

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

IGWT Monroe LLC,  
Petitioner,

v

MTT Docket No. 368166

Charter Township of Frenchtown,  
Respondent.

Tribunal Judge Presiding  
Steven H. Lasher

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, IGWT Monroe, LLC, appeals ad valorem property tax assessments levied by Respondent, Charter Township of Frenchtown, against Petitioner's ownership interest in Parcel No. 58-07-059-005-00 for the 2009 and 2011 tax years. Thomas D. Ready, attorney, represented Petitioner, and James G. Petrangelo and Kerry L. Bondy, attorneys, represented Respondent.

A hearing on this matter was held on May 21, 2012. Petitioner's witnesses were Michael Blanke, one of the owners of Petitioner, and John F. Marcero, American Real Estate Appraisal Company. Respondent's sole witness was Susan Iott-Garrison, Assessor, Frenchtown Charter Township.

Based on the evidence, testimony, and case file, the Tribunal finds that Petitioner has generally met its burden of proof in establishing the subject property's true cash value, and further finds the true cash values ("TCV"), the state equalized values ("SEV"), and the taxable values ("TV") of the subject property for the years under appeal<sup>1</sup> are as follows:

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<sup>1</sup> Petitioner did not appeal the true cash value, assessed value, or taxable value of the subject property for the 2010 tax year.

PARCEL NUMBER	YEAR	TCV	SEV	TV
58-07-059-005-00	2009	\$835,800	\$417,900	\$417,900
58-07-059-005-00	2011	\$1,427,750	\$713,875	\$423,729 <sup>2</sup>

PETITIONER’S CONTENTIONS

Petitioner contends that the evidence presented in this case strongly supports a determination that the true cash value of the subject property as determined by Respondent is substantially overstated. Petitioner further contends that the income approach applied by its appraiser more accurately reflects the true cash value of the subject property than does the income approach offered by Respondent’s assessor, primarily because Petitioner’s appraiser (i) relied on actual expenses rather than hypothetical expenses, (ii) appropriately supported his capitalization rate, and (iii) Respondent’s assessor failed to account for the substantial amount of time devoted to operation of the golf course by Mr. and Mrs. Blanke, for which they were not compensated. (Transcript, p. 149)

As determined by Petitioner’s appraiser, the TCV, SEV, and TV for the subject property for the tax years at issue should be:

PARCEL NUMBER	YEAR	TCV	SEV	TV
58-07-059-005-00	2009	\$757,000	\$378,500	\$378,500
58-07-059-005-00	2011	\$757,000 <sup>3</sup>	\$378,500	\$378,500

PETITIONER’S ADMITTED EXHIBITS

- P-1 Real Property Appraisal Report, John F. Marcero, May 11, 2011
- P-2 2010 federal income tax return (Form 1120S) for Sandy Creek, Inc.
- P-3 2011 federal income tax return (Form 1120S) for Sandy Creek, Inc. and related financial records

<sup>2</sup> The 2011 taxable value is calculated by applying the 2010 inflation factor of .997 to the 2009 taxable value and then applying the 2011 inflation factor of 1.017 to the recalculated 2010 taxable value.

<sup>3</sup> Petitioner’s appraiser did not separately provide an appraisal for the 2011 tax year; instead, Petitioner contends that the true cash value of the subject property did not change from 2009 to 2011.

## PETITIONER'S WITNESSES

Michael Blanke

Michael Blanke is the co-owner of the subject property with his spouse Louise Blanke. Mr. Blanke testified that (i) he and his wife own Petitioner and also own Sandy Creek, Inc., (ii) Sandy Creek, Inc. operates the subject 18-hole public golf course, which includes a clubhouse, pump house and parking lot, (iii) Sandy Creek, Inc. leases the subject property from Petitioner, (iv) maintenance and storage buildings for the golf course are not located on the subject property, (v) the golf course business experienced a “definite decline” in 2006 resulting in cost cutting by Sandy Creek, Inc., (vi) initially, annual rounds of golf played ranged from 28,000 to 29,000, but have averaged approximately 23,000 rounds for the past three years, (vii) Louise Blanke is responsible for scheduling personnel, ordering food and beverages, and overall management of the golf course and is not paid a salary, (viii) Michael Blanke also devotes time to managing the golf course without compensation, (ix) the lease payment from Sandy Creek, Inc. to Petitioner varies annually, depending upon mortgage payments required to be paid by Petitioner and other variables, and (x) Mr. Blanke would not sell the subject property for \$757,000 because the outstanding mortgage balance is approximately \$1.9 million. (Transcript, pp. 8 – 47)

John F. Marcero

John Marcero, IFAS, is a licensed real estate appraiser in Michigan. Mr. Marcero testified that (i) he determined the true cash value of the subject property as of December 31, 2008, (ii) the subject property is an 18-hole daily fee golf course situated on approximately 150 acres, (iii) the subject property does not include maintenance or storage facilities, (iv) since 2001, Southeast Michigan, including Monroe County, has experienced a decline in population, as well as reduced disposable income and increased unemployment, (v) there is an oversupply of public golf courses in Monroe County, (vi) the subject property suffers from functional obsolescence because it lacks a mechanical building, a chemical storage facility, an above grade, on-site fuel station, and a cart barn, (vii) the highest and best use of the subject property, as improved, is its current use as a golf course, (viii) he did not use the sales comparison approach

to determine the true cash value of the subject property because there were insufficient arm's-length sales to support such approach, (ix) he applied the cost approach to determine the true cash value of the subject property, but did not give it any weight because of the difficulty in determining the amount of external obsolescence applicable to the subject property, (x) he relied on the income approach to determine the true cash value of the subject property, relying on actual income and expenses realized by Petitioner rather than estimated market information because actual information does not require speculation, (xi) he developed a capitalization rate based on local bank interest rates and Realty Rates information regarding equity rates, (xii) in addition to the actual expenses incurred by Petitioner, Petitioner's appraiser estimated management expenses to be approximately 15 percent of gross revenues based on information provided by Petitioner and its accountant to reflect the lack of compensation paid to Mr. and Mrs. Blanke, (xiii) actual expenses were determined to be within the expense to revenue ratio developed by the National Golf Foundation of 87%, and (xiv) a replacement reserve of five percent of gross revenues was developed based on his experience. (Transcript, pp. 47 – 99; 144 - 147)

#### RESPONDENT'S CONTENTIONS

Respondent contends that the true cash, assessed, and taxable values determined by Respondent for the subject property for the tax years at issue should be reduced based on the value conclusions made by its appraiser, but should not be reduced to the values determined by Petitioner's appraiser. Specifically, Respondent contends that Petitioner's appraiser's reliance on the income comparison approach is flawed because Petitioner's appraiser relies on actual income and expense information for the subject property rather than market information. Respondent further contends that Petitioner's appraiser has failed to take into consideration the flexible lease arrangement between Petitioner and Sandy Creek, Inc. (which are both owned by the same parties) in reviewing expenses incurred by Petitioner. Finally, Respondent contends that its assessor appropriately relied on both actual and market information in applying the income

approach to determine the true cash value of the subject property. (Transcript, pp. 150 – 152)

As determined by Respondent’s assessor, the revised TCV, SEV, and TV for the subject property for the tax years at issue should be:

PARCEL NUMBER	YEAR	TCV	SEV	TV
58-07-059-005-00	2009	\$1,777,800	\$888,900	\$888,900
58-07-059-005-00	2011	\$1,898,200	\$949,100	\$901,300

RESPONDENT’S ADMITTED EXHIBITS

R-1 Valuation Disclosure and supporting documents.

RESPONDENT’S WITNESS

Susan Iott-Garrison

Ms. Iott-Garrison is a Level III assessor licensed in the State of Michigan, and has been the assessor for Brownstown Township and the City of Gibraltar, and is currently the assessor for Frenchtown Township. Ms. Iott-Garrison testified that (i) she relied on the MAA (“Michigan Assessors Association”) Short Course on valuing golf courses,<sup>4</sup> (ii) the Short Course utilized an indexing system<sup>5</sup> to rate golf courses, (iii) based on the indexing system, the subject property would be considered a Class III golf course, (iv) the highest and best use of the subject property, as improved, would be its continued use as a golf course, (v) she did not apply the sales comparison approach in determining the true cash value of the subject property because of the lack of comparable sales, (vi) although she applied the cost approach to determine the true cash value of the subject property, she relied on the income approach because of the availability of

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<sup>4</sup> Ms. Iott-Garrison testified that she did not attend the 20-hour MAA Short Course on assessing golf courses, but did rely on the Short Course materials; further, Ms. Iott-Garrison testified that she did not know when the Short Course materials relied on were prepared or distributed.

<sup>5</sup> Ms. Iott-Garrison testified that she did not know where the indexing system came from, as the Short Course “just says it was a result of this hearing. So I am assuming that either the USGA or the National Golf Foundation, someone that was related to this course; or perhaps even it was requested of the state to develop. I am not sure. I couldn’t find anything more on that.” (Transcript, p. 107)

income and expense information and because there were too many unknowns such as underlying depreciation in applying the cost approach, (vii) she applied the income approach using actual gross revenues generated by the golf course for the 2008 and 2010 tax years, using “acceptable ranges of expenditures” as provided in the MAA Short Course, and a capitalization rate of 10.5% based on several prior Tax Tribunal decisions<sup>6</sup>, (viii) she also developed true cash values for the subject property for the tax years at issue using actual expenses incurred by Petitioner, (ix) her analysis shows that for typical golf courses, expenses average approximately 70% of gross revenues, rather than the 87% used by Petitioner’s appraiser, because the 87% includes expenses such as interest, depreciation and property taxes, and (x) the 5% administration expense she relied on did not include any management expenses. (Transcript, pp. 100 - 143)

FINDINGS OF FACT

1. The subject property consists of an approximate 150-acre parcel of property located at 3177 Heiss Road, Monroe, Michigan, improved as an 18-hole golf course with a club house, parking lot, and pump house.
2. The subject property opened as a public golf course in July 1999.
3. The subject golf course has approximately 40 sand traps, three ponds, and has a slope rating of 128.
4. Annual rounds of golf played at the subject property peaked at 29,000 and have averaged 23,000 for the past few years.
5. Approximately seventeen to twenty 18-hole public golf courses are located within Monroe County, Michigan.
6. The subject property was assessed for the tax years at issue as follows:

PARCEL NUMBER	YEAR	TCV	SEV	TV
58-07-059-005-00	2009	\$4,386,400	\$2,193,200	\$1,187,141

<sup>6</sup> *Green Ridge Country Club v Township of Ada*, MTT Docket No. 318901 (August 31, 2011); *Golf Course Properties, LLC v Tyrone Township*, MTT Docket No. 319618 (December 20, 2010); *Country Club of Detroit v City of Grosse Pointe*, MTT Docket No. 301215 (December 16, 2011). (Transcript, p. 118)

PARCEL NUMBER	YEAR	TCV	SEV	TV
58-07-059-005-00	2011	\$3,794,800	\$1,897,400	\$1,203,699

7. The subject property is zoned Agricultural and is classified as commercial.
8. The subject property is owned by Petitioner and leased to Sandy Creek, Inc. to operate the subject property as a public golf course.
9. A copy of the lease between Petitioner and Sandy Creek, Inc. was not submitted into evidence.
10. Petitioner, a limited liability company, is owned equally by Thomas Blanke and Louise Blanke, husband and wife.
11. Sandy Creek, Inc. is a Chapter S corporation, owned equally by Thomas Blanke and Louise Blanke, husband and wife.
12. The appraisers for both parties determined the highest and best use of the subject property as improved to be its current use.
13. Petitioner's appraiser applied the cost and income approaches to determine the true cash value of the fee simple interest of the subject property for the 2009 tax year.
14. Petitioner's appraiser concluded to the true cash value for the subject property for the 2011 tax year, relying on the analysis prepared to determine the property's 2009 true cash value.
15. Petitioner's appraiser did not use the sales comparison approach to value the subject property because "there have been no known sales that were not under some duress" and the use of such approach would "not result in a credible conclusion." (Petitioner's appraisal, pp. 68, 79)
16. Petitioner's appraiser gave the income approach the "greatest weight" because this approach to value is "the most reliable." (Petitioner's Appraisal, p. 80)
17. Petitioner's appraiser applied the direct capitalization method in developing a value for the subject property using the income approach.
18. Petitioner's appraiser relied on historical performance in the form of actual revenues in

developing gross potential income rather than on market information because he found it “difficult to draw any reasonable conclusion” from other courses in the area. (Petitioner’s appraisal, p. 73)

19. Because “there is a good reliable history of expenses” the subject’s historical expenses were used by Petitioner’s appraiser in developing expense information.
20. Petitioner’s appraiser’s capitalization rate of 13.4043% was derived by analyzing (i) current mortgage and equity rates derived from information provided by realtyrates.com, (ii) his own data files and prior appraisals, and (iii) adding Respondent’s property tax rate. (Petitioner’s appraisal, p. 72)
21. Petitioner’s appraiser determined a value for the subject property using the cost less depreciation approach but did not give it any weight in his reconciliation of values because it is not credible. (Transcript, p. 68)
22. In applying the cost approach, Petitioner’s appraiser (i) determined land value to be \$3,500 per acre based on four comparable sales of agricultural zoned vacant properties from November 2007, February 2009, September 2009 and March 2010, with sizes ranging from 72.9 acres to 947 acres, all located in Monroe county, (ii) used Marshall and Swift Cost Services to determine the replacement cost new of the clubhouse, (iii) determined physical depreciation to be 10% and determined an external obsolescence factor of 51.6% for the clubhouse, (iii) used Marshall and Swift to determine the cost to construct the golf course as \$90,000 per hole, reduced by physical depreciation of approximately 21%, functional obsolescence of approximately 5%, and external obsolescence of 51.6%, and (iv) used Marshall and Swift to determine the cost of site improvements, again reduced by physical depreciation and external obsolescence.
23. Although Respondent’s assessor applied both the income approach and the cost approach to determine the true cash value of the subject property, Respondent’s assessor gave sole weight to the income approach because “there are several differences of opinion for loss



- of depreciation with regard to the Cost Approach.” (Respondent’s appraisal, p. 7)
24. Respondent’s assessor did not apply the sales comparison approach to the subject property because her review of sales of both public and private golf courses reflected “some level of duress associated in all cases.” (Respondent’s appraisal, p. 5)
25. In determining the true cash value of the subject property using the cost approach, Respondent relied on the mass appraisal cost approach used in preparing the assessment roll, but adjusted for (i) land values because the highest and best use of the subject property as vacant is agricultural rather than commercial, (ii) the class of the subject golf course which increased the per-hole cost, and (iii) depreciation of the irrigation system, yielding a true cash value determination of \$3,598,000 for 2009 and \$2,937,300 for 2011.
26. The per hole cost of \$100,000 determined by Respondent was based on a classification system that determined the subject property to be a high Class II or low Class III golf course. In determining the value of the golf course on a per-hole basis, Respondent applied a county multiplier of 1.32 and an ECF of 1.24 to the \$100,000 per-hole cost and also determined that the golf course was 90% good.
27. In determining the true cash value of the subject property using the income approach, Respondent’s assessor relied on (i) actual revenues generated by the subject property, (ii) estimated expenses based on a percentage of revenues method derived from a Michigan Assessors Association Golf Course Evaluation Short Course, which Respondent’s assessor did not attend, and, in the alternative, actual expenses incurred by the subject property, and (iii) a capitalization rate based on the return experienced by “well managed and profitable public courses” supported by a review of prior Tribunal opinions that determined the true cash values of other golf courses using the income approach.

#### ISSUES AND CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash

value.

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%.... Const 1963, art 9, sec 3.

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 assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

The Michigan Supreme Court has determined that “true cash value” is synonymous with “fair market value.” See *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588 (1974).

Under MCL 205.737(1); MSA 7.650(37)(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 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 Limited Dividend Housing Association v City of Holland*, 437 Mich 473, 485- 486; 473 NW2d 636 (1991).

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 are to 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 and Laughlin*

*Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property . . . .” MCL 205.737(3). 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 and Laughlin*, pp. 354-355. However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.” MCL 205.735(3).

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 Commission*, 3 Mich App 170; 141 NW2d 699 (1966), *aff’d* 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, p. 278. 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*, p. 277. For the reasons offered by both Petitioner and Respondent, the Tribunal finds that the appropriate method of determining the true cash value of the subject property for the tax years at issue is the income approach.

1. Cost approach.

Generally, the cost-less-depreciation approach is applicable to a newly constructed property. The cost approach values a property based on a comparison with the cost to build a new or substitute property, presumably taking into consideration market influences. As is discussed by The Appraisal Institute, “the cost approach is important in estimating the market value of new or relatively new construction. The approach is especially persuasive when land

value is well supported and the improvements are new or suffer only minor depreciation.”

Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2008), p. 382.

The Tribunal finds that although the valuation experts for both parties prepared a cost-less-depreciation analysis, neither of the parties relied on the cost approach in making their final value determinations. Although Petitioner’s appraiser prepared a cost analysis, he did not rely on this approach to value primarily because of substantial external and functional obsolescence. Ignoring functional and external obsolescence, Respondent’s assessor also estimated a value using the cost approach, but concluded that such approach should be given no weight. The Tribunal finds that the cost approach is not appropriate in this case primarily because of the substantial adjustments that would be required for functional and external obsolescence.

## 2. Sales Comparison Approach.

Neither party utilized the sales comparison approach, primarily because neither party could identify any arm’s-length comparable sales. Therefore, the parties presented no analysis or evidence that would allow the Tribunal to make a determination of value based on comparable sales information. The Tribunal finds that the sales comparison approach is not appropriate to use in determining the true cash value of the subject property for the tax years at issue.

## 3. Income Approach.

The income capitalization approach supports two basic methodologies: direct capitalization, which uses the measure of one year’s income and expenses to conclude a value, and yield capitalization, which considers a series of cash flows over time together with any reversion value or resale proceeds. In this case, both parties applied a direct capitalization approach to determine the true cash values of the subject property. Recognizing that the intent of both parties is to determine the true cash value of the fee simple interest in the subject property, a proper application of the direct capitalization method typically requires that the parties begin with a determination of income based on market rent.<sup>7</sup> Further, a determination of net operating

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<sup>7</sup> *The Appraisal of Real Estate*, (13<sup>th</sup> ed, 2008), p. 466

income should be derived from both actual income and expense data for the subject property and similar information from comparable sales.

Although Petitioner leases the subject property to Sandy Creek, Inc., neither party attempted to determine relevant market rents or expenses. Instead, both parties attempted to value the golf course business operated by Sandy Creek, Inc. In this regard, the parties varied substantially in their application of the income approach in ultimately reaching their value determinations. Petitioner's appraiser relied on actual income and expenses generated by Petitioner's tenant in its operation of its golf course business for 2009 in determining the true cash value of the subject property for 2009 and 2011, while Respondent primarily relied on actual income generated by the tenant, and on expenses derived from purported market information. Petitioner's appraiser stated that the use of comparable financial information in this case was not appropriate because "every course in the area is using every incentive to attract play, including reduced rates for greens fees, a variety of package rates, reduced membership rates, etc. . . . making it difficult to draw any reasonable conclusion from anything but the subject's own historical performance." (Petitioner's appraisal, p. 73) Petitioner's appraiser also relied on actual expenses "due to the fact that there is a good reliable history of expenses . . . ." (Petitioner's appraisal, p. 73) In determining market expenses, Respondent's assessor relied on percentages developed as a part of the Michigan Assessors Association Short Course on Golf Course Evaluation, which Respondent's assessor did not attend, which document was not provided by Respondent in its entirety, and which Respondent's assessor could not verify as to date of publication or dates of the course. The Tribunal finds that Respondent's Short Course information cannot be authenticated and does not constitute a reliable method for determining expenses for the golf course. Further complicating the issues in this case is the relationship between Petitioner and its tenant, Sandy Creek, Inc., the golf course operator. Testimony established that Petitioner and Sandy Creek, Inc. are both owned by Thomas and Louise Blanke. Testimony also established that a lease exists between Petitioner and Sandy Creek, Inc.;

however, neither of the parties produced a copy of the lease as evidence. Further, testimony established that lease payments from Sandy Creek, Inc. to Petitioner were flexible, dependent upon available cash and mortgage payments required to be paid by Petitioner. Finally, Respondent contends, without any supporting or contradictory evidence, that because both Petitioner and Sandy Creek, Inc. are owned by the same individuals, actual expenses incurred in operating the golf course business may be distorted. The varying income approaches utilized by the respective parties to the true cash value for the subject property for the 2009 tax year are detailed in the following table:

	RESPONDENT (Estimated)	RESPONDENT (Actual 2008)	PETITIONER (Actual 2009) <sup>8</sup>
Revenues	\$773,283 <sup>9</sup>	\$ 773,283	\$ 784,000
Other Income	0	0	14,000
	\$773,283		\$ 798,000
Cost of Sales			
Pro Shop	\$ 24,261 <sup>10</sup>	\$ 29,950	
Food Expense	58,770	59,356	
Other	0	31,010	
	\$ 83,031	\$ 120,316	\$ 117,000
Gross Profit	\$690,252	\$ 652,967	\$ 681,000
Expenses			
Maintenance	\$ 45,657 <sup>11</sup>		
Replacement Reserve	54,130		34,100
Payroll	231,985	247,777	228,000
Administration	38,664		
Utilities	15,466	24,078	23,000
Repairs	38,664	47,117	24,000
Supplies	23,198	5,395	6,300

<sup>8</sup> Petitioner's appraiser determined the true cash value of the subject property for 2009 using the income approach generally based on actual revenues and expenses generated by the subject golf course during 2009. In addition to actual expenses, Petitioner's appraiser determined a replacement reserve of 5% of gross profit and management expense of 15% of gross profit. (See Petitioner's appraisal, p. 75, and Respondent's Exhibit R-1, p. 47)

<sup>9</sup> Actual revenues reflected by Petitioner's 2008 financial information. (See Petitioner's appraisal, p. 74, and Respondent's Exhibit R-1, p. 47)

<sup>10</sup> Cost of sales and expense information from MAA Short Course that developed ranges for expenses and concluded that pro shop expenses are 80% of pro shop revenues and that food expenses are 35% of food revenues.

<sup>11</sup> Expenses determined from range of percentages information from MAA Short Course.

Insurance	15,466	10,146	10,100
Management <sup>12</sup>	0	0	102,300
Sales/Pers Prop Tax	0	16,276	37,000
Advertising		8,051	7,600
Bank Charges		8,430	6,300
Business Promotion		6,284	7,100
Fuel		28,142	12,100
Dues		2,670	3,000
Fertilizer		6,972	25,400
Seed		467	200
Professional Fees		2,750	2,500
Outside Labor		1,180	1,200
Chemicals		30,115	27,800
Equipment Rent		342	1,900
Health Insurance		19,121	4,800
Miscellaneous			4,500
Total Expenses	\$ 463,230	465,313	569,200
Net Income	\$ 227,022	187,654	111,800
Cap Rate	12.77%	12.77%	13.4043%
Value	\$1,777,800	\$1,469,490	\$ 834,000
Less: Business Value and FF&E	0	0	77,000
True Cash Value of subject property	\$1,777,800	\$1,469,490	\$ 757,000

The Tribunal finds that because (i) Petitioner and Sandy Creek, Inc. are essentially operated as a single entity, (ii) a copy of the purported lease between the parties was not produced as evidence, (iii) neither party provided any testimony or evidence to support a contention that actual revenue and expenses reported by Sandy Creek, Inc. cannot be relied upon by the Tribunal, and (iv) Respondent's assessor's reliance on the MAA Short Course conclusions regarding expenses as a percentage of revenue is misplaced given her failure to attend the course or provide any information with respect to when the course and materials were presented or developed, application of the direct capitalization approach to actual income and expenses generated by the golf course for a particular year is appropriate in this case. The Tribunal finds,

<sup>12</sup> Respondent did not include any management expense; Petitioner determined management expense to be 15% of gross income.

however, that Petitioner's use of actual 2009 income and expenses is not appropriate in determining the true cash value of the subject property for the 2009 tax year. Instead, the Tribunal finds that actual income and expense information for 2008, adjusted to include a provision for management expense and replacement reserve, should be used to determine the true cash value of the subject property for the 2009 tax year; similarly, 2010 actual income and expense information, adjusted to include management expense and replacement reserve, should be used to determine the true cash value of the subject property for 2011. Finally, the Tribunal finds that the capitalization rate determined by Petitioner's appraiser is supported by credible analysis and information and has been adequately defended by Petitioner's appraiser. The Tribunal further finds that Respondent's reliance primarily on prior Tax Tribunal decisions to determine the capitalization rate is inappropriate and without legal basis.

Therefore, the Tribunal finds that Respondent's analysis of actual 2008 income and expenses realized by the Sandy Creek golf course, which concludes to net income of \$187,654 is reasonable, but for Respondent's failure to recognize estimated expenses for management and a replacement reserve. Petitioner contends that an estimate for management expenses of 15% of gross profit is reasonable given that usual "administrative fees will run anywhere from five to ten percent. And in this case, you know, I've also taken into account the fact that Mr. and Mrs. Blanke are not paid anything for their services." (Transcript, p. 88) Relying on the Short Course information, Respondent's assessor determined a management/administrative expense of 5% of gross profit. Recognizing that Mr. and Mrs. Blanke are not compensated by Sandy Creek, Inc., but also recognizing that Petitioner has failed to provide any financial information relating to Petitioner that would provide some guidance to the Tribunal regarding the financial benefits received by Mr. and Mrs. Blanke, if any, from the golf course operations not specifically reflected on the financial statement for Sandy Creek, Inc., the Tribunal is reluctant to attribute a management expense to Sandy Creek, Inc. any greater than 5%. The Tribunal finds that a 5% management expense and a 5% replacement reserve are appropriate given the evidence and



testimony presented by the parties. Because the income approach to value determines a value for the golf course business, the Tribunal has deducted the value for furniture and fixtures determined by Petitioner's appraiser from the going concern value to determine the true cash value of the subject property. Therefore, as detailed in the following table, the Tribunal finds that the true cash value of the subject property for the 2009 tax year is \$835,800. Applying the same methodology to 2010 actual income and expense information, the Tribunal finds that the true cash value of the subject property for the 2011 tax year is \$1,427,750, as follows:

	2009	2011
	\$ 773,283	\$ 799,872
Cost of Sales		
Pro Shop	\$ 29,950	32,509
Food Expense	59,356	61,553
Other	31,010	30,068
	\$ 120,316	\$ 124,130
Gross Profit	\$ 652,967	\$ 675,742
Expenses		
Replacement Reserve	32,648	33,787
Payroll	247,777	192,514
Utilities	24,078	22,359
Repairs	47,117	28,554
Supplies	5,395	4,244
Insurance	10,146	10,861
Management	32,648	33,787
Sales/Pers Prop Tax	16,276	16,374
Advertising	8,051	3,149
Bank Charges	8,430	7,254
Business Promotion	6,284	8,333
Fuel	28,142	13,212
Dues	2,670	2,967
Fertilizer	6,972	21,877
Seed	467	0
Professional Fees	2,750	2,750
Outside Labor	1,180	1,202
Chemicals	30,115	13,826
Equipment Rent	342	0
Health Insurance	19,121	0
Miscellaneous	0	448
Spray	0	698
Leased Employees	0	55,844

Total Expenses	\$ 530,609	\$ 474,040
Net Income	\$ 122,358	\$ 201,702
Cap Rate	13.4043%	13.4043%
Value	\$ 912,800	\$1,504,750
Less: Business Value and FF&E	77,000	77,000
TCV of subject property	\$ 835,800	\$1,427,750

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner did prove by a preponderance of the evidence that the subject property is assessed in excess of 50% of market value. The subject property's true cash values (TCV), state equalized values (SEV), and taxable values (TV) are as stated in the Introduction section above.

#### 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 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, 2008, at the rate of 3.31% for calendar year 2009, (ii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (iii) after December 31, 2010 at the rate of 1.12% for calendar year 2011, and (iv) after December 31, 2011 at the rate of 1.09% for calendar year 2012.

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

MICHIGAN TAX TRIBUNAL

Entered: June 20, 2012

By: Steven H. Lasher