

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL
PROPERTY TAX APPEAL

Johnson Controls Interiors, LLC,
Petitioner,

v

MTT Docket No. 307846

City of Holland,
Respondent.

Tribunal Judge Presiding
Rachel J. Asbury

FINAL OPINION AND JUDGMENT

INTRODUCTION

A hearing in the above-captioned matter was held April 15, 2007 through April 23, 2007.

Petitioner was represented by Steven P. Schneider and Mark Hilpert, Honigman Miller Schwartz and Cohn LLP. Respondent was represented by Andrew J. Mulder and P. Haans Mulder, Cunningham Dalman, PC, Holland, Michigan.

BACKGROUND

Petitioner appeals Respondent's ad valorem tax assessments for the 2004 and 2005 tax years of Petitioner's property, contiguous parcels numbered 70-55-65-095-015, 70-55-65-099-231, and 70-16-34-300-025. Petitioner appeals the taxable value only for the 2006 and 2007 tax years of the same parcels. The property is classified and used as real industrial property. Petitioner appealed the 2004 assessment to the March, 2004, Board of Review and timely filed its appeal with the Tribunal. Petitioner contends that the subject property is assessed in excess of 50% of its true cash value, in violation of the constitutional limitation.

True cash value, state equalized value, and taxable value, as confirmed by the Board of Review, are:

Year	Parcel No.	TCV	SEV/AV	TV
2004	70-16-34-300-025	\$13,542,000	\$6,771,000	\$5,807,571
	70-55-65-095-015	\$18,337,600	\$9,168,800	\$7,871,985
	70-55-65-099-231	\$ 356,000	\$ 178,000	\$ 130,944
2005	70-16-34-300-025	\$11,354,000	\$5,677,000	\$5,677,000
	70-55-65-095-015	\$15,390,000	\$7,695,000	\$7,695,000
	70-55-65-099-231	\$ 256,000	\$ 128,000	\$ 128,000
2006	70-16-34-300-025			\$5,532,800
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000
2007	70-16-34-300-025			\$5,546,100
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000

Respondent's contentions of true cash value, state equalized value, and taxable value are:

Year	Parcel No.	TCV	SEV/AV	TV
2004	70-16-34-300-025	\$13,634,300	\$ 6,817,150	\$5,807,571
	70-55-65-095-015	\$18,503,600	\$ 9,251,800	\$7,871,985
	70-55-65-099-231	\$ 324,600	\$ 162,300	\$ 130,944
2005	70-16-34-300-025	\$13,634,300	\$ 6,817,150	\$5,677,000
	70-55-65-095-015	\$18,503,600	\$ 9,251,800	\$7,695,000
	70-55-65-099-231	\$ 324,600	\$ 162,300	\$ 128,000
2006	70-16-34-300-025			\$5,532,800
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000
2007	70-16-34-300-025			\$5,546,100
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000

Petitioner's contentions of true cash value, state equalized value, and taxable value are:

Year	Parcel No.	TCV	SEV/AV	TV
2004	70-16-34-300-025	\$ 9,032,000	\$4,516,000	\$4,516,000
	70-55-65-095-015	\$12,230,500	\$6,115,250	\$6,115,250
	70-55-65-099-231	\$ 237,400	\$ 118,700	\$ 118,700
2005	70-16-34-300-025	\$ 9,041,100	\$4,520,550	\$4,520,550
	70-55-65-095-015	\$12,255,000	\$6,127,500	\$6,127,500
	70-55-65-099-231	\$ 203,800	\$ 101,900	\$ 101,900
2006	70-16-34-300-025			\$ not provided
	70-55-65-095-015			\$ not provided

	70-55-65-099-231			\$ not provided
2007	70-16-34-300-025			\$ not provided
	70-55-65-095-015			\$ not provided
	70-55-65-099-231			\$ not provided

STIPULATIONS OF FACT

The parties' joint stipulations of uncontroverted facts and admissibility of exhibits and witnesses are as follows:

1. Petitioner's appraisal performed by Larry Allen and Respondent's appraisal performed by Larry McKnight, both filed with the Tribunal pursuant to its deadlines and filed with the Tribunal as Respondent's Exhibits R-24 and R-23, respectively, should be admitted into evidence in this action.
2. Both Mr. Allen and Mr. McKnight are qualified to testify as to their conclusions as to the true cash value of the subject property subject to each party's right of cross-examination.
3. Conditional upon Respondent stipulating to the admissibility of similar documents on Petitioner's exhibit list, Petitioner would stipulate to the admissibility of the following exhibits on Respondent's Exhibit List, R-1, R-12 through R-22, R-25, R-26, R-28 through R-33, and R-38 through R-49.
4. Conditional upon Respondent stipulating with respect to similar documents on Petitioner's exhibit list, Petitioner would stipulate to the authenticity of the following exhibits on Respondent's Exhibit List, but reserves objections as to the admissibility of the exhibits on other grounds, such as relevance, for trial, R-3 though R- 11, and R-50.
5. The true cash value of the total land component of the subject property is \$3,698,500, the average of the two appraisers' total land values. The parties reserve the right to dispute whether any of the total land component of subject property is excess. To the extent the Tribunal agrees with Respondent that a portion of the total land is excess, the value of excess land is \$21,500 per acre.
6. Petitioner had proposed that the Tribunal's total value determination be allocated amongst the three parcel numbers by averaging the difference between the parties' two appraisers' allocations. The allocations which are stated below are consistent with the allocations in the Stipulation for Entry of Consent Judgment for the subject property for 2003 in MTT Docket No. 284762. The allocations for this appeal are as follows:

70-16-34-300-025	42.05%
70-55-65-095-015	57.00%

70-55-65-099-231 0.95%

7. The parties stipulate that the highest and best use for the property is as an industrial/engineering facility, which includes research and development uses.
8. The discount rate to be applied to Mr. Allen's and Mr. McKnight's projected cash flows for the subject property should be 10.74% as of 12/31/03, the average of the two appraisers' discount rates. Since Mr. McKnight adds an effective property tax rate to his discount rate of .33%, the stipulated discount rate that may be used in the McKnight appraisal is 11.07% as of 12/31/03. The above stipulation does not mean the parties stipulate to the net operating income for the subject property for each tax year in dispute.
9. The discount rate to be applied to Mr. Allen's and Mr. McKnight's projected cash flows for the subject property should be 10.41% as of 12/31/04, the average of the two appraisers' discount rates. Since Mr. McKnight adds an effective property tax rate to his discount rate of .52%, the stipulated discount rate that may be used in the McKnight appraisal is 10.93% as of 12/31/04. The above stipulation does not mean the parties stipulate to the net operating income for the subject property for each tax year in dispute.
10. The cost approach to value is not a meaningful indicator of value for the Subject Property.
11. The property at 1400 S. Pine Street, in Holland, Michigan sold in October 2003. This property is used as a comparable sale by both Mr. Allen and Mr. McKnight in their sales comparison approaches. The property is located less than three miles from the subject property.
12. The total gross building area of the subject property (including the FCC test building, mezzanines and catwalks) is 768,100 square feet. The total square feet of the Technical Campus without mezzanines and catwalks is 740,464 square feet.
- 13 Both appraisers may revise their value conclusions to incorporate these stipulations, and such revised conclusions may be admitted into evidence as revisions to their appraisal. Such revisions may be admitted as stipulations for the parties' convenience to reduce litigation costs consistent with USPAP and may not be used in cross-examination of either party's appraiser to illustrate an error because such appraiser did not conclude to the stipulated amount.
14. For the 2004 and 2005 tax years, one of the three parcels under appeal (70-16-34-300-025) is taxable pursuant to the General Property Tax Act.
15. For the 2004 and 2005 tax years, two parcels under appeal (70-55-65-095-015 and 70-55-65-099-231) are subject to taxation under Public Act 198 of 1974 and are

therefore not included in the industrial real property classification under MCL 211.34c for purposes of County equalization under MCL 211.34.

16. For the 2004 and 2005 tax years, the City of Holland, Ottawa County, general property tax rolls classified the subject *ad valorem* property parcel (70-16-34-300-025) as industrial real property.
17. For the 2004 tax year, the City of Holland, Ottawa County, reported the ratio of the assessed value to the true cash value for the class of industrial real property was .4968. Pursuant to State Tax Commission Bulletin No. 19 of 1997 which permits County Board of Commissioners to equalize as assessed where the ending ratio falls between 49.00% and 50.00%, Ottawa County equalized the assessed value to true cash value for the class of industrial real property for the 2004 tax year in the City of Holland, Ottawa County, at .50.
19. For the 2005 tax year, the City of Holland, Ottawa County, reported the ratio of the assessed value to the true cash value for the class of industrial real property was .4991. Pursuant to State Tax Commission Bulletin No. 19 of 1997 which permits County Board of Commissioners to equalize as assessed where the ending ratio falls between 49.00% and 50.00%, Ottawa County equalized the assessed value to true cash value for the class of industrial real property for the 2005 tax year in the City of Holland, Ottawa County, at .50.
21. For the 2004 tax year, the subject property's *ad valorem* parcel's assessed value comprised 16.17% of the total industrial real class in the City of Holland, Ottawa County.
22. For the 2005 tax year, the property's *ad valorem* parcel's assessed value comprised 15.17% of the total industrial real class in the City of Holland, Ottawa County.

PETITIONER'S CONTENTIONS

Petitioner offered the following proposed exhibits:

- P-1: Engineering drawing of the JCI Technical Campus¹
- P-2: Larry Allen Appraisal (also marked as R-4)
- P-3: Quads Building photo, site map
- P-4: Larry Allen's Sales Analysis, Quantitative Check on Results
- P-5: Listing Information on 4700 Broadmore
- P-6: Miscellaneous Large Industrial Property, Lease/Sales Offers
- P-7: Buyer's lease listing information for Quads Building; and calculation of value of lease sold with building; JCI1036
- P-8: Appraisal text excerpts supporting leasing commission deduction; JCI1072

¹ Petitioner's exhibits 1A are the engineering drawings sized 24 by 36 and 1B are the engineering drawings sized 11 by 17

- P-9: Summary of changes to Allen Appraisal conclusions pursuant to Parties' Stipulations
- P-100: Income, sales and reconciliation excerpts of McKnight appraisal from 2001-2003 Technical Campus Appraisal
- P-104: Meadowbrook Business Park offering materials
- P-108a: McKnight appraisal of Bosch Corporation Property, as of 12/31/02
- P-109: Pictures of Bosch Building by Larry McKnight
- P-115: 328 Activity List for Calhoun County for 2003, 2004, and 2005
- P-117: McKnight Build to suit rent adjusted by McKnight Obsolescence worksheet
- P-120: McKnight Sales and Rent comparables 1A and 1B worksheet
- P-123: Industrial Property Appraisal Information Page on Bosch Building
- P-125: Bosch Pine Matched Paired analysis using McKnight building size with adjustment worksheet
- P-127: Haden International Lease Abstract and Appraisal excerpt

Petitioner's exhibits 1, 1A, 1B, 2, 3, 5, 8, and 9 were admitted without objection. Petitioner's exhibits 100, 108a, 109, 120, 123, 125, and 127 were admitted for purposes of impeachment as to methodology. Respondent objected to Petitioner's exhibit 6 on the grounds that the data in that exhibit was used by Petitioner's appraiser in coming to his conclusions of value but not provided in response to discovery requests asking "for all of the documentation with reference to comparable sale one, comparable sale two, comparable sale four. . . [and] we've also asked questions about any other properties that were, in fact, looked at."² The Tribunal allowed the exhibit "for the limited purpose of viewing the size of this building to support Mr. Allen's discussion related to his personal, expert knowledge about whether at the tax dates at issue, there were tenants in this building."³ Respondent objected to the admission of Petitioner's exhibits 104. The Tribunal allowed the exhibit for the limited purpose of identifying where the property involved is located and what it looks like. Petitioner's exhibit 117 was first not admitted and then admitted to allow the calculation contained therein to be put forward, not for the truth of the ultimate value determination, the credibility of which being the Tribunal's to determine.

² Transcript 2A, page 26, ll 15-18

³ Transcript 2A, page 32, ll 3-7

Petitioner asserts that Respondent's assessment is excessive and that, based upon the appraisal they offered, the true cash value, assessed value, state equalized value, and taxable value should be reduced.

Petitioner offered the testimony of Jake Schwartz, the property manager of many Johnson Controls properties both in Holland and outside of Holland. Prior to his employment with Petitioner, Mr. Schwartz led the facility services team and was responsible for the daily operations of all the Holland properties of the Prince Corporation, the prior owner of the subject property. Petitioner purchased the subject property from the Prince Corporation in 1996. Petitioner's corporate headquarters are in Milwaukee, Wisconsin and the Holland group manufactures car interiors.

Mr. Schwartz testified that Johnson Controls Interiors in Holland makes "[p]retty much interior parts for vehicles minus the seats."⁴ Mr. Schwartz explained that the completed assembly of all parts manufactured all over the world would be put together in a JIT, just-in-time, facility and that assembly is performed in Holland.

Utilizing Petitioner's exhibit 1, Mr. Schwartz testified to the engineering drawings of the Johnson Controls Interiors technical campus, prepared by Mr. Schwartz's staff. The "tech campus is one large building consisting of Holland tech center, customer center and the process center, as well as a smaller building to the north called our [FCC] testing range." The tech center was constructed first. Mr. Schwartz testified as to the location of the atrium, design studios,

⁴ Transcript 1A, page 36, ll 15-16

hallways, training rooms, office space, and copy center. Mr. Schwartz testified that the design studio has “a concrete floor with a . . . raised floor, . . . finished walls and a drop-in ceiling.”⁵ There are also “partitioned”⁶ offices and conference rooms on the first floor, none of which have windows. On the side of the building is the product development prototyping and the design studio. There are windows in the design studio, “about eight foot in elevation”⁷ that are not easy to see out of. The lab spaces that support the product development are finished with block walls, painted, concrete floors, and open ceilings. There are garages finished with concrete floors, block walls, and exposed or open ceilings.

Mr. Schwartz testified that customers would enter under a canopy into the atrium in the middle of the building where, infrequently, Petitioner invited a car manufacturing company to view “our prototypes and typically mount them into one of their vehicles and so we would have their car on display with our product inside of it.”⁸ The atrium has a concrete floor with carpeting, finished walls, exposed ceiling and painted, with no marble, granite, or hardwood. The HVAC grids are visible in the ceiling tiles. No offices in the entire technical campus have plaster walls, drywall ceilings, plaster ceilings, or sheetrock ceilings. However, three vice-presidents, who live in the Detroit area, have offices with carpeted floors, finished walls, and drop-in ceilings at the subject property on full-time basis. Mr. Schwartz indicated the location of the electronics and testified that there are a few partitioned offices in this area with no exterior windows.

⁵ Transcript 1A, page 46, ll 5-7

⁶ Petitioner defined partitioned as a room with a wall from floor to ceiling; relatively permanent and distinguished from a cubicle.

⁷ Transcript 1A, page 47, l 23

⁸ Transcript 1A, page 50, ll 13-15

Mr. Schwartz testified that there is a lunch room to which food is catered in but no kitchen in the technical campus. The hallway area going through the building is sometimes referred to as the street and is designed to give people access to all parts of the building.

Mr. Schwartz testified that there is a large engineering space with carpeted floors. The walls are structural walls with an open ceiling as well. The bar joists and utilities are exposed although the ceiling is painted. The engineering space is finished with a standard industrial ceiling and not a drop ceiling. Mr. Schwartz indicated, within this area, the location of the common areas, restrooms, coffee stations, mail room, and elevator to the second floor. The engineering area is cinder block construction and the restrooms are used as severe weather shelters. Mr. Schwartz testified that the building has block walls roughly eight feet high with metal panels and a roof covered by a rubber membrane and the metal panels on the side are not structural support.

Mr. Schwartz testified that there are four overhead or truck doors at the subject property. He stated that these doors allow them to bring vehicles in and out but they do not have dock levelers and could not function as a back-up dock with a loading plate. The doors are used to move vehicles into the building for the engineers “to dissect . . . parts of the vehicle or they use them, you know, to critique our competition's work and/or even just to critique our own work.”⁹ Mr. Schwartz indicated the related validation lab and testified that there are three docks in the manufacturing area with loading and unloading capacity. There are doors through which a vehicle can be driven and that will allow a flat-bed semi to move molding dies. Mr. Schwartz

⁹ Transcript 1A, page 62, ll 14-16

identified the manufacturing space with concrete floors and structural exposed steel, with its exposed bar joists.

Mr. Schwartz identified offices and the entry vestibule conference room area. Some are partitioned, but most have carpeted floors, finished walls, and suspended ceilings, and the lunch room for this process center. The building has a computer room adjacent to the process center entrance that supports Petitioner's business globally. Mr. Schwartz identified the rotunda through which is the main entryway into the customer center. Occasionally vehicles and other products are displayed there. There is an auditorium, as well, that seats approximately 300 people.

On the second floor of the building are mezzanines over the restrooms, the common space, which is a resource library, storage mezzanines, and mechanical and electrical areas. The rest of the second floor is open from the first floor. As for the exterior of the customer process center, the north face, which was designed as the main entryway into the customer center and the process center, has a brick facade, and then the rest of the perimeter of this building is block/metal construction.

The FCC test building is approximately 3,000 square feet and it is made of wood, plastics, nylons, glues, with no metal components grade up, and used for testing of all radio frequency products.

Mr. Schwartz testified that roughly 320,000 square feet of the total 750,000 square feet of the subject property is pure industrial areas. He estimated total partitioned office area plus

partitioned conference rooms to be three percent of the total building square footage. Mr. Schwartz testified that Johnson Controls Interiors did not increase the size of the technical campus in any way in 2005 or 2006.

On cross-examination, Mr. Schwartz testified that there are daily shuttle routes that stop in through the Tulip City Airport to transport primarily team members but also customers. In response to Respondent's questions, Mr. Schwartz testified that he was familiar with "large manufacturing facilities and large corporate office facilities in the Holland area."¹⁰ Mr. Schwartz confirmed that, based on the drawings, the building is free of a lot of load-bearing walls and Petitioner has "the ability to move space. . . flexibility in the design that allows you to maintain the versatility of buildings."¹¹ He further testified that Petitioner is in the process of trying to move functions from other locations and has "been able to do that at the tech center because of the functionality of that building."¹²

Mr. Schwartz testified that the tech campus is bordered on the north by 24th Street, in the south by 32nd Street, and on the west by Waverly Road. There are four entrances to the campus, two from 32nd Street and one from each of the other streets. The entrances on 24th and 32nd Streets are principally used by employers, employees, and suppliers. The "land areas north of the subject property. . . [are] used as farm land,"¹³ which Respondent asserted could be "used for future

¹⁰ Transcript 1B, page 18, ll 21-23

¹¹ Transcript 1B, page 21, ll 14-16

¹² Transcript 1B, page 22, ll 6-7

¹³ Transcript 1B, page 24, ll 2-7

development or future sale.”¹⁴ Mr. Schwartz testified that “this area to the north is really not necessary for this tech center facility.”¹⁵

Mr. Schwartz testified that when you entered from Waverly Road, the entrance area under the canopy was “snow melted.”¹⁶ The exterior of the facility has a “face brick that goes from the south side of the facility . . . all the way around the building on the south to the north side of the tech center and then actually extends all the way along the south side of the entire facility,”¹⁷ except as indicated on the diagram by Mr. Schwartz. Mr. Schwartz testified although it has been acid washed, that was not done during the tax years at issue. He agreed with Respondent’s statement that it was very durable . . . [and . . . [Petitioner has] much lower maintenance costs.”¹⁸

Mr. Schwartz testified that they had no maintenance difficulties with the atrium as constructed. He testified that although the current layout allowed for windows in common areas, there would be no problem for a future owner to move offices to a more windowed location as “you don’t really have any load-bearing walls in here.”¹⁹ Mr. Schwartz agreed that all the HVAC components are in one part of the building, which could be a stand-alone facility. The customer center starts at the seam joint, which is the old tech center remodeled with the addition. Mr. Schwartz acknowledged several identifiable entranceways. The main entrance for the customer center area is the rotunda entrance. The area along the south side of the building is primarily an

¹⁴ Transcript 1B, page 24, l 10

¹⁵ Transcript 1B, page 25, ll 19-20

¹⁶ Transcript 1B, page 26, l 12

¹⁷ Transcript 1B, page 26, l 24-page 27, l 6

¹⁸ Transcript 1B, page 29, ll 3-7

¹⁹ Transcript 1B, page 33, ll 15-16

entrance for employees. And there is a separate entranceway for customers in the validation and processing area of the building. In response to Respondent's question, Mr. Schwartz concurred that "if a portion of this facility had to be segregated off with a separate owner or something of that nature, the street really affords the ability to come in through the rotunda and have an interior access point along the perimeter of the facility."²⁰ Mr. Schwartz reviewed photographs of the various parts of the building including those of a typical office,²¹ the training room fitted with audio visual equipment and wireless computer access,²² the presentation room used for in-house design review and demonstrations for customers,²³ product development area,²⁴ and copy center.²⁵ Mr. Schwartz testified that the studios have large moveable walls, partitions on casters, so that studios could be combined or used separately depending on the amount of space required.

Mr. Schwartz testified that there are no load-bearing walls in the office and manufacturing area, just drop down structures from support steel overhead and that this portion of the facility could be light manufacturing if the existing doors could be converted to dock doors. Mr. Schwartz agreed that that could be done but it contains a

utility corridor. So you have your fire protection, main lines. You have your high voltage power feeds for the switch gear that are located there. . . . I believe you would have to move those utilities to a lower depth in order to put your truck docks in there. . . . The other thing that you would have to deal with would also be the asphalt out here was never created for semi-trailer traffic or for heavy loads. It was designed -- the base was, you know, adequate for basically for cars and trucks, light trucks.²⁶

²⁰ Transcript 1B, page 38, ll 10-15

²¹ Petitioner's exhibit 1, page 30

²² Petitioner's exhibit 1, page 30

²³ Petitioner's exhibit 1, page 31

²⁴ Petitioner's exhibit 1, page 31

²⁵ Petitioner's exhibit 1, page 32

²⁶ Transcript 1B, page 49, l 18-page 50, l 6

Mr. Schwartz further testified that Tulip City Airport was used by Prince Corporation as a private airport, there are no commercial flights from the Airport, and there are charter flights that originate from the Airport.

Petitioner offered the testimony of Laurence Allen. The appraisal submitted in this matter was a summary appraisal of the subject property for the 2004 and 2005 tax years.²⁷ Mr. Allen previously prepared an appraisal of the subject property for the 2001 through 2003 tax years.

Mr. Allen testified that the subject property sits on approximately 113 acres and is located in an industrial neighborhood a few miles from US 31.

Mr. Allen testified that the subject building is unlike a typical research and development engineering building in that the partitioned offices are in the interior of the facility and have no windows. More specifically, he testified that, unlike the typical building,

it's not a rectangular shape. It's sort of a C-shape. . . . it has things like three hundred seat theater with concrete steps. . . . [a] rotunda entry . . . [t]he oversize atrium in the middle. The design center with a combination of like testing rooms and design studios are not typical. It has a shortage of truck docks, a lack of ceiling in like a large portion.²⁸

Mr. Allen testified that he considered and used the sales comparison and income capitalization approach, and considered the cost approach in his valuation of the subject property.²⁹ For his sales comparison approach, Mr. Allen testified that

because this property is so unique in terms of size, as well as type, there aren't comparables that are duplicates of this property. . . . I can find comparables with

²⁷ Petitioner's exhibit 2

²⁸ Transcript 1B, page 87, ll 5-23

²⁹ The parties stipulated that the cost approach is not a meaningful approach to value in this matter, and it is not discussed.

some very comparable characteristics, but they have other characteristics that aren't as comparable. For instance, you take the characteristics of this property as R and D property, as engineering property, in my sales there's only one property that's truly R and D property. And then another aspect is the size of the property. This property is extremely large. And there's really only one of my comparables that has the size that's equal or larger than this property because these large properties don't sell that often. And another aspect is location, Holland versus other locations. I have one comparable in Holland. So various comparables might have some characteristics that make them a good comparable, but they don't have all of the characteristics of this property.³⁰

Mr. Allen testified that he visited each comparable property and that all of his sales comparables were located in Michigan. The elements he found most important in comparing the properties to the subject property were finished area, location, and building size. The following sales were used in Mr. Allen's sales comparison approach of market value:

Sale 1: Quads Building

Address: 1901 Romence Road, City of Portage, County of Kalamazoo, Michigan.

Sold: December 6, 2001

Sale price: \$6,000,000; \$15.12/sf

Gross building area: 396,919

Land area: 33.89 acres; 1,276,248 square feet

Shape: Four rectangular buildings connected at a core building area in the middle

Zoned: I-2 Industrial

Property type/use: R&D

Built: 1973; remodeled, 1999

Condition: Average

MVS Classification: Average Class C/S

Sale 2: Jacobson's Headquarters

Address: 3333 Sargent Road, Township of Leoni, County of Jackson, Michigan.

Sold: June 21, 2004

Sale price: \$5,200,000; \$21.84/sf

Gross building area: 238,127

Land area: 41.00 acres; 1,785,960 square feet

Shape: Irregular

Zoned: B4, General Business

Property type/use: Distribution Building

Built: 1988

Condition: Average

MVS Classification: Good Class C

³⁰ Transcript 1B, page 91, ll 12-page 92, l 17

Sale 3: Herman Miller Plant
Address: 1400 S Pine, City of Holland, County of Ottawa, Michigan.
Sold: October 17, 2003
Sale price: \$6,325,000; \$31.83/sf
Gross building area: 198,700
Land area: 79.00 acres; 3,441,240 square feet
Shape: Irregular
Zoned: I-2, Industrial Park
Property type/use: Light Manufacturing
Built: 1982
Condition: Average
MVS Classification: Average Class C

Sale 4: Bosch Building
Address: 4300 44th Street, City of Kentwood, County of Kent, Michigan.
Sold: August 1, 2003
Sale price: \$12,970,440; \$13.18/sf
Gross building area: 984,286
Land area: 52.00 acres; 2,265,120 square feet
Shape: Rectangular
Zoned: I-1, Industrial
Property type/use: Heavy/Light Manufacturing
Built: 1981-1986
Condition: Average
MVS Classification: Average Class S

Mr. Allen's first sale was the Quads Building at 1901 Romence Road.³¹ Mr. Allen testified that he inspected both the interior and exterior of the building in 2004 and supported the use of this sale because, "[w]hile the sale date is a couple of years before our first date of value the market has been stagnant during this time with no significant appreciation or depreciation noted." The building is significantly smaller and older than the subject building. Age, quality, and condition of this building are inferior to the subject property. Mr. Allen testified that this building is a research and development facility as is the subject but with more, 88%, finished area with carpet, high drop ceilings, and minimal partitioning. There is adequate land area for office property but it does not have the subject property's extensive grounds. Mr. Allen testified that the property

³¹ Petitioner's exhibit 2, page 33-34

was purchased by an investor with a lease back to Pharmacia in place. Mr. Allen stated that although the recorded deed of the transfer of this property from Pharmacia to Upjohn indicates a sale price of two million dollars, he spoke with both the buyer and purchaser and concluded that the sale price was actually six million dollars based on the buyer's allocation of "four million of the six million dollar price to the lease from Pharmacia."³²

Mr. Allen's sales comparable number two is the former Jacobson's Stores corporate headquarters just east of Jackson along I-94. Mr. Allen considered the building's age, condition, and quality to be similar to the subject building. The building has a combination of corporate office space and distribution area with 44% finished space. Mr. Allen determined that although "this comparable has a lower percentage of finished space, the finished space is considered superior in terms of quality"³³ to that in the subject building. The building is on 70 acres of which 41 are wetland. The property was sold by Comerica Bank for \$5,200,000 in June 2004. Mr. Allen testified that, although Jacobson's had gone into bankruptcy and Comerica became the owner of the foreclosed property, this "wasn't a sale under duress. It was on the market for a substantial period of time, and it was sold at a market price."³⁴ This property is much smaller than the subject property with a combination of a corporate headquarters and a distribution facility. Mr. Allen testified that he selected this building "partly because it has high percentage of finished space, . . . and there aren't a lot of sales with that high of percent of finished space and industrial buildings and . . . the remaining space was distribution space with good ceiling heights, which was also heated and cooled space."³⁵ Except for the carpeting, this space was "similar to the engineering space JCI

³² Transcript 1B, page 102, ll 16-17

³³ Petitioner's exhibit 2, page 38

³⁴ Transcript 1B, page 107, ll 19-21

³⁵ Transcript 1B, page 110, ll 7-14

engineers worked in,”³⁶ but the corporate offices have a higher level of finish, more partitioning, and drop ceilings.

Mr. Allen’s comparable sale number three is the former Herman Miller plant located less than three miles from the subject property in Holland. This building is approximately one-fourth the size of the subject property, and overall age and condition are inferior to the subject. The building has 5% finished area utilized for administrative purposes and is manufacturing space in contrast to research and development use of the subject property. Mr. Allen testified that he determined that this comparable property includes 46 acres of excess land, increasing the price per square foot which would otherwise have been \$25.89. Mr. Allen allocated \$1,108,000 to the excess land. Mr. Allen testified that although he had information related to a personal property tax abatement, he did not make any adjustment for that in his analysis.

Mr. Allen’s sales comparable number four is the Bosch facility, formerly Diesel Tech, located in an industrial neighborhood in Kentwood, a suburb of Grand Rapids, and is one mile from the Gerald Ford International Airport. The building is larger than the subject, 984,000 square feet, located on approximately 52 acres of land zoned light industrial. Based on overall age and condition and quality of the space, Mr. Allen considered this property inferior to the subject. It has 7% finished area, approximately 70,000 square feet, used for administrative and product display. Mr. Allen testified that in his analysis and determination of sale price, he took into account conversations with representatives of both the buyer and seller. Mr. Allen testified that he made an effective square footage adjustment “[s]ince the mezzanine was leased at two-thirds

³⁶ Transcript 1B, page 110, ll 15-18

of the normal rent for industrial space.”³⁷ Mr. Allen testified that the offices have window space and are of good quality office design and there are “a lot more truck doors”³⁸ than the subject property has.

Mr. Allen testified that his conclusions that larger spaces will sell or lease for less per square foot is supported by his experience related to sale price and leases of other large buildings in the area, specifically Lifesavers, 38 Eastern, and GM Comstock, which Mr. Allen testified the owners attempted to lease for multi-tenant uses. He further supported his conclusions with data from SIOR³⁹ industrial survey data for Grand Rapids,⁴⁰ which indicates that sale prices per square foot declines with size increments and that the same is true for lease rates and construction costs per square foot. For larger buildings, the survey indicates a “substantial oversupply above sixty thousand square feet.”⁴¹

Mr. Allen’s conclusion of value under his sales comparison approach was \$27.00 per square foot, which he determined

after looking at what I considered to be the most important attributes of the comparability such as location, whether there were leases in place at the time of sale, size, finished area, land to building ratio, age, and condition, that the subject property would command a price of twenty seven dollars a square foot, or approximately twenty-one million as of the tax date. Well, as of both tax dates.⁴²

³⁷ Transcript 1B, page 129, ll 18-19

³⁸ Transcript 1B, page 132, l 5

³⁹ Society of Industrial Realtors

⁴⁰ Respondent’s exhibit 46

⁴¹ Transcript 2A, page 10, ll 11-12

⁴² Transcript 2A, page 43, ll 1-8

Mr. Allen testified that he tested this conclusion of value in two ways, “[o]ne, I used . . . basically the same quantitative adjustments that I used in the previous appraisal and applied them to these comparables. And number two, I did a statistical analysis of the comparables.”⁴³

For his income capitalization approach, Mr. Allen testified that, to determine a rental rate for the subject property he considered that,

. . . the office space rents are much higher than subject could achieve because the office leases are much smaller, they're more finished, they're not really engineering space but typical office space. The warehouse leases, which were around three dollars a square foot, were significantly below what the subject could lease for because the subject has much more finished space. . . . And [I] also looked at the R and D space. So even though it's smaller buildings, that they generally have less build out and aren't as nice as this property. . . . I concluded that the R and D rate of four fifty was the best representative of what the subject could lease for on average.⁴⁴

Mr. Allen’s determination of market rent was based on a review of rents in the Holland office market and the Holland industrial market. For his determination of office lease rate, Mr. Allen relied on his “review of the Holland office market.”⁴⁵ Mr. Allen determined a rate range from \$6.67 on a triple net basis to \$24.00 on a gross basis. The leases were of space ranging from 9,000 to 22,000 square feet. For his industrial space lease rate, Mr. Allen listed as examples of the properties he surveyed, five comparable leases in Holland, ranging in size from 52,500 to 182,000 square feet, with lease rates between \$2.75 and \$3.10 per square foot. Mr. Allen concluded that there is a lack of research and development space in the area. For his industrial market rent, he relied on the 2003 and 2004 SIOR Survey data for spaces much smaller than the subject, of \$4.75 per square foot and the Grubb and Ellis estimate of \$4.79 and \$4.68 triple net

⁴³ Transcript 2A, page 44, ll 3-7

⁴⁴ Transcript 2A, page 56, l 23-page 57, l 17

⁴⁵ Petitioner’s exhibit 2, page 41

for the respective tax years. Based on this data, Mr. Allen concluded the market rent for the subject, as a whole, should be \$4.50.

Mr. Allen's market rent, when multiplied by the square footage of the subject property, 768,100, resulted in rental income of \$3,456,450. Mr. Allen then added reimbursements for insurance at \$115,215, CAM at \$192,025, and property taxes at \$574,720, resulting in potential gross income of \$4,338,410.

Mr. Allen testified that the Society of Industrial and Office Realtors report⁴⁶ indicated a 9.58% vacancy rate for industrial markets for 2004 and "says there is substantial oversupply of space, over sixty thousand square feet."⁴⁷ Mr. Allen testified that he relied on the Grubb and Ellis' 2004 Real Estate Forecast for the Great Lakes report⁴⁸ to support his conclusion of a twenty percent vacancy and credit loss for the subject building. He indicated that their charts show a general western Michigan R and D "flexed based vacancy of sixteen to eighteen percent. . . . [a]nd an office vacancy rate of eight to twenty percent."⁴⁹ Mr. Allen then subtracted a 20% vacancy and credit loss to arrive at his effective gross income of \$3,410,728. His vacancy percentage was based on his presumption that the subject property "won't typically be always a hundred percent leased. . . . And . . . that there was a substantial oversupply of large industrial space."⁵⁰

From his determination of effective gross income Mr. Allen subtracted operating expenses for insurance cost at \$0.15/SF, common area maintenance at \$1.25/SF, property taxes at \$574,720,

⁴⁶ Respondent's exhibit 46

⁴⁷ Transcript 2A, page 69, ll 7-9

⁴⁸ Respondent's exhibit 33

⁴⁹ Transcript 2A, page 70, l 25 – page 71, l 2

⁵⁰ Transcript 2A, page 68, ll 16-20

management fee of 3% at \$104,122, and reserves for repairs and replacements at \$0.15/SF equaling \$115,215, for total expenses of \$1,101,297. Mr. Allen testified that the expenses he reported were based on normal expenses for large industrial buildings.” The “property taxes were calculated based on the income approach value estimate working backwards.”⁵¹ The resultant net operating income was \$2,369,431 as of December 31, 2003. Using a vacancy rate of 22%, Mr. Allen’s net operating income as of December 31, 2004 was \$22,833,831.

Mr. Allen testified that, in his opinion, an owner could not achieve rents above his “concluded amount rental rate for the tech campus without spending substantial funds to reconfigure the space.”⁵² Mr. Allen testified that his income approach would not change if the space was reconfigured because “the additional cost of building the space would offset the increased rent that the landlord would obtain.”⁵³ Mr. Allen testified that he did not take into account, when determining his market rental rate, “the cost to the owner of dividing the tech campus space up into smaller spaces in order to achieve . . . market rentals.”⁵⁴

Mr. Allen testified that his conclusion is based on a stabilized occupancy with no leaseup period. His estimate of market value would have decreased had he assumed that the building would be vacant on the relevant tax days and his estimate would have been further reduced if he had recognized costs to put a tenant in place, such as adding truck doors, dividing utilities, or dividing space.

⁵¹ Transcript 2A, page 67, ll 23-25

⁵² Transcript 2A, page 58, l 24- page 59, ll

⁵³ Transcript 2A, page 59, ll 8-10

⁵⁴ Transcript 2A, page 60, ll 12-15

Mr. Allen testified that “[t]he adjustment that I used to get from the value of the property as leased at stabilized occupancy to fee simple was by calculating and deducting a fee for leasing the property,”⁵⁵ which he based on a commission rate of five percent.

Mr. Allen testified that he determined an estimate of market value utilizing the stipulated overall capitalization rate.⁵⁶ Mr. Allen’s estimate of value based on the income capitalization approach to value, utilizing the stipulated land value and stipulated overall capitalization rate are \$21,300,000 for tax year 2004 and \$21,900,000 for tax year 2005.

Mr. Allen testified that he considered both the sales comparison and income approaches to be reliable approaches to value for the subject property, but did not consider the cost approach as a reliable methodology.⁵⁷ Mr. Allen testified that he applied the stipulated allocation between the parcels herein at issue to his final conclusions of value. Mr. Allen did not consider “any of the land at the tech center to be excess land.”⁵⁸ In response to questioning with regard to Mr. McKnight’s appraisal⁵⁹ indicating excess land, Mr. Allen testified that the questioned parcel included important entries into the facility and that if the land was not part of the subject property, “[y]ou would have to move roads, move utility lines, and it just would not be very practical.”⁶⁰ Additionally, although the property on the north side may have potential, zoning would be an issue.

⁵⁵ Transcript 2A, page 74, ll 8-11

⁵⁶ See Petitioner’s exhibit 9, valuation changes due to stipulation agreement

⁵⁷ The parties agreed that the cost approach was not a meaningful indicator of value for the subject Property. See Stipulation of Facts number 10

⁵⁸ Transcript 2B, page 8, l 24-page 9, l 1

⁵⁹ Respondent’s exhibit 23

⁶⁰ Transcript 2B, page 12, ll 1-2

On cross examination, Mr. Allen testified that he considered the existing use of the structure, the functionality of the structure “for the use that JCI as the existing user puts the building to, and sales history.”⁶¹ Mr. Allen further testified that he determined that the highest and best use of the subject property was research and development.

Respondent questioned Mr. Allen’s conclusion that Holland was “now in a cycle of declining growth and declining absorption”⁶² as the graph in his appraisal ⁶³ depicted a stabilized period and his testimony that “in 2003 the building permits in the MSA area were the third highest that they had been for . . . twenty-year[s].”⁶⁴ Mr. Allen further affirmed that the SIOR data⁶⁵ showed, “for the period 1999 to 2004, we only have one year where this report concludes that there is a moderate oversupply”⁶⁶ of research and development facilities.

Mr. Allen testified that he looked at “all sections of the building,”⁶⁷ although his appraisal report did not list the square footage of each area. He admitted that there are significant differences in the type of construction in the technology center, the customer center, and the process center.

Mr. Allen testified that he believed that the subject property could be single user or multi-tenant but the strongest demand would be for a multi-tenant. Mr. Allen testified that the property offers “a flexibility that would allow it to be single tenant, multi-tenant, different amounts of industrial type space versus finished space. . . . you could do different things with [it], if you, like,

⁶¹ Transcript 2B, page 48, ll 13-14

⁶² Transcript 2B, page 62, ll 19-20

⁶³ Petitioner’s exhibit 2, page 14

⁶⁴ Transcript 2B, page 63, ll 6-11

⁶⁵ Respondent’s exhibit 46

⁶⁶ Transcript 2B, page 66, ll 15-19

⁶⁷ Transcript 2B, page 80, l 21

demolish the current improvements, reconfigured the corridors . . .”⁶⁸ Mr. Allen concurred that the subject facility was built more like an industrial building, designed with load-bearing columns rather than load-bearing walls, rather than as a research and development building, which is its current use. Mr. Allen agreed that it is “superior to a research and development building because of this column load construction, so it's not inhibited by barriers walls.”⁶⁹ He testified that the subject could be converted to a straight industrial space by demolishing the finishings, putting in truck doors, moving utility lines, and altering the entryways.

Respondent questioned details of Petitioner’s comparables. As to sales comparable one, Mr. Allen testified that he did not make adjustments for restrictive covenants based on his opinion that he did not think the covenants would “decrease the value of this property.” Relative to comparable two, Respondent questioned Mr. Allen’s determination that this was a market transaction as the seller’s motivation was “most likely to get their mortgage paid off.”⁷⁰ Relative to Petitioner’s comparable three, Respondent raised the issue of tax abatements. Respondent questioned Mr. Allen with regard to his comparable number four, the Bosch Building, related to Mr. Allen’s conclusion that this sales was an arms length transaction. Respondent pointed out discrepancies in ceiling heights, exterior finishing, and percentage finished in Mr. Allen’s appraisal.

Respondent reviewed Mr. Allen’s income approach to value. In response to Respondent’s questioning of his \$860,000 deduction for leasing commissions, Mr. Allen testified,

⁶⁸ Transcript 2B, page 85, ll 8-16

⁶⁹ Transcript 2B, page 88, ll 13-15

⁷⁰ Transcript 3A, page 55, ll 13-14

I'm estimating value fee simple, which is a value while there's no tenants in place. And if someone's going to buy this as income property to produce income, there's a cost to locate the tenants and to negotiate a lease. And in order to estimate the value of the fee simple without tenants in place, it's appropriate to take off a cost for locating those tenants, negotiating the leases.⁷¹

Mr. Allen testified that this position is validated by the Appraisal of Real Estate,⁷² which indicates that "leasing costs need to be considered, either as operating expenses or capital expense."⁷³ Mr. Allen testified that "if I was valuing it on a specific date and there weren't tenants in place, and I was valuing it on an income approach, I would consider the cost of leasing the building in order to get the projected revenue."⁷⁴

Mr. Allen testified that he included the square footage of the FCC building, 3,100, in the total square footage and applied his determined \$27.00 per square foot rate to the entire property. For purposes of his income approach, Mr. Allen added the additional square footage at the average rent per square foot of \$.50. Mr. Allen testified that he didn't "think the FCC building really contributes much to the value of the property because it's very specialized for a single user"⁷⁵ and did not look at it as "special purpose property"⁷⁶ and separately value it.

Petitioner offered the testimony of Mr. John Kingma, Vice-President of S.J. Wisinski and Company, whose business is commercial and industrial real estate leasing and sales. Mr. Kingma is licensed to sell real estate in this state and concentrates on the sale and rental of industrial real property primarily in western Michigan, including Ottawa County. Mr. Kingma is a member of

⁷¹ Transcript 3B, page 56, ll 9-17

⁷² Excerpt of pertinent parts found in Petitioner's exhibit 8

⁷³ Transcript 3B, page 58, l 24-page 59, l 1

⁷⁴ Transcript 3B, page 62, ll 14-17

⁷⁵ Transcript 3B, page 65, ll 1-3

⁷⁶ Transcript 3B, page 64, l 21

SIOR and was responsible for compiling the SIOR data for Western Michigan. Mr. Kingma testified that he was not aware of an existing industrial engineering building over 400,000 square feet purchased for the new buyers' own use.⁷⁷ He testified that in his experience, buildings of that size were sold to developers who would “prefer to lease it out to one [tenant]”⁷⁸ although that may not be the end result. Mr. Kingma cited several examples to support his assertion that he had knowledge related to the sale and lease of industrial properties in the same geographic area as the subject property and offered his opinion that the rental and lease rates indicated in Mr. McKnight’s appraisal were not realistic.⁷⁹

Mr. Kingma testified to divide the subject property for various uses by multiple tenants would require “a fair amount of re-work . . . based on having gone through a couple of these projects, to rework this facility for multi-tenant use.”⁸⁰ Mr. Kingma further testified that for his services as a broker to help find tenants, he is paid a real estate or leasing commission up front, typically equal to “six percent of the gross lease amount.”⁸¹

On cross examination, Mr. Kingma testified that his information about the subject property came from six to seven hours of inspection on three different occasions, and review of documents and appraisals. Mr. Kingma testified that there were entrances on both the west and east side of the building as well as in the center section, “to accommodate a multi-tenant use,”⁸² as well as separate entrances for the industrial manufacturing portion of the building. Mr. Kingma did not

⁷⁷ Transcript 6B, page 11, ll 8-10

⁷⁸ Transcript 6B, page 11, l 18

⁷⁹ Transcript 6B, page 43, ll 13-16

⁸⁰ Transcript 6B, page 51, ll 9-12

⁸¹ Transcript 6B, page 60, l 24

⁸² Transcript 6B, page 92, ll 2021

agree with Respondent's statement "that from the standpoint of entryways and assigned areas for light manufacturing and access to them, this building has a high degree of functionality,"⁸³ and stated, "there are entryways which could be reused. There are not enough loading docks on the building but once you get into the entryway, you still have this office configuration that in my opinion does not work for a multi-tenant environment."⁸⁴ Mr. Kingma testified that "condominiumization"⁸⁵ was an option for portions of the technology campus, customer center, and processing center, which he stated was "essentially the multi-tenant approach."⁸⁶

RESPONDENT'S CONTENTIONS

Respondent offered the following proposed exhibits:

- R-1: Aerial Photo of JCI Tech Center Property
- R-2: All photographs shown on PowerPoint Presentation prepared by David VanderHeide of subject property (disc enclosed)
- R-3: Assessor's Property Record Cards for the subject property
- R-4: JCI's IFT Application for Parcel No. 70-55-65-099-231
- R-5: Assessor's Cards for IFT Parcel 70-55-65-099-231
- R-6: JCI's IFT Application for Parcel No. 70-55-65-095-015
- R-7: Assessor's Cards for IFT Parcel No. 70-55-65-095-015
- R-8: JCI Tech Center Plans
- R-9: FCC Test Building Plans from JCI
- R-10: FCC Test Building Depreciation Schedules for JCI
- R-11: June 15, 2001 Tech Center Drawing submitted by JCI
- R-12: Equalization Report form 4018 for Year 2004
- R-13: Ottawa County Equalization Report – for Year 2004
- R-14: Ottawa County Certification of Equalization Report – for 2004
- R-15: State of Michigan Equalization Report – for 2004
- R-16: Equalization Report form 4018 for Year 2005
- R-17: Ottawa County Equalization Report – for Year 2005
- R-18: Ottawa County Certification of Equalization Report – for 2005
- R-19: State of Michigan Equalization Report – for 2005
- R-20: STC Bulletin No. 13
- R-21: STC Bulletin No. 19
- R-22: State Tax Commission Assessor's Training Manual (Respondent requests judicial notice of Exhibit)

⁸³ Transcript 6B, page 93, ll 21-24

⁸⁴ Transcript 6B, page 94, ll 2-7

⁸⁵ Transcript 6B, page 96, ll 2-8

⁸⁶ Transcript 6B, page 96, ll 12

- R-23: McKnight Appraisal
- R-24: Allen Appraisal
- R-25: Marshall Swift Valuation Guide (applicable pages)
- R-26: Herman/Challenge Manufacturing sale material
- R-27: Bosch Corporation sale material (MTT Stipulation to Entry of Consent Judgment)
- R-28: Jacobson's Department Store sales material
- R-29: 1901 Romence LLC sales material
- R-30: 1901 Romence LLC resale material
- R-31: Offers to Lease of Romence Road comparable
- R-32: *Michigan Commercial*, Volume XIV, Issue 11 (November, 2003)
- R-33: Grubb & Ellis 2004 Real Estate Forecast and 2006
- R-34: Property Transfer Affidavit – Huntington National Bank to Holland-Adams Street Bank Investors LLC
- R-35: Photographs of Clover Avenue property from Huntington National Bank to Holland-Adams Street Bank Investors LLC
- R-36: Property exhibits for purchase of Clover Avenue property from Huntington National Bank to Holland-Adams Street Bank Investors LLC
- R-37: Bosch Building Appraisal for 2003 purchase – CV Ellis, Inc. Valuation and Advisory Services
- R-38: Allen & Associates Summary and material for 1901 Romence Road, Portage, Michigan
- R-39: Allen & Associates Summary and primary material for Jacobson's Department Stores Corporate Headquarters sale
- R-40: Allen & Associates Summary and material for 1400 South Pine, Holland, MI, (Herman Miller to Challenge Manufacturing sale)
- R-41: Allen & Associates Summary and material for Bosch facility (4300 44th Street, SE, Kentwood, Michigan)
- R-42: Allen & Associates Summary and material for Comparable Land Sales
- R-43: Allen & Associates Summary and material – Marshall Swift Valuation Service (page 2 – 2002)
- R-44: Allen & Associates Summary and material of 10717 Adams Street, Holland, MI 49423
- R-45: Allen & Associates Summary and material – SIOR for 2004 and 2005
- R-46: Allen & Associates Summary and material – SIOR for 2005, 1999, 2000, 2001, 2002, 2003, and 2004
- R-47: Allen & Associates Summary and material – PriceWaterhouseCoopers Report – first quarter 2005 and first quarter 2004
- R-48: Allen & Associates Summary and material – Marshall Valuation Service Life Expectancy Guides
- R-49: Allen & Associates Summary and material – Depreciation Estimates, The Appraisal of Real Estate, page 413-414
- R-50: Value & Use Report as of October 31, 1996 of Prince Automotive, Inc. (to be filed & disclosed upon receipt from Petitioner)
- R-51: Letter from Mr. McKnight with Appraisal replacement pages 36 and 47 substituting \$25.89/SF for \$27.00/SF for Building Comparable 4 and pages 60

and 61, final opinion of value, based on subsequent information and stipulated facts

R-52: Proposed building redevelopment plan for Bosch building

R-54: Floor plan of the Lifesaver's property at the time of sale

R-55 Property Transfer Affidavit for 2006 sale of Bosch building

R-60: Floor plan with dock and entrances of the Bosch building as of late 2003

R-64: Statutory definition of eligible distressed area with list of all such areas in the state effective February 16, 2006

R-65: Application dated November 13, 2003, resolution granting, and agreement related to exemption under Act 328 for Challenge Manufacturing

R-66: Application dated May 24, 2004 for industrial facilities exemption and IFT exemption certificate for real and personal property by Challenge Manufacturing

R-67: Application dated August 30, 2006 for industrial facilities exemption and IFT exemption certificate for real and personal property by Challenge Manufacturing

R-68 Application dated September 1, 2005 for industrial facilities exemption and IFT exemption certificate for real and personal property by Challenge Manufacturing

R-70: Memorandum regarding the IFT application for Bosch building

R-71: Analysis for Equalized Valuation for 2004 including and excluding Johnson Controls Interiors

R-72: Analysis for Equalized Valuation for 2005 including and excluding Johnson Controls Interiors

Respondent's exhibits 1, 3, 4, 5, 6, 7, 12, 13, 14, 16, 17, 18, 19, 20, 21, 23, 24, 28, 29, 33, 38, 39, 40, 46, 52, 54, 55, 60, 64, 65, 66, 67, 68, 71, 72 were admitted without objection. Respondent's exhibit 51 was admitted, without objection, as replacement pages 36, 47, 59, to Respondent's exhibit 23, to reflect calculation adjustments made by Mr. McKnight. The Tribunal took judicial notice of Respondent's exhibit 22, pages from the State Tax Commission's Assessor Training Manual. Respondent questioned Mr. Galligan related to Respondent's exhibits 15 and 19, which were not offered into evidence and no objection was made to their use. Petitioner objected to the admission of Respondent's exhibits 27, 30, and 37. Petitioner objected to the admission of exhibit 27, a consent judgment entered into by the parties for tax years other than those at issue in this matter. The Tribunal did not allow the admission of the document as proof of value as the document represented a negotiated settlement and not an adjudication of value. Petitioner

objected to Respondent's exhibit 30 as not relevant. The Tribunal overruled the objection and the exhibit was admitted. Petitioner objected to the admission of Respondent's exhibit 37. The preparer of the document was not available for questioning regarding the conclusions of value. However, the Tribunal admitted the exhibit for impeachment purposes only and not for the purpose of proving the truth of the matter asserted in the document. Petitioner objected to Respondent's exhibit 50, a report prepared by Valuation Research Corporation in 1996 related to the subject property on the grounds that the exhibit was prejudicial. The Tribunal allowed the exhibit as a document reviewed by Mr. McKnight during his appraisal process and ruled that it would be allowed only with the understanding that "it was done in 1996. It was done under a totally different type of transaction than the valuation that we're looking at this point. The values are not the values that we're discussing today."⁸⁷ Petitioner objected to the admission of Respondent's exhibit 70 which was admitted for the limited purpose of providing the record with the values of the Bosch building and related land as provided in the IFT application.

Respondent contends that the assessment for the tax years at issue is not excessive and that based upon the appraisal offered, the assessed value for the tax years at issue should be greater than that as assessed.

Respondent offered the testimony of Larry Thomas McKnight, a certified general real estate appraiser with an MAI designation,⁸⁸ who prepared Respondent's appraisal for this matter. Mr. McKnight testified that he has prepared two appraisals for the subject property and inspected the subject property in conjunction with the first appraisal and subsequently on March 16, 2006. Mr.

⁸⁷ Transcript 4A, page 32, ll 16-20

⁸⁸ The parties stipulated that Mr. McKnight is an expert witness.

McKnight testified the pictures contained in his appraisal were taken at the time of his 2006 inspection. Mr. McKnight's appraisal is a self-contained appraisal.

Mr. McKnight's appraisal contains an analysis of the Grand Rapids MSA⁸⁹ related to world knowledge competitiveness index ranking,⁹⁰ population information, and employment and unemployment data, which indicates a decrease in unemployment from December 2004 to December 2005.⁹¹ Mr. McKnight testified that based on his review he concluded that "[a]ll things considered, it's probably the strongest marketplace within the State of Michigan just because of its diversity."⁹²

Mr. McKnight considered 77 acres of the land related to the subject property to be necessary to support the building and 27.6 acres of the land to be excess. Mr. McKnight concluded that although on a gross basis, the tech center has 767,678 square feet of which he determined 72.5% to be finished or office areas, the total building size for valuation purposes was 740,464 square feet "because there are storage mezzanines and catwalks and some mechanical mezzanines involved in the property that from a marketing perspective in the real estate market would not be the part of the marketable square footage."⁹³

⁸⁹ Exhibit 3 of Respondent's exhibit 23

⁹⁰ Transcript 4A, page 39, ll 13-14

⁹¹ Transcript 4A, page 40, ll 2-5 indicate a decrease in 2004 from 2005 levels. The Tribunal believes that a decrease in 2005 levels from 2004 levels was what was meant.

⁹² Transcript 4A, page 41, ll 12-14

⁹³ Transcript 4A, page 56, ll 9-15

Mr. McKnight testified that he considered the building's open design made it very versatile and that it would be "very easy to reconfigure the building for an occupant's needs"⁹⁴ by moving some walls. Mr. McKnight testified that it was his opinion that as a corporate headquarters facility "it's right on the mark with what you would expect the majority of them to look like"⁹⁵ and testified that not having executive offices on the interior without windows was not critical and "[i]t's an easy thing to correct."⁹⁶

Mr. McKnight designated 306,678 square feet, 41% of the building's total square feet, to the customer center which includes six drive-in doors and three dock doors, and two one-fixture bathrooms, two four-fixture bathrooms, six six-fixture bathrooms, two seven-fixture bathrooms. Mr. McKnight testified that the passageway known as the street, and did not detract from the functionality of the facility and that the primary emphasis for that space was either meeting rooms and engineering-related facilities which do not require windows. He further testified that "if for whatever reason, this building became a multi-tenant type configuration with access from the rotunda, . . . the street, . . . could adequately serve that one user, or even potentially multiple users of that space without having to do any additional work."⁹⁷

Mr. McKnight designated 266,582 square feet, 11% of which is on the second floor, and which represents 36% of the total building, to the process center. He considered the process center to be a "functional manufacturing related type component of the building. . . . functional for anybody

⁹⁴ Transcript 4A, page 60, ll 9-10

⁹⁵ Transcript 4A, page 62, ll 19-21

⁹⁶ Transcript 4A, page 62, ll 5-6

⁹⁷ Transcript 4A, page 69, l 23-page 70, l

that needs industrially related space.”⁹⁸ The process center has six four-fixture bathrooms, two two-fixture bathrooms, and two three-fixture bathrooms, three dock doors, and seven drive-in doors. Mr. McKnight considered the loads for electric utilities coming into the customer center and processing center to be adequate, with the five 1500 KVA transformers being shared throughout the technical campus facility.

Mr. McKnight testified that his understanding was that the FCC building “is used to test the electronic components that are in consideration or will be manufactured by Johnson Controls to see if there is going to be an electrical interference problem with other electricity-related systems.”⁹⁹ Mr. McKnight calculated the FCC gross building size to be 3,226 square feet. Mr. McKnight used a cost approach to value the FCC building relying on “the cost presented to the City of Holland as part of the industrial tax facility abatement application. . . [and] data that was previously provided as to depreciation schedules of Johnson Controls. . . [and] concluded an \$800,000 cost.”¹⁰⁰ He applied a 50% depreciation factor and calculated a replacement cost of \$400,000.

Mr. McKnight performed a sales comparison approach to value. He testified that he identified as primary comparables, 8 properties and 11 related transactions. Four of his comparables are in West Michigan and 4 are in Auburn Hills, Southeast Michigan. Comparables 1 and 2 each present two separate sales. His sales comparable 4 was also Mr. Allen’s comparable 3, the Herman Miller Plant.

⁹⁸ Transcript 4A, page 77, ll 9-13

⁹⁹ Transcript 4A, page 79, ll 1-5

¹⁰⁰ Transcript 4B, page 5, ll 6-14

The following building sales were used in Mr. Allen's sales comparison approach:

Sales 1a and 1b: Former Gantos Headquarters
Address: Cascade Township, County of Kent, Michigan.
Sold: October 1997 and November 1999
Sale price: 1997 sale \$ 9,825,000; \$33.08/sf
 1999 sale \$22,000,000; \$74.08/sf
Gross building area: 296,976
% office/finished: 1997 28.5%
 1999 sale 49.6%
Dock – High Doors: 20
Drive-in Doors: 0
Clear ceiling: 29 ft
Land area: 26.10 acres
Zoned: Industrial
Condition: very good

Sales 2a and 2b: Zondervan Headquarters and distribution facility
Address: Cascade Township, County of Kent, Michigan.
Sold: September 2001 and January 2002
Sale price: 2001 sale \$11,300,000; \$38.44/sf
 2002 sale \$13,545,000; \$46.07/sf
Gross building area: 294,000
% office/finished: 38.4%
Dock – High Doors: 13
Drive-in Doors: 2
Clear ceiling: 26 ft
Land area: 18.42 acres
Zoned: 2001 Industrial
 2002 PUD
Built: 1991
Condition: very good

Sales 3: Riviera Tool and Die
Address: Cascade Township, County of Kent, Michigan.
Sold: July 2003
Sale price: \$8,100,000; \$45.86/sf
Gross building area: 176,607
% office/finished: 24.0%
Dock – High Doors: 5
Drive-in Doors: 4
Clear ceiling: 30 and 40
Land area: 9.70 acres
Zoned: Industrial PUD
Built: 1987
Condition: good

Sale 4: Herman Miller Plant

Address: 1400 S Pine, City of Holland, County of Ottawa, Michigan.
Sold: October 17, 2003
Sale price: \$5,145,000; \$25.89/sf (calculated without excess land)
Gross building area: 198,700
% office/finished: 4.0%
Dock – High Doors: 17
Drive-in Doors: 1
Clear ceiling: 22-24
Land area: 40.00 acres (calculated without excess land)
Zoned: Industrial
Built: 1980
Condition: very good

Sales 5a and 5b: JCI, a building originally sold by Johnson Controls

Address: Lapeer Road, Auburn Hills, County of Oakland, Michigan
Sold: March 2002 and March 2002
Sale price: \$10,500,000; \$62.68/sf
 \$11,900,000; \$71.03/sf
Gross building area: 167,526
% office/finished: 6.0%
Dock – High Doors: 10
Drive-in Doors: 3
Clear ceiling: 28
Land area: 12.04 acres
Zoned: Industrial
Built: 1989
Condition: very good
Cranes: 2

Sale 6: Grupo

Address: Atlantic Blvd., Auburn Hills, County of Oakland, Michigan
Sold: November 2004
Sale price: \$8,190,000; \$73.26/sf
Gross building area: 111,798
% office/finished: 30.0%
Dock – High Doors: 4
Drive-in Doors: 3
Clear ceiling: 24
Land area: 10.00 acres
Zoned: Industrial
Built: 1992
Condition: very good

Sale 7: Haden

Address: Pacific Dr., Auburn Hills, County of Oakland, Michigan
Sold: March 2005
Sale price: \$16,250,000; \$91.42/sf
Gross building area: 177,760
% office/finished: 37.0%
Dock – High Doors: Yes
Drive-in Doors: Yes
Clear ceiling: 28
Land area: 10.08 acres
Zoned: Industrial
Built: 1996
Condition: very good

Sale 8 was not a sale but a listing about which Mr. McKnight testified that he had no sales information as it was pulled off the market before it was sold.

Mr. McKnight described his sale comparable 1 as “corporate offices and a light frame industrial/warehouse building that incorporated a minor degree of distribution.”¹⁰¹ This building was sold in 1997 to Smith’s Industries, the interior space was finished to specifications, and the property was then sold to three different, but related, LLCs. Mr. McKnight testified that the sale represented as comparable 1b was not used because the sale price per square foot of gross building area was more than twice the price in transaction 1A and the first transaction was a sale of a vacant building, which “was the more controlling evidence of value in a fee simple.”¹⁰²

Mr. McKnight’s sale comparable 2 had been occupied by the Zondervan Company for 10 years when the property sold in 2001. Zondervan, as the tenant, had the right to acquire the property at the expiration of that ten-year period at a specified price. Transaction 2b “represents the price that the tenant could have acquired the building for but did not.”¹⁰³ Although included in the table, Mr. McKnight testified that the data was not used.

¹⁰¹ Transcript 4B, page 16, ll 6-8

¹⁰² Transcript 4B, page 19, l 25-page 20, l 1

¹⁰³ Transcript 4B, page 23, ll 10-11

Riviera Tool was a tenant of Mr. McKnight's comparable 3. The owner deeded the property to the bank in lieu of foreclosure and restructured and reduced the rent. Riviera, also in financial trouble, had been paying "to what I consider to be more of a market level rent at that point in time."¹⁰⁴ The building was subsequently sold to NL Ventures IV with the renegotiated lease either in place or "simultaneously occurring."¹⁰⁵

Mr. McKnight testified that comparable 4, the Herman Miller Building, was included only because it was located in Holland. With a finished office ratio of 4%, he does not consider it to be comparable to the subject and "was never intended to be the type of building that the subject and comparables one, two and three have been."¹⁰⁶

Mr. McKnight's comparable 5 is across the street from the Palace of Auburn Hills. Johnson Controls vacated and sold the building. The buyer found a lessee and then resold the building within a month with the lease in place. Mr. McKnight testified that he only considered the sale before the building was resold, transaction 5a, in his analysis. Mr. McKnight testified that the only reason 5b was included was to allow him "to make a comparison to see what type of an adjustment, if any, should be made to the comparables being in the Detroit area . . . adjusting to the location of the subject property in the Grand Rapids MSA related area."¹⁰⁷

Sales comparable 6 is also in Auburn Hills and was vacant when sold. Mr. McKnight testified that he chose this property because of the high ratio of finished space.

¹⁰⁴ Transcript 4B, page 26, ll 11-12

¹⁰⁵ Transcript 4B, page 26, l 18

¹⁰⁶ Transcript 4B, page 29, ll 1-3

¹⁰⁷ Transcript 4B, page 35, ll 17-22

Sales comparable 7 is located in Auburn Hills. The sale Mr. McKnight used in his analysis was a short-term land contract executed in March, 2005, which he considered to be cash equivalent. The building was leased and occupied when sold. The lessee vacated soon after the transfer but, Mr. McKnight testified, there “was a continuation of responsibility for the rent. . . . [t]hrough the duration of the lease.”¹⁰⁸ This comparable is significantly smaller than the subject and Mr. McKnight testified that he used it to “observe finish ratios in price relationships, if that observation could be made.”¹⁰⁹

Mr. McKnight’s comparable 8 was a listing of Auburn Hills property that the owners pulled off the market and continued to use it for their own research and development activities. Mr. McKnight testified that the property was the largest of his comparables. The price per square foot, calculated using the asking price, was \$146.19, which he used as “the starting point within my sales comparison analysis.”¹¹⁰

Mr. McKnight testified that in addition to these eight primary comparables, he utilized “collateral comparables”¹¹¹ in his analysis and that data “was integrated within the adjustment analyses to help make adjustments to the primary comparables.”¹¹² Mr. McKnight did not use sale comparables 1b, 2b, 5b, or 7 in his final analysis.

¹⁰⁸ Transcript 4B, page 39, ll 6-9

¹⁰⁹ Transcript 4B, page 39, ll 24-25

¹¹⁰ Transcript 4B, page 41, ll 23-24

¹¹¹ Respondent’s exhibit 23, page 37

¹¹² Transcript 4B, page 48, ll 12-13

Mr. McKnight made adjustments to the primary comparables for market conditions, location, land-to-building ratio, age and condition, and finished area ratio. He testified that his 6.7% sale price adjustment to comparable sale 1 was to compensate for the sale date which he adjusted “ a couple years to get it up to the 2000 time frame.”¹¹³

Mr. McKnight testified that he used a matched pair approach using sales 4 and 5 and collateral sales comparables 10b and 12 from which he determined a 58.7% and 58% difference in price per square foot that he attributed to location. Based on this calculation, he made a 60% negative adjustment to sales 5a, 6, and 8. No adjustments were made for land-to-building ratio or age and condition. Based upon his further analysis of the primary and collateral comparables, Mr. McKnight adjusted price per square foot for finished area ratio “for every percentage point difference in finish ratio, the price went up by 1.42 percent”¹¹⁴

Mr. McKnight testified that the range of adjusted per square foot values were between \$38.52 and \$66.69. The statistical average was \$53.25 but after removing comparables 3, 5a and 8, his revised average was \$50.53 per square foot. Looking at the comparables in west Michigan only, he determined an average price of “\$52.61 per square foot and removing comparable three, I was at \$47.83 per square foot.”¹¹⁵ From that data, he concluded \$42.45 per square foot for both tax years at issue and, using 744,464 square feet for the subject property, a final value opinion based on his sales comparable approach of \$31,470,000 for the technical center campus, which he defined as the tech center building and 77 acres of land supporting the center. Adding \$592,500 for the excess land calculated at \$21.50 per acre, and \$400,000 for the FCC building, Mr.

¹¹³ Transcript 4B, page 56, l 22-page 57, l 3

¹¹⁴ Transcript 4B, page 61, ll 6-8

¹¹⁵ Transcript 4B, page 63, ll 12-14

McKnight final conclusion of value based on the sales comparison approach as of December 31, 2003 and December 31, 2004 was \$32,462,500.

Mr. McKnight's appraisal included an income capitalization approach to value. Mr. McKnight testified that he considered the "functionality of this facility for . . . lease as an income property."¹¹⁶ He considers the building to be very adaptable to office or research and development needs.

Mr. McKnight used seven rental comparables. The first five are the same as sales comparables 1, 2, 3, 7, and 8. The remaining two were identified as rent comparable 1, the Continental, and rent comparable 2, the JCI occupied building. Three comparables are in Western Michigan, Cascade Township, and four comparables are in southeast Michigan.

Sales comparable 1, Gantos

Leased Area: 296,976

Finished ratio: 49.6%

Rent rate: for 2003 and 2004 - \$6.59/sf

Finished area adjustment: \$1.00 (20 percentage points)

Location adjustment: 0%

Indicated rent: for 2003 and 2004 - \$7.59/sf

Sales comparable 2, Zondervan

Leased Area: 319,196

Finished ratio: 23.1%

Rent rate: for 2003 and 2003 - \$4.53/sf

Finished area adjustment: \$2.35 (47 percentage points)

Location adjustment: 0%

Indicated rent: for 2003 and 2004 - \$6.88/sf

Sales comparable 3, Riviera

Rent rate: for 2003 and 2004 - \$5.42/sf

Leased Area:

¹¹⁶ Transcript 4B, page 69, ll 2-4

Finished ratio:
Finished area adjustment: \$2.30 (46 percentage points)
Location adjustment: 0%
Indicated rent: for 2003 and 2004 - \$7.72/sf

Sales comparable 7, Haden
Rent rate: for 2003 and 2004 - \$8.14/sf
Leased Area:
Finished ratio: 37%
Finished area adjustment: \$1.65 (33 percentage points)
Location adjustment: -40%
Indicated rent: for 2003 and 2004 - \$5.87/sf

Sales comparable 8, Valeo. Listing only. Asking rent - \$15.00. Adjusted by -15%
to the asking price.
Rent rate: for 2003 and 2004 - \$12.75/sf
Leased Area: 486,000
Finished ratio: 79.0
Finished area adjustment: \$0.45 (-9 percentage points)
Location adjustment: -40%
Indicated rent: for 2003 and 2004 - \$7.38/sf

Rent comparable 1, Continental
Rent rate: for 2003 and 2004 - \$12.86/sf
Leased Area: 236,770
Finished ratio: 78.6%
Finished area adjustment: \$0.45 (-9 percentage points)
Location adjustment: -40%
Indicated rent: for 2003 and 2004 - \$7.45/sf

Rent comparable 2, JCI
Rent rate: for 2003 and 2004 - \$9.25/sf
Leased Area: 268,000
Finished ratio: 5.2%
Finished area adjustment: \$3.25 (65 percentage points)
Location adjustment: -40%
Indicated rent: for 2003 and 2004 - \$7.50/sf

To determine a market rental rate, Mr. McKnight used his Western Michigan sales comparables 1, 2, and 3, his sale number 7, located in Auburn Hills, his sales comparable 8, a listing located in Auburn Hills, and two Southeast Michigan rentals. Rental rates ranged from \$4.55 to \$12.86. His average adjusted rent was \$7.20 when sale 7 was included, \$7.42 without sale 7, and \$7.40

for Western Michigan only.¹¹⁷ After comparing sales 1 and 3, and then comparing rents 1 and 2, Mr. McKnight, based on the rent rate differential, applied an adjustment of “five cents per square foot for each percentage point difference in the finished ratio.”¹¹⁸ Mr. McKnight determined a location adjustment of 40% for the southeastern Michigan properties based on his analysis that the west Michigan rent rate was 47% less than the Warren, Michigan rent and the -25%, -42%, and -47% rent adjustments for the other southeastern Michigan locations.¹¹⁹

Mr. McKnight testified that he reviewed the lease agreements for comparables 1 and 2, which were executed in 1997 and 1991, and based on his observation that “escalation provisions were built into the lease”¹²⁰ and by comparing those leases to the 2003 renegotiated rates in comparable 3, he concluded the rent rates were within the parameters for market rates for the tax years at issue. Mr. McKnight determined a blended warehouse and office space rate of \$6.47. He testified that he adjusted his “conclusion of \$7.40 from the data . . . downwards minus 15 percent for a benefit of the doubt adjustment for the Holland marketplace, I’m at \$6.30.”¹²¹ Mr. McKnight testified that comparable 7, the Haden property, was not used in this calculation.

Mr. McKnight determined an average lease length of 15 years, likely with renewal options at a rate of approximately 62% of the properties, and used an occupancy time frame of 293 months. He determined that it would take two to three years to lease the property if it was vacant. Grubb & Ellis estimated a 12.4% vacancy rate for research and development/flex space and a 6.5% industrial vacancy rate at the end of 2003. From this data, Mr. McKnight determined a vacancy

¹¹⁷ Respondent’s exhibit 23, page 53

¹¹⁸ Transcript 4B, page 81, ll 6-8

¹¹⁹ Respondent’s exhibit 23, page 51

¹²⁰ Transcript 4B, page 83, ll 15-16

¹²¹ Transcript 4B, page 85, ll 2-5 see Respondent’s exhibit 51 for Mr. McKnight’s adjusted values.

and collection loss of 12.5% for the year ending December 31, 2003, and 20% for the year ending December 31, 2004. After adjustments outlined in Respondent's exhibit 51 based on the post appraisal adjusted sale price of comparable 4, Mr. McKnight's potential gross income less vacancy and collection loss resulted in effective gross income of \$4,081,808 as of December 31, 2003 and an effective gross income of \$3,731,939 as of December 31, 2004.

To determine operating expenses, Mr. McKnight looked at the SIOR data for both office and industrial buildings for 2003, 2004, and 2005, as well as data published in Site Selection Magazine. Mr. McKnight determined operating expenses separately for the office and industrial space. SIOR reported operating costs for office buildings at \$5.90 per square foot for 2003 and \$7.40 per square foot for 2004. From this data, Mr. McKnight identified total property taxes which he subtracted from late 1999 and early 2000 SIOR office space data, which "left a residual of \$4.15/SF for 12/31/03 and \$5.65/SF for 12/31/04."¹²² He used the same methodology, but only reviewed SIOR data, to determine a \$0.45/SF industrial expense rate.

Mr. McKnight testified that his reserve rate for replacement came from published rates of \$0.15/SF for industrial space and \$0.20/SF for office related space. Because of the higher percentage of the office finished space, he "went to the twenty cents per square foot for my reserves estimate for both years."¹²³

Mr. McKnight testified that he did not consider a leasing commission expense for the subject property appraisal, but if he was asked "to do a lease-up analysis or even a

¹²² Transcript 4B, page 95, ll 15-17

¹²³ Transcript 4B, page 96, ll 19-20

potential investment analysis . . . then it might be appropriate to consider leasing commissions.”¹²⁴ Mr. McKnight testified that he “estimated a stabilized occupancy level as of both valuation dates,”¹²⁵ which presupposes the leasing activity would have already taken place and leasing commission already paid.

Mr. McKnight used the capitalization rates for the tax years agreed upon by the parties. Mr. McKnight’s final conclusion of value based on the income capitalization method, “[i]ncluding the excess land estimate and the FCC test building’s value estimate”¹²⁶ was \$33,987,500 for the tax year ending December 31, 2003 and \$28,227,500 for the tax year ending December 31, 2004.

Mr. McKnight testified that he did not use the Quads building, Mr. Allen’s sales comparable 1 because he had questions as to the actual price. Although the deed stated \$2,000,000 other, confidential, data inferred a \$6,000,000 sale price and “it was not as functional and flexible in its layout like the subject property and my comparables.”¹²⁷ Mr. McKnight did not use the Jacobson’s Headquarters, Mr. Allen’s sales comparable 2, based on questions regarding the transactions leading up to and after the sale. Based upon his conversations with related individuals, Mr. McKnight did not use the Bosch building, Mr. Allen’s sales comparable 3, as “there was never any appraisal made. There was no exposure with any brokers relevant to the transaction”¹²⁸ and he “didn’t consider that the transaction was an arm’s length transaction, even though it was a meeting of the minds.”¹²⁹

¹²⁴ Transcript 4B, page 101, ll 16-24

¹²⁵ Transcript 5A, page 23, ll 2-3

¹²⁶ Transcript 5A, page 18, ll 1-2

¹²⁷ Transcript 5A page 27, ll 7-8

¹²⁸ Transcript 5A, page 31, ll 15-17

¹²⁹ Transcript 5A, page 32, ll 6-8

Mr. McKnight final conclusions of value, predicated on the values developed in his sales comparison approach, are \$32,462,500 for both tax years broken down by parcel as follows:

Parcel No. 70-16-34-300-025 (42%)	\$13,634,300
Parcel No. 70-55-65-095-015 (57%)	\$18,503,600
Parcel No. 70-55-65-099-231 (1%)	\$ 324,600

On cross examination related to his sales comparison approach and with regard to his location adjustment, Mr. McKnight testified that he analyzed the comparables, eliminated some, initially concluded a value indication of \$50/SF, but based on the adjusted price of comparable 4, he made a downward location adjustment, “for benefit of the doubt,”¹³⁰ of minus fifteen percent. Mr. McKnight admitted that his location adjustment between Grand Rapids and Holland was based solely on comparable 4 and that if the sale price for that property was incorrect, mathematically he “overstated the value for the technical campus.”¹³¹

Mr. McKnight testified that he made no adjustments for size difference between any comparable and the subject property. Mr. McKnight testified that “[b]ased upon my market data, after the adjustments the indication is that the price [a buyer will pay] may well be the same”¹³² per square foot for a building that is over seven hundred and forty thousand square feet as for a building that's two hundred thousand square feet.” Mr. McKnight testified that he did not find sales of buildings the size of the subject for the relevant time periods.

Mr. McKnight testified that in his sales comparison approach, he made an adjustment for market conditions based on his “observation from a sale and resale of one property, plus the change in

¹³⁰ Transcript 5A, page 58, ll 12-15

¹³¹ Transcript 5A, page 58, l 23

¹³² Transcript 5A, page 67, ll 4-5

the Consumer Price Index over the same periods of time.”¹³³ He further testified that he believed that, in this case, he could “derive meaningful information from one paired sale.”¹³⁴ Mr. McKnight testified that he made upward adjustments for finished space for all comparables, except comparable 8. Mr. McKnight’s adjustment was “one percent for every percentage point difference of finished ratio,”¹³⁵ which formula he derived using paired sales in Kentwood, Plymouth, and Auburn Hills.

Mr. McKnight testified that he was unaware of any lease of more than 200,000 square feet of office or finished space anywhere in Holland.

Mr. McKnight testified that “likely a purchaser [of the subject property] would have a desire to utilize the full facility or at least a majority of the facility”¹³⁶ but that none of the purchasers of his comparables leased out any of the property “let alone up to 370,000 square feet of space.”¹³⁷

Mr. McKnight testified that he had “not accounted for any costs of reconfiguring this building”¹³⁸ and had “not recognized any costs of leasing out the additional space.”¹³⁹

Mr. McKnight testified that the lease rates he used in his income approach, other than for comparables 7 and 8, were based on build-to-suit leases in which “the owners [were] recovering the cost of building out the building at its lease rates.”¹⁴⁰ He further testified that the rent

¹³³ Transcript 5B, page 45, ll 3-5

¹³⁴ Transcript 5B, page 45, ll 12-13

¹³⁵ Transcript 5B, page 46, ll 21-22

¹³⁶ Transcript 5B, page 99, ll 17-19

¹³⁷ Transcript 5B, page 100, ll 12-13

¹³⁸ Transcript 5B, page 112, ll 10-11

¹³⁹ Transcript 5B, page 112, ll 19-20

¹⁴⁰ Transcript 5B, page 127, ll 10-11

escalation provisions that were limited to a “2 percent annual increase or 30 percent of the increase in the Consumer Price Index,”¹⁴¹ reflects a less than inflation fixed increase amount.

Mr. McKnight testified that he made adjustments to his rent comparables only for finished ratio and location. He made a 40% downward adjustment for the Auburn Hills properties based on his assumption that “Auburn Hills buildings and your western Michigan buildings were otherwise identical.”¹⁴² For his adjustment for finished space, Mr. McKnight “compared two rental comparables, assumed the buildings are otherwise identical, and attribute all of the difference in the lease price to the difference in finished space.”¹⁴³ Mr. McKnight testified that for sales comparable 3, he used a rate negotiated down from the original build-to-suit lease rent. The rental rate used for sales comparable 1 had not been negotiated downward from the original build-to-suit lease rate. Mr. McKnight testified that if for comparable 3 he had used the rental rate that the tenant would have been paying prior to when it negotiated down, “[i]f I had used the scheduled rent for number three before renegotiation, and that was the sole observation,”¹⁴⁴ he would not show any finished area adjustment. As to sale comparable 3, Mr. McKnight testified he believed that the \$5.42 rental rate was an arm’s length negotiated market level rent “even though the landlord was negotiating with a tenant that was already in the building.”¹⁴⁵ Mr. McKnight agreed that his methodology assumes that “because market participants were willing to pay for finished space specifically built for their needs, they would be willing to rent the finished space in the tech center at the same rates.”¹⁴⁶ Mr. McKnight testified that his

¹⁴¹ Transcript 5B, page 128, ll 2-3

¹⁴² Transcript 6A, page 7, ll 8-9

¹⁴³ Transcript 6A, page 10, ll 19-22

¹⁴⁴ Transcript 6A, page 14, ll 7-9

¹⁴⁵ Transcript 6A, page 16, ll 3-5

¹⁴⁶ Transcript 6A, page 16, l 21-page 17, l 1

observations supported his assumption that there is “the same demand for 500,000 square feet of finished space as . . . for smaller amounts on a dollar per square foot basis,”¹⁴⁷ and that none of his observations were for 500,000 “square feet of office or finished space in the City of Holland . . . [b]ecause there was no comparables analyzed in the City of Holland.”¹⁴⁸

Mr. McKnight testified that, in general, “Holland office vacancy rates were far greater than the 12.4 percent R and D flex space rate you used”¹⁴⁹ for vacancy and credit loss and that he had no data from a 700,000 square foot building in his flex space vacancy rate data.

Mr. McKnight estimated a value separately for the FCC building and the excess land.

Mr. McKnight testified that he used a range of 22 feet to 40 feet for ceiling height, rather than specific heights, as he did not consider that to be an adjustable aspect.

On re-direct, Mr. McKnight clarified that in making his finished space adjustments

[t]here were four observations made. . . . The first . . . compared comparables 5A and six. . . . there was an approximate 16.88 percent difference in sale price, and 24 percentage points . . . difference in finished area. Based upon that observation, there was an approximate 0.7 percent change in sale price for every one percentage point increase in office ratio. I also compared comparable six and eight, doing the same type of math. I observed a . . . 1.42 percent increase, comparing comparables nine and 10B. There was a difference observed of 2.14 percent difference for every percentage point change. And lastly, there was a comparison of comparables 11B and . . . 12, and . . . there was a 1.69 percent increase.¹⁵⁰

¹⁴⁷ Transcript 6A, page 18, ll 1-4

¹⁴⁸ Transcript 6A, page 19, ll 1-4

¹⁴⁹ Transcript 6A, page 39, ll 4-6

¹⁵⁰ Transcript 6A, page 100, ll 5-page 101, ll 7

Mr. McKnight testified that he used the revised lease rental rate for the Riviera Tool property and determined that the lower rent rates of the Zondervan and Gantos facilities “were within the realm of the market.”¹⁵¹ He considered the 1997 and 1991 leases of those properties to be, “as it relates to valuation dates that the Tribunal has before it . . . meaningful indicators of market rent.”¹⁵²

Mr. McKnight testified that his opinion of the per acre price for what he considered to be excess land was lower than the per acre price of technical campus related land as it is currently zoned agricultural, “rezoning would have to be accommodated to use it for its highest and best use as industrially related property.”¹⁵³ Mr. McKnight testified that city sanitary sewer was available on both excess land locations. Further, water was available along Waverly Road for the parcel in the northwest corner and along 32nd Avenue for the southeast corner. It was Mr. McKnight’s opinion that existing utilities would not have to be moved to provide city services to the tech center if the excess land were to be separated.

On re-cross examination, Mr. McKnight testified that, as to the excess land, he did not determine where gas or electric lines came into that or the tech center property and that these were not services included in his city services designation in his previous testimony.

Respondent offered the testimony of Glen David Beekman, a Level IV Assessor who is currently the City Assessor for the City of Grand Rapids and, prior to 2004, was the assessing

¹⁵¹ Transcript 6A, page 110, 14

¹⁵² Transcript 6A, page 110, ll 12-15

¹⁵³ Transcript 6A, page 114, ll 2- 4

administrator for the City of Holland. Mr. Beekman testified that the property record cards¹⁵⁴ presented indicated one parcel, the technical center, parcel no. 70-16-34-300-25, which “covers the non IFT improvements, as well as all of the land.”¹⁵⁵ Mr. Beekman testified that “most of this area is offices and R and D. . . .some light manufacturing assembly . . . and land along with these buildings. . . .”¹⁵⁶ Mr. Beekman identified the “IFT application filed by Johnson Controls Interiors LLC . . . for industrial exemption certificate for the FCC building”¹⁵⁷ and for the customer center/processing and validation area.

Mr. Beekman testified that the assessment was “based on a cost approach to value . . . using Marshall Swift as a cost approach”¹⁵⁸ resulting in a value of \$52.25/SF, which was reduced to \$40.00/SF based on an adjustment “from a market standpoint.”¹⁵⁹ The market adjustment was based on “adjusting down from a cost approach to something that would fit by comparison to the existing values of other properties”¹⁶⁰ of which the assessor was aware based on lists of all IFT properties maintained and the square foot value of each. Mr. Beekman agreed that they “were adjusting it based on a sale . . . or sales study. . . . [but] sales impacted how we arrived at those rates.”¹⁶¹ Mr. Beekman testified that, unlike sales studies for residential property which were based on a two-year period immediately prior to the assessment, the window for industrial class is often done on an appraisal study basis. Mr. Beekman testified as to the values determined and as assessed by the assessor for these parcels using this approach. Based upon a stipulation to

¹⁵⁴ Respondent’s exhibit 3

¹⁵⁵ Transcript 7A, page 12, ll 20-21

¹⁵⁶ Transcript 7A, page 11, l 23-page 12, l 3

¹⁵⁷ Transcript 7A, page 13, l 22-page 14, l 1

¹⁵⁸ Transcript 7A, page 21, ll 18-21

¹⁵⁹ Transcript 7A, page 21, ll 24-25

¹⁶⁰ Transcript 7A, page 27, ll 17-19

¹⁶¹ Transcript 7A, page 28, ll 9-13

value entered into in 2003, the assessments were reduced. As to parcel no. 70-16-34-300-025, Mr. Beekman testified that the assessed value for 2004 was \$6,771,000, and \$5,677,000 for 2005. As to parcel no. 70-55-65-095-015, the customer center/processing and validation area, Mr. Beekman testified that the assessed value for 2004 was \$9,168,800, and \$7,695,000 for 2005. As to parcel no. 70-55-65-099-231, the FCC building, Mr. Beekman testified that the 2004 assessed value was \$178,000, and \$128,000 for 2005. The total 2004 assessment for the subject property was \$16,117,800 and \$13,500,000 for 2005.

On cross examination, Mr. Beekman testified that, to the best of his recollection, only one other property in Holland exceeded 700,000 square feet.

Mr. Beekman testified that for 2001, an appraisal study was done by the county, which was used, and “we looked at it and said and felt that the value that we had on [the subject property] was still valid.”¹⁶² Mr. Beekman testified that “if there are sales, we do an analysis of what those are indicating.”¹⁶³

Respondent offered the testimony of David VanderHeide, a Level III assessor and interim assessing administrator for the City of Holland. Mr. VanderHeide testified as to the tax abatement given to Challenge Manufacturing.

Respondent offered the testimony of Michael R. Galligan, equalization director for Ottawa County. Mr. Galligan testified that State Tax Commission Bulletin 13 of 1996 provides:

¹⁶² Transcript 7A, page 32, ll 8-9

¹⁶³ Transcript 7A, page 36, ll 19-20

[t]he STC continues to allow a classification of property within a township or city to be equalized as assessed if the ratio . . . lies between 49.00% and 50.00%. The STC does NOT recommend that ratios between 50.01% and 51.00% be equalized . . . because the Constitution does not allow the assessment of property in excess of 50%.

Mr. Galligan testified that the industrial property assessed ratio for Holland in 2004 was 49.68, and 49.91 for 2005.¹⁶⁴ Mr. Galligan testified that the equalization summary report¹⁶⁵ for 2004 indicated that “[i]t was determined that [a] factor was not needed, that they were at 50 percent.”¹⁶⁶ Mr. Galligan further testified that the 2004 and 2005 summaries of state equalization indicate that, for the City of Holland, the industrial class of property was at 50% and that the county equalized value for industrial property for Holland was identical to the amount in the summary report and certified roll.

Petitioner offered the testimony of Mr. Allen as a rebuttal witness. Mr. Allen testified that he appraised Mr. McKnight’s sale comparable 7 in September 1994, that at the time of construction, there was a lease in place and that essentially Haden leased the space “under what we would call a build to suit lease.”¹⁶⁷

FINDINGS OF FACT

The subject property is located in the City of Holland, 1½ miles from the Tulip City Airport. The subject property is bordered on the north by 24th Street, on the west by Waverly Road and on the south by 32nd Street. Entrances to the facility are on 24th Street and 32nd Street. The facility is comprised of the Technology Campus, which the parties agree include areas designated as a technical center, customer center, and processing center. The Technical Campus is used for

¹⁶⁴ Transcript 7B, page 47, ll

¹⁶⁵ Respondent’s exhibit 13

¹⁶⁶ Transcript 7B, page 19, ll 3-4

¹⁶⁷ Transcript 7B, page 52, ll 17-18

office space, production design, research and development, sales and customer interaction, product assembly and engineering refinements. Additionally, the subject property includes the separate ancillary FCC Testing Building and land. Some of the land associated with the subject property is asserted to be excess land by Respondent, but is included as land supporting the buildings by Petitioner. Petitioner calculated value using a total of 768,100 square feet, the combined square footage of the Technology Campus and the FCC building. Respondent calculated value using 740,464 square feet for the Technology Campus, having excluded mezzanines and catwalk areas. Respondent divided the land for valuation purposes between 27.6 acres of excess land and 77 acres supporting the building improvements. Respondent's property record card for the Technical Campus indicates 112.88 acres. The FCC testing building is a wood and fiberglass building, without any metal, to allow testing of electronic products without interference. Both parties utilize 3,000 square feet for their valuation of the FCC building.

The main building is constructed with a brick base with steel walls over a steel frame with face brick generally up to the roofline. The majority of the Technical Campus space is open space containing cubicles for the engineers. The partitioned office space, 1.55% of the total space, is in the interior of the building and the offices do not have windows. Most of the engineering space is typical industrial space with carpeting, a painted ceiling, heat, and air conditioning. This space does not have drop ceilings. There are adequate bathrooms and a cafeteria, without hot meal service. The Customer Processing Center entrance is canopied with a snow melt system. There are seven drive-in doors associated with that portion of the overall building. Common areas are along the exterior walls with windows.

The parties stipulated to the value of the land, but whether a portion is excess land is in dispute.

The parties further stipulated that if the Tribunal determined that there was excess land, the Tribunal would determine how much land was excess and “the value of excess land is twenty-one thousand five hundred dollars per acre.”¹⁶⁸

The parties stipulated, and the Tribunal finds, that the highest and best use of the subject property is as an industrial/engineering facility, which includes research and development uses.

The parties stipulated that the cost approach is not a reliable indicator of value for the subject property. However, Respondent separately valued the FCC building using a cost analysis to arrive at a value of \$400,000. Mr. Allen included the 3,000 square feet designated to the FCC building in the total square footage for both his sales comparable and income capitalization value determinations.

Both parties performed a sales comparison approach to value of the subject property. Mr. Allen chose as 4 sales, one property each in Holland, Kentwood, Portage, and Leoni Township, all in Western Michigan. Mr. Allen presented a table that listed the location, sale price, sale date, finished area, height, building size in square feet, and a price per square foot. Mr. Allen, in narrative form, described each comparable property and discussed its various attributes. Mr. Allen discussed, also in narrative form, whether each property was comparable or not to the subject property and, at the end of the narrative on each property, stated his conclusion as to whether the price per square foot of that comparable property was below or above “what the

¹⁶⁸ Transcript 4A, page 85, ll 9-10

subject could be expected to bring in the market.”¹⁶⁹ Mr. Allen did not provide the Tribunal any documentation of the individualized adjustments based upon the conditions or attributes of his comparable properties, he made in determining his estimate of value, total or per square foot, for the subject property. Mr. Allen’s appraisal provides the range of prices indicated by the sales he chose and states, in a conclusory manner, “[a]fter considering these comparables we have concluded a market value of \$27.00/SF for the subject property . . . the concluded market value for the 768,100 SF . . . \$20,740,000.”¹⁷⁰ Mr. Allen provides the Tribunal no indication of how that value was derived or how the sales he utilized contributed to the calculation and determination of that value.

For his sales comparison approach, Mr. McKnight chose eight primary comparables, and six collateral comparables. Mr. McKnight’s primary comparables represented sales of seven properties, two sales each for comparables 1, 2, and 5, and a listing. Only one of Mr. McKnight’s comparables was in Holland, three properties covering five sales were in Cascade Township, and three properties covering four sales, and the listing, were located in Auburn Hills. The properties are all significantly smaller than the subject. The only comparable that was close in size, 59%, was the listing. Mr. McKnight made positive adjustments ranging from 32% to 66% to the properties for finished area ratio. For all of the Auburn Hills properties, Mr. McKnight made a negative 60% adjustment for location. Mr. McKnight made gross adjustments of 66% for comparable 4, 104% for comparable 5, 100% for comparable 6. Mr. McKnight made no location adjustment but made adjustments of 41%, 32%, and 46% for finished area ratios to the Cascade Township sales comparisons. The Tribunal finds that if the properties require gross adjustment of

¹⁶⁹ Petitioner’s exhibit 2, pages 38-39

¹⁷⁰ Petitioner’s exhibit 2, page 39

100% or more, as for the Auburn Hills properties, the comparability of those properties is highly suspect. The Tribunal further finds that an unsupported negative 15% adjustment does not make any data from comparable 8 on a par with an actual sale. Further, as that listing was removed from the market and has not sold at any price, let alone the asking price, the data presented is not reliable.

The date of sale used by Mr. McKnight for his sales comparison 1 was October 1997, six years before the earliest tax date herein appealed and the sales date for his comparable 6 is after the first tax day of this appeal. No adjustment was made to comparable sales 6 and Mr. McKnight testified that he made an adjustment to bring sale 1 to a 2000 level, still 4 years before the tax dates herein at issue.

The Tribunal finds Mr. McKnight's explanation for why he made no adjustments for size to be unconvincing. With size variation from as low as 15% of the subject property's size to, at most, 40% of the square footage of the subject, the Tribunal finds that some adjustment for size should have been made. A conclusory statement that no adjustment needed to be made is inadequate.

The Tribunal finds that Mr. McKnight's lack of adjustment for land size, when supporting land and excess land is an issue, is also troubling. No comparable has more than 52% of the land with the lowest percentage being 12.5%, representing three of the comparables Mr. McKnight uses in his final analysis. The 66% adjustment to compensate for the fact that comparable 4 has 0.6% of the finished area as the subject property that Mr. McKnight made seems inconsistent with the fact that Mr. McKnight made no adjustment based on that comparable having only 24% of the square footage of the subject.

The Tribunal finds that Mr. McKnight's use of the 1997 sale of vacant property and 1999 sale of the property with a tenant in place of his collateral comparable 10, a facility with only 15% finished space, 12% of the land area as the subject, and 25% of the building square footage, to develop a market condition adjustment for 2004 and 2005 does not lead to a reliable result.

Based on this, in addition to Mr. McKnight's determination that prices were increasing in Western Michigan faster than the CPI, he used a market adjustment of 3.35%, the average of the CPI and the increase in the two sales prices, adjusted only comparable 1, and only for two years, although the sale occurred six years prior to the valuation date. Although Mr. McKnight clearly stated what he did, the Tribunal does not find that this process, or the application of this adjustment, leads to a credible result. The Tribunal finds unconvincing Mr. McKnight's general statements regarding the use of comparable 8 and finds that this listing cannot be made comparable with any amount of adjusting.

The Tribunal questions a result based on adjustments that had to be made to accommodate a range of initial price per square foot from \$25.89 to \$146.19. The Tribunal finds that Mr. McKnight's conclusions were based upon the excessive gross adjustments, as well as a lack of appropriate adjustments for building size, land area, and location. Mr. McKnight's collateral comparables do not bolster the reliability of his conclusions as these sales were even more unlike the subject property, more attenuated in time of sale, and less reliable indicators of value than his primary comparables. Based on these questionable adjustments and lack of adjustment, the Tribunal finds that Mr. McKnight's conclusions, based upon his sales comparison approach, lack reliability and credibility.

The only comparable the appraisers have in common is the Herman Miller facility. The sale date for this property is within three months of the tax day for the first tax year at issue here, it is located in the same city as the subject property, the property record card indicates an arm's-length transaction, and it has the lowest price per square foot. The land area related to this property, although differently reported by Mr. Allen, Mr. McKnight, and the property record card, is greater than any of Mr. McKnight's other comparable sales. The square footage of the building is 27% of that of the subject's and only 4% is finished. These statistics are not unlike those of Mr. McKnight's other comparables.

Both parties questioned several witnesses as to when anyone knew of the tax abatements ultimately granted for the Herman Miller facility or when those abatements became effective. As neither appraiser included the abatements in their valuation discussions nor made any adjustments based on the abatements in their determination of value, the Tribunal does not address this issue.

There was extensive discussion during the hearing related to Petitioner's sale comparable 4, the Bosch building. Respondent questioned the use of this sale in the sales comparison analysis and opined that the sale was not an arm's-length transaction nor subject to market exposure. The Tribunal finds that Mr. Allen's appraisal is devoid of any articulation of adjustments to any of the comparable sales he used and thus, regardless of the nature of the sales transaction of the Bosch facility, which the Tribunal cannot determine based on the evidence presented, and as Mr. Allen's sales comparison approach as a whole is unreliable, the Tribunal does not address whether this particular sale should have been used.

Both appraisers did an income approach to value. The parties stipulated to a capitalization rate for each tax year at issue to be used in calculating their final opinions of value. Mr. Allen's determination of market rent was based on a review of rents in the Holland office market and the Holland industrial market. For his determination of office lease rate, Mr. Allen determined a rate range from \$6.67 on a triple net basis to \$24.00 on a gross basis. All leases were of space ranging from 9,000 to 22,000 square feet, significantly smaller than the office area of the subject property. For his industrial space lease rate, Mr. Allen listed five buildings in Holland, ranging in size from 52,500 to 182,000 square feet with lease rates between \$2.75 and \$3.10 per square foot. For his industrial market rent, he relied on the 2003 and 2004 SIOR Survey data, for spaces much smaller than the subject, of \$4.75 per square foot and Grubb and Ellis estimate of \$4.79 and \$4.68 triple net for the respective tax years. Mr. Allen concluded that there is a lack of research and development space in the area. Then, again, Mr. Allen, in a summary fashion, announced his conclusion that, based on all of this data, the market rent for the subject, as a whole without breaking out the different functional areas, should be \$4.50. Mr. Allen provided no evidence of adjustments to any of the data and gave no specifics as to how he used the data he collected to arrive at this figure.

Mr. Allen's summary report states, in narrative form, his concluded estimates for insurance payments, common area maintenance, and then backed in property taxes, based on his final conclusion of value. While he explained what he did to arrive at his conclusion, he did not provide any support for the percentages he used. Both appraisers use a 20% vacancy rate for the 2005 calculations. However, for the 2004 calculation, Mr. McKnight's 12.5% is more in line

with Mr. Allen's own data. Mr. Allen included a management fee of 3%, in addition to the CAM expense, based on his belief that typical management fees were in the 2% to 3% range. No background or support was given for this determination. Reserves for repairs and replacements was estimated at \$0.15 "[b]ased on our research,"¹⁷¹ which was not provided or summarized.

In general, the Tribunal finds, again, that the conclusory nature of Mr. Allen's determinations and the lack of underlying data does not support his 20% vacancy and credit loss for both years, or his expenses for either tax year at issue and thus finds Mr. Allen's income capitalization approach not to be a reliable or credible indicator of value.

Mr. McKnight's market rent was based on his Western Michigan sales comparables 1, 2, and 3, his sale number 7, located in Auburn Hills, his sales comparable 8, a listing located in Auburn Hills, and two Southeast Michigan rentals. The office/finished area ranges from 5.2% for the Detroit property to 78.6% for rent comparable 2. Rental rates range from \$4.55 to \$12.86. All of the Western Michigan rental rates are significantly lower than the Southeast Michigan rents. Mr. McKnight made adjustments to the rental rates based on finished space ratios and location. The location adjustment was a negative 40% adjustment to all Auburn Hills comparables, unlike the negative 60% he used for those same properties in his sales comparison approach. To determine his finished space ratio, he looked at sales 1 and 3 and "developed an indication of rent differences paid due to their percentage point difference in office/finished areas."¹⁷² Based on his analysis, there is "an indication of approximately 4.6¢, or \$0.05 per square foot, rounded, per

¹⁷¹ Petitioner's exhibit 2, page 45

¹⁷² Respondent's exhibit 23, page 51

each percentage point difference in finish ratio.”¹⁷³ This assumes that the only variable in the rent variations is the finished/office ratio and does not take into account size, length of lease, beginning date of lease, or build-to-suit issues.

Mr. McKnight determined that the subject property’s rent should be \$7.40 per square foot, made a negative 10% adjustment as “a benefit of the doubt”¹⁷⁴ adjustment for the Holland market “especially given the subject property’s size.”¹⁷⁵ Mr. McKnight gave no basis for choosing 10% rather than any other percentage. Mr. McKnight used 740,464 as the subject’s square footage simply stating that he did not include mezzanines and catwalks, but provided the Tribunal no specifics as to how he arrived at that measurement.

Mr. McKnight stated, without substantiation of how he came to that conclusion, that an average lease length for this type of property was 15 years, likely with renewal options at a rate of approximately 62% of the properties, and used an occupancy time frame of 293 months. He determined that it would take two to three years to lease the property if it was vacant.

The Tribunal finds that Mr. McKnight’s use of Auburn Hills comparables to develop his market rent for the subject property raises fundamental reliability questions. Further, the use of paired sales from 1997 and 1999 to determine market rents for 2004 and 2005 is not supportable.

The Tribunal finds that Mr. Allen’s summary appraisal with its sweeping conclusions and lack of underlying and specific data is unreliable and does not support a credible indication of value

¹⁷³ Respondent’s exhibit 23, page 51

¹⁷⁴ Respondent’s exhibit 23, page 52

¹⁷⁵ Respondent’s exhibit 23, page 52

either by the sales comparison approach or the income capitalization approach. The Tribunal finds that Mr. McKnight's appraisal is unreliable and cannot lead to a credible determination of value based on his reliance on comparables located in vastly distinguishable locations from that of the subject, use of sales significantly outside of the time frame of this appeal as support for his conclusions, lack of adjustments that the Tribunal finds necessary to bring comparables within a range of similarity, and gross adjustments in excess of 100% making clear that the properties are not comparable.

The Tribunal finds that Petitioner did not meet its burden of proof to establish a value other than that as assessed. The Tribunal further finds that Respondent did not provide credible, reliable evidence of a value other than that as assessed. As such, the Tribunal finds that the assessed value, state equalized value, and taxable value as assessed should be affirmed.

Respondent asserts that 26.7 acres of the land currently assessed as part of the subject property is excess land and establishes a conclusion of value for that land separately from the value of that for the remaining 77 acres. *The Appraisal of Real Estate*¹⁷⁶ provides,

The portion of property that represents an optimal site for the existing improvements will reflect a typical land-to-building ratio. Land area needed to support the existing or ideal improvements can be identified and quantified by the appraiser. Any remaining land area is either excess land or surplus land.

Excess land is land that is not needed to serve or support the existing or proposed improvement. . . . Excess land has the potential to be sold separately and must be valued separately.

Surplus land is not currently needed to support the existing improvement and cannot be separated from the property and sold off.

¹⁷⁶ Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13th ed, 2008), p 214

Respondent argues that the highest and best use of the two pieces of land asserted to be excess is industrial and, as they are currently zoned agricultural, rezoning would be required. Respondent further asserts that those pieces of property have access to water and sewage services that could be separated from those of the technology campus supporting land, but gas and electric lines would have to be moved to maintain those services to the technology center. Both parties agree that it is unlikely that there is a buyer for these two pieces of property separated from the technology campus. Although the land may not currently have buildings or facilities, the Tribunal finds that the land is not excess. Vital services and entryways would have to be supplemented to accommodate these pieces of land separately from the technology campus. Neither does the Tribunal, based on the above reasoning, find that these areas can be designated as surplus land. Thus, the Tribunal finds that the land is needed to support the existing improvements, should not be valued separately, and the value as assessed is supported by the evidence and testimony provided.

As to Petitioner's argument that the subject property is assessed in excess of 50% of its true cash value in violation of the state constitution of 1963, the Tribunal finds that this issue has been addressed by the Tribunal and Michigan courts many times.

In this case, Mr. Galligan testified that the average level of assessment for industrial property for Holland in 2004 was 49.68%, and 49.91% for 2005. Petitioner agrees with this assertion.¹⁷⁷ State Tax Commission Bulletin 13 of 1996, provides that if the assessor's study produces a preliminary ratio between 49% and 50%, such as a fractional 49.5% or 49.9%, the State Tax Commission

¹⁷⁷ Petitioner's post hearing reply brief, page 16

instructs that the assessments are to be considered as equalized, which means that the ratio is rounded at 50%. The Court of Appeals in *Great Lakes Division of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 427; 576 NW2d 667 (1998), wrote that “the equalization process is not an exact science” and also took note that “. . . it is apparent that some estimation and rounding is performed in determining the ratio. . . .”¹⁷⁸ Petitioner argues that the STC Bulletins and manual are “merely administrative guidelines; that they are were not adopted pursuant to the administrative procedures act and do not have the force of law.”¹⁷⁹ It is undisputed that Respondent received county and state equalization factors of 1.00 for both years at issue.

Respondent presented proofs, witnesses, and exhibits in support of its contention that the ratio of the average level of assessment to true cash value in the subject’s class of real property for both tax years herein at issue was at 50% of true cash value. The Tribunal finds the witnesses’ testimony credible and reliable in establishing the relevant level of assessment. Petitioner did not show that its property was assessed at a different proportion of true cash value than the rest of the property within the same class in the taxing district.¹⁸⁰ A petitioner’s burden of proof is “heavy” in establishing the inaccuracy of the ratio. A petitioner should not casually assert this claim; there must be evidence sufficient to prove that its property is being treated differently. The Tribunal finds that Respondent met its burden of proof that the ratio of the average level of assessment in relation to true cash values in its assessment district was at a ratio of 50%. The Tribunal finds that Petitioner did not submit sufficient evidence that the level of assessment of the subject property is not 50% of true cash value to rebut Respondent’s proofs.

¹⁷⁸ *Great Lakes Division of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 429; 576 NW2d 667 (1998)

¹⁷⁹ Petitioner’s post hearing reply brief, page 17

¹⁸⁰ *Shaughnesy v Tax Tribunal*, 420 Mich 246, 249; 362 NW2d 219 (1984).

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).

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 adopt a respondent's assessment but must make its own findings 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 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). A similar position is stated in *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982): The Tax Tribunal is not required to accept the valuation figure advanced by the taxpayer, the valuation figure advanced by the assessing unit, or some figure in between these two. It may reject both the taxpayer's and assessing unit's approaches.

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 Limited Dividend Housing Assn v City of Holland*, 437, 484-485; 473 NW2d 636 (1991); *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966); 380 Mich 390; 157 NW2d 293 (1968); *Antisdale v City of Galesburg*, 420 Mich 265, 276; 362 NW2d 632 (1984). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in the marketplace. *Antisdale*, at 276, n 1. 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.

It is Petitioner's burden of proof to present sufficient reliable and credible evidence of true cash value other than that as assessed. Absent sufficient reliable and credible evidence to the contrary from either party, the Tribunal concludes that true cash value as assessed must be sustained. The Tribunal finds that Petitioner did not provide sufficient, reliable and credible evidence to support its contention of value. Petitioner's summary appraisal provided only sweeping conclusory

statements without foundation data, analysis, or calculations. Further, the Tribunal finds that Respondent failed to provide sufficient, reliable and credible evidence to support a change in the assessment as assessed for the tax years at issue. Respondent's conclusions are based on grossly excessive, and inadequate, adjustments to non-comparable properties.

Therefore, based upon the file, the applicable statutory and case law, and the testimony and evidence presented, the Tribunal concludes that Petitioner failed to meet its burden of proof to establish that the true cash value, state equalized value, and taxable value of the subject property are other than that as assessed. Therefore, the Tribunal concludes that the true cash value, state equalized value, and taxable value for the 2004 and 2005 tax years, and the taxable value for the 2006 and 2007 tax years are affirmed as assessed and are as follows:

Year	Parcel No.	TCV	SEV/AV	TV
2004	70-16-34-300-025	\$13,542,000	\$6,771,000	\$5,807,571
	70-55-65-095-015	\$18,337,600	\$9,168,800	\$7,871,985
	70-55-65-099-231	\$ 356,000	\$ 178,000	\$ 130,944
2005	70-16-34-300-025	\$11,354,000	\$5,677,000	\$5,677,000
	70-55-65-095-015	\$15,390,000	\$7,695,000	\$7,695,000
	70-55-65-099-231	\$ 256,000	\$ 128,000	\$ 128,000
2006	70-16-34-300-025			\$5,532,800
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000
2007	70-16-34-300-025			\$5,546,100
	70-55-65-095-015			\$7,695,000
	70-55-65-099-231			\$ 128,000

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 *Conclusions of Law* 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 this 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 Final Opinion and Judgment within 28 days of the entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and 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, 2003, at the rate of 2.16% for calendar year 2004, (ii) after December 31, 2004, at the rate of 2.07% for calendar year 2005, (iii) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (iv) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (v) after December 31, 2007, at the rate of 5.81% for

calendar year 2008, (vi) after December 31, 2008, at the rate of 3.31% for calendar year 2009,
and (vi) after December 31, 2009, at the rate of 1.23% for calendar year 2010.

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

MICHIGAN TAX TRIBUNAL

Entered: April 1, 2010
RJA

By: Rachel Asbury