Valuation disclosure narrative submitted by Gladys Niemi.

Gladys Niemi, CMAE3, Assessor for the City of Howell, testified that she prepared the property record cards and the valuation disclosure. She testified that she used a market analysis. In addition, she prepared a four-page narrative that explains that nine sales of apartment properties took place in the prior ten years. She explained that three sales were relevant to the subject property, with one having sold twice, which provides a basis for adjustments for market condition.

The property record cards were not used to determine the market value based on the valuation disclosure prepared by Niemi. They were admitted into evidence as the basis for the assessments.

Niemi testified that the subject property is more comparable to the two 8-unit and one 24-unit apartments than a 100-unit building. She believes that because the subject property does not have any amenities other than the laundry facilities, it would closely resemble the smaller units. The sales that she used were similar in construction, size and amenities. She believes that the smaller units are more similar than the ones used in Petitioner's appraisal. The only adjustment to the sale prices is for market conditions.

Comparables 1and 3 is an 8-unit on Sibley that sold December 2006 for $360,000 or $45,000 a unit. It resold December 2008 for $394,000 or $49,250 a unit. Comparable 2 is Oakcrest Apartments, a 24-unit that sold May 2008 for $1,100,000 or $45,833 a unit. Comparable 4 is an 8-unit on Bush Street that sold September 2002 for $350,000 and May 2010 for $320,000 or $40,000 a unit. Niemi adjusted the sales .0039 a month. Niemi determined the average sale price per unit and per square foot: 2008 $46,072 per unit or $53.94 per square foot; 2009 $46,540 per unit or $54.60 per square foot; and 2010 $46,317 per unit and $54.60 per square foot.

The value conclusion by the market approach affirms the true cash value placed on the assessment roll for the subject property. The true cash value placed on the assessment roll is as follows: 2008 $35,991 per unit or $45.04 per square foot; 2009 $35,991 per unit or $45.04 per square foot; 2010 $30,297 per unit or 437.91 per square foot; and 2011 $24,245 or $30.33 per square foot.

Niemi testified that she did not receive income and expense information, and did not file a discovery request. She also has not used the income approach to value an apartment complex.

The actual millage rates were stated by Niemi, which did not include the collection fee. If the total taxes were divided by the taxable value it would result in a different rate.

<u>Tribunal's Findings of Fact</u>

The Tribunal finds that the subject property is a 66-unit apartment complex located in the City of Howell on approximately four acres. The subject property has a parking lot, shed and laundry facilities. The complex is a mix of 8 1-bedroom units and 58 2-bedroom units. The property does not have a clubhouse, pool, covered parking or additional amenities.

Petitioner's witness Parker was knowledgeable on appraisals of apartment complexes; however, he failed to provide information that was the basis of his report, and use of his database that he has built up made it difficult for Respondent to check the information.

Parker used the income approach as his primary value conclusion. He used seven apartment properties, six of which are located in the City of Howell, and one in Genoa Township. The rents were not adjusted for differences in amenities. Respondent had an issue with the use of Rental 1 Greenwich Village because it is a subsidized housing complex. Parker responded that he asked what a nonsubsidized unit would rent for on the open market and used that rent information. He concluded to market rents that were higher than the subject property's actual rents, which resulted in a higher net operating income. The 12% vacancy used by Parker was less than the actual and slightly higher than the average. The total operating expenses were 48.56%, which is typical. Parker's reserves for replacements of 4% (of effective gross income) was deducted from the net operating income. The overall rate of 9.5% was added to the effective tax rate of 2.7% for an overall capitalization rate of 12.25%. The net annual income was divided by the overall capitalization rate for Petitioner's indicated value.

Although Respondent questioned Parker on the effective tax rate, it was found to be slightly off (from 2.7 to 2.67 in 2008). Using the same numbers would result in an indicated value of $1,577,961. Parker rounded the $1,573,444 to $1,500,000. The Tribunal finds the difference is miniscule in the overall market value of subject property.

Petitioner's sales comparison approach, however, leaves the Tribunal to question the credibility of the report. Petitioner, using ten sales (including all three of Respondent's sales), adjusts for differences in the date of the sale and then lumps all of the adjustments for differences in amenities into one singular adjustment. Parker divides the net operating income of subject property by each of the sales to result in one adjustment. Parker stated that this adjustment reflected the location, quality, condition, aesthetic appeal, size and unit mix, amenities and similar physical items. Parker fails to provide the basis for this technique and where the net operating income came from as a check and balance for the income approach it is lacking credibility and accountability. This is the primary adjustment and it is suspect when the adjustments appear excessive. The Tribunal finds this diminishes the credibility of Parker's report. It raises more questions than it answers based on the lack of underlying data.

The economic characteristics do include all of the attributes that directly affect its income. Paired data analysis would provide the only persuasive support for adjustments for differences in the attributes of a property that affect its income. Some of the characteristics include operating expenses, management quality, tenant mix, and rent concessions, to name a few. Parker's use of the ratio of subject's net operating income to a comparable property's net operating income as calculated and applied to the unit price to calculate a value indication is not widely accepted in the appraisal industry.

The Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2008), p 341 states:

> Critics of net income multiplier analysis point out that the algebraic manipulation of sales and income data ultimately repeats the calculations used in direct capitalization. So when net income multiplier analysis is used in the sales comparison approach and direct capitalization is used in the income capitalization approach, potential errors are duplicated in two of the three approaches to value and these errors will be hard to identify in the final reconciliation of the value indications.
>
> Given the problems associated with net income multiplier analysis and the possibility of double-counting for value influences reflected in other elements of comparison, appraisers must take great care in estimating and supporting adjustments for economic characteristics.

The Tribunal finds that use of the net operating income as the primary adjustments is not an appropriate method to use as a check and balance of the independent income approach. Although Parker did not duplicate adjustments, the high percentage of the adjustments of 50.16% and 52.49%, leaves the Tribunal to question the actual comparability of the sales. The adjustments which include market changes result in an excessive adjustment to the comparable properties. This gives the approach less weight and brings into question the credibility of the appraisal. The subsequent years' adjustments result in a greater disparity from the sale prices to the adjusted prices. The adjustments for the sales are a reflection of the income approach.

Respondent was chided by Petitioner for using the three sales of smaller units. Petitioner also used the same three sales out of the five sales. Respondent was not versed in the income approach to value or the appeal process. This left Respondent not requesting Petitioner to provide documentation of the income and expenses of subject property. Simply putting the sales on a grid, but not making adjustments or explaining why no adjustments were made, leaves Respondent's market approach with no credibility. The subject property may have no amenities akin to the smaller 8- and 24-unit apartments, but would have a difference in expenses and typically would sell for less per unit than the smaller units. Respondent did agree that the 8-unit apartments would sell for more per unit than the subject, but did not make any adjustments for the difference in the complexity of a larger apartment property.

The Tribunal is not required to do an appraisal but must consider the evidence and testimony before it to determine true cash value as of the tax dates at issue.

The direct capitalization is a method used to convert a single year's income into a value. The income is divided by the capitalization rate. Appraisal Institute, *The Appraisal of Real Estate*, (Chicago, 13th ed, 2008), p 491.

> Direct capitalization is widely used when properties are already operating on a stabilized basis and there is an ample supply of comparable sales with similar risk levels, incomes, expenses, physical and locational characteristics, and future expectations. This methodology may be less useful for properties going through an initial lease-up or when income or expenses are expected to change in an irregular pattern over time. Appraisal Institute, *The Appraisal of Real Estate*, (Chicago, 13th ed, 2008), p 499.

Petitioner's income approach is accepted as the appropriate method to determine the market value of the 66-unit apartment complex. Petitioner's income approach was the only method that contained sufficient information for the Tribunal to base an opinion of value.

Conclusions of Law

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value. The Michigan Legislature has defined true cash value to mean the usual selling price at the place where the property to which the term is applied is at the time of the assessment, being the price which could be obtained for the property at private sale, and not forced or auction sale. See MCL 211.27(1). The Michigan Supreme Court in *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450 (1974), has also held that true cash value is synonymous with fair market value.

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

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%....; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law,

> the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963 Art IX , Sec 3.

The Michigan Supreme Court, in *Meadowlanes Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 483-484; 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 City of Galesburg*, 420 Mich 265, 276; 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 Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 483-484; 473 NW2d 363 (1991). "This burden encompasses two separate concepts: (1) the burden 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 Corp* v *City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992) at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77(1976); *Holy Spirit Ass'n for the Unification of World Christianity v Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707(1984).

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.

Under MCL 205.737(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). 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).

In this case, the Tribunal concludes that the evidence, testimony, and law indicate that the subject property is assessed in excess of 50% of market value.

The Tribunal is charged in a valuation appeal to determine the true cash value of the subject property as of each tax year at issue. Petitioner's value did prevail; Petitioner was able to prove by a preponderance of its evidence that the assessment of the subject property should be modified.

JUDGMENT

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

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 1995 at the rate of 6.55% for calendar year 1996, (ii) after December 31, 1996 at the rate of 6.11% for calendar year 1997, (iii) after December 31, 1997 at the rate of 6.04% for calendar year 1998, (iv) after December 31, 1998 at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999 at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000 at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001 at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003 at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004 at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005 at the rate of 3.66% for calendar year 2006, (xii) after

December 31, 2006 at the rate of 5.42% for calendar year 2007, and (xiii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% after December 31, 2010 at the rate of 1.12% for calendar year 2011.

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

MICHIGAN TAX TRIBUNAL

Entered: July 27, 2011 By: Victoria L. Enyart