

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

Lansing Tower Apartments,
Petitioner,

MTT Docket No. 332843

v

City of Lansing,
Respondent.

Tribunal Judge Presiding
Kimbal R. Smith III

FINAL OPINION AND JUDGMENT

A hearing was held in the above-captioned case on August 30 & 31, 2010.

Petitioner was represented by Roger L. Myers and Randall P. Whately, Attorneys.

Respondent was represented by Donald J. Kulhanek, Assistant Lansing City Attorney.

This matter involves one parcel of real property located in the City of Lansing, Ingham County, State of Michigan, identified by tax parcel number 33-01-01-16-156-041. Petitioner timely invoked the jurisdiction of the Tribunal for tax years 2007, 2008 and 2009. At issue are assessed, taxable, and true cash values for each of the years for the subject property.

Information relevant to the property's contested true cash, assessed and taxable values on the assessment roll is as follows:

Parcel Number	Year	AV	SEV	TV
33-01-16-156-041	2007	\$1,583,400	\$1,583,400	\$1,528,041
33-01-16-156-041	2008	\$1,538,300	\$1,538,300	\$1,538,300
33-01-16-156-041	2009	\$1,509,300	\$1,509,300	\$1,509,300

FINAL VALUES

Parcel Number	Year	True Cash Value	SEV	TV
33-01-16-156-041	2007	\$2,617,329	\$1,308,664	\$1,308,864
33-01-16-156-041	2008	\$2,652,671	\$1,326,335	\$1,326,335
33-01-16-156-041	2009	\$2,485,862	\$1,242,931	\$1,242,931

THE SUBJECT PROPERTY

The subject property is located at 610 West Ottawa Street, Lansing, Ingham County, Michigan. The property is improved with a 14-story high-rise structure with an attached four-level parking ramp. The first floor of the building has 13,039 square feet and contains offices on each side of the lobby. There are two elevators in the lobby and a 24-hour security guard. One half of the east side office is occupied by the manager's office. The property contains 1.25 acres and was constructed in 1967.

The second floor of the building contains 3,745 square feet with two community rooms. The community rooms each have cooking facilities and are available for use by tenants. Sliding glass doors open to an outside patio area, which is also the upper deck of the attached parking ramp. The second level also contains a stainless steel swimming pool.

The basement is 14,965 square feet and has a laundry room with six coin-operated washing machines and six dryers. There is tenant storage space and the electrical equipment for the building on the basement level.

Floors three through fourteen contain the individual apartments. The floors are 12,087 square feet each and with a total of 140 apartments. The breakdown of units is as follows:

Studio	12 Units	465 SF
	20 Units	500 SF
One BR/One BA ¹	68 Units	770 SF
Two BR /Two BA	12 Units	1,090 SF
	4 Units	1,150 SF
	20 Units	1,340 SF
Three BR /Two BA	4 Units	1,515 SF

¹ Bedroom (“BR”) and Bath (“BA”)

The roof of the subject property has a 3,475 square foot penthouse with the mechanical equipment. The parking ramp has a total area of 46,306 square feet plus an adjacent paved parking area.

Construction is reinforced concrete beams and slab. The heating system is gas forced hot water heat with boilers and evaporative air conditioners.

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property is assessed in excess of 50% of its true cash value for each of the years under appeal.

Petitioner's basic argument is that the building and infrastructure are at the end of their useful life and that any investor/purchaser would take that fact into consideration when purchasing the property. Further, the structure suffers from substantial functional obsolescence the result of which is increased operating costs.

Although Petitioner's expert utilized both the sales comparable and income capitalization approaches to arrive at his concluded true cash value for each of the tax years in question. Petitioner asserts that the income capitalization approach using the direct capitalization method is the most reliable indicator of value from

which the estimated cost to cure deferred maintenance and obsolescence is deducted from Petitioner's expert's value conclusion, together with stabilization costs and turn around profit. (P-12, p.102)

In support of its position Petitioner presented three witnesses: Gordon Wendling, Richard Mann, Paul Stutsman, and Lawrence Allen, MAI, together with 22 exhibits, which were admitted.

Petitioner's Exhibits are as follows:

P-1 Income & Expense Statement and Rent Roll December 31, 2006

P-2 Income & Expense Statement and Rent Roll December 31, 2007

P-3 Income & Expense Statement and Rent Roll December 31, 2008

P-4 City of Lansing, Real Property Tax Billing July 2007 through December 2009

P-5 Quality Roofing and Construction Purchase Orders No 02183 dated 10-4-2003 and No. 12638 dated 6-30-2004

*admitted over objection as to relevance

P-6 Quality Roofing & Construction, Estimate dated 8/12/2003

P-7 Quality Roofing & Construction, Estimate dated 6/12/2006

P-8 Estimates of Various Work

P-9 DBR Cooling Towers, Inc, Invoice No. 0000005094 dated 6-24-10 for work performed

* admitted over objection that invoice was outside appeal period.

P-10 Testing Engineers & Consultants, Inc. Report No. 49914-1, dated April 14, 2009 re: Parking Garage-Structural Condition Update

P-11 Testing Engineer & Consultants, Inc. Report No. 49914-2, dated June 23, 2010 re: Parking Garage-2010 Structural Condition Assessment Update

P-12 Appraisal Report of Lansing Towers dated March 18, 2010 by Allen & Associates.

P-13 through P22 Various Photographs of the subject property showing physical condition of the property and improvements

Petitioner's Witnesses:

Gordon Wendling, the subject's facility's manager, testified to several items of what he characterized as deferred maintenance that existed at the subject at all times during the appeal period and explained the estimated costs of remediation and/or cure. The basis of his costs estimates were contained in P-8, which he identified as various estimates obtained from contractors or providers. The estimates included the cost for ramp repairs, Garage Deck repairs, Exterior building restoration (East-West), Exterior building restoration (North-South), Front exterior, Penthouse roof, drum space soffit repairs, parking garage fence, Cooling towers replacements, and replacement of two boilers. He supported his testimony by explaining the contents of P-13 to P-22 (photos).

Richard Mann, of Straub Pettitt Yaste Architects, testified that he had been recently engaged by Petitioner to evaluate the condition of the subject property, review the repair estimates obtained by Petitioner (P-8) and also to cost out the repair items set forth in the Allen appraisal (P-12). As part of his engagement Mann visited the site, inspected the structure, and made his own cost estimates. He indicated that, considering the age of the structure, it was not in bad condition but was in need of several maintenance items. He observed that the interior of the individual apartments were dated, specifically the kitchen cabinets and dishwashers. Also the general layout of both the apartments and building as a whole were of 1960's vintage, the windows in the building were single pane and, as a result, contribute to additional utility costs. As a whole he concluded that the cost estimates contained in the Allen appraisal (P-12) were reasonable.

Paul Stutsman of Testing Engineers and Consultants of Troy, Michigan testified that sometime in 2009 he was contacted to take a look at the parking structure at the subject and to do a structural condition walk-through. As a result, he was one of the signatories to a report prepared on April 14, 2009 (P-10) and a second report prepared on June 23, 2010, as to the condition of the parking structure. The April 2009 report in the conclusion section stated:

Based on our review of the latest structural inspection findings as of April 2, 2009, TEC submits that, in general, the subject parking garage is judged to be in overall acceptable structural condition especially considering its age. However, in addition to the near term restoration type repairs advised by TEC for many of the noted materials deterioration type items especially in connection with the roof deck surface and the need water leakage related investigation and repairs, the observed severely displaced deck and roof edge parapet wall/coping section condition above the garage exit is a concern and needs repair attention as soon as possible. (Emphasis added.) (P-10, p.4)

Stutsman indicated that on April 26, 2010, he visited the subject to conduct an additional structural review of the four-level, cast-in-place concrete parking garage located adjacent to the apartment portion of the subject. As a result of his inspection, he was one of the signatories on the report dated June 23, 2010. (P-11)

The report concluded that:

Even though some typical type concrete deck (topside and underside) concrete wall, drain system and water leakage items and issues have been and continue to be identified and advised by TEC for corrective repair and maintenance attention, the subject garage is still judged to be in overall good structural condition especially compared to similar type structures of this age (reportedly in excess of 40 years old) in this geographical area.

Lawrence Allen, MAI, was qualified as an expert in the valuation of real property and testified in support of the Appraisal he prepared (P-12), which concluded to a true cash value of the subject property for tax years 2007, 2008 and 2009 of \$1,520,000, \$1,610,000, and \$1,200,000, respectively.

Allen considered all three approaches to value in arriving at his retrospective value conclusions for each year under appeal. Allen's valuation analysis was developed using the Income and Sales Comparison Approaches. A cost approach was not considered relevant because of the age of the building and the large amounts of physical deterioration and functional obsolescence (Tr, p.119). Allen indicated that based on reports provided to him and attached to his appraisal (also contained in Petitioner's Exhibits 7 and 8), he concluded the heating/cooling system was antiquated and in need of replacement or repair.

Allen described the geographic factors surrounding the subject property as being stable but indicated that beginning the third quarter of 2008 increasing unemployment and distressed economic conditions made it difficult to maintain rental and occupancy rates (Tr, pp.122-123) that resulted in increasing capitalization rates.

Based on his observations of the subject building and parking ramp, Allen concluded to substantial amounts of deferred maintenance and indicated that many of the building components were not in good condition. Based on discussions with management Allen stated he was of the opinion that these conditions existed on all relevant valuation dates. Allen deducted from his true cash value conclusions the

cost of Capital Improvements and renovations in an amount of \$1,124,488 together with Stabilization Costs and turn around profit (P-10, p.101, 112) in both his sales comparison and income approaches to value. The amounts of Allen's deductions were based on the estimates provide him by Petitioner and made a part of his appraisal and P-5 thru P-10.

Allen expressed his opinion regarding the effect of the deferred maintenance on his value conclusions:

With these items of deferred maintenance as well as the deferred maintenance of the building and the parking garage, those were considerably in excess of what you can handle with a normal replacement reserve, so the amount is excess of what you can handle with a normal replacement reserve was deducted as deferred maintenance from the value in that an investor acquiring that property and as well as trying to get a lender to finance this property would have to take care of these items in order to stabilize the property which had been in fairly rapid decline in terms of occupancy due to continuing condition issues with the property. (Tr, pp.129-130).

Since the subject is an income-producing property, Allen determined that the Income Approach was the most applicable indicator of value with the Sales Comparison Approach being used as a "check" to the Income Approach conclusions. (P-12, p.114)

RESPONDENT'S CONTENTIONS

Respondent contends that the property is properly assessed and the assessment for each year under appeal is 50% of its true cash value and is supported by the appraisal (R-10) prepared by Darren Carter, certified level three assessor.

After being qualified as an expert level III assessor, Carter indicated that in the course of his appraisal he conducted a physical inspection of the property and then considered all three traditional approaches to value.

In applying the cost approach he concluded to a value of \$5,221,885 rounded to \$5,220,000 for tax year 2007, \$5,526,000 for 2008 and \$5,526,000 for 2009. (R-10, p.85) He indicated that he did not place weight on his value conclusion using this approach due to the age of the building and difficulty in creating depreciation for such an old building.

Carter next explained his sales comparison approach methodology and the four comparable sales he utilized. Sales one, three, and four he gave the most weight to because those comparables required the least adjustments. (Tr, p.322) (R-10, pp.68-70) Although he physically inspected all of his comparables Carter indicated he did not check the condition of the roof or boilers. Based on his sales

comparison approach Carter concluded to a true cash value of \$3,909,000 for tax year 2007, \$4,032,000 for 2008, and \$4,158,000 for 2009.

Carter then went on to explain how he arrived at a value conclusion using this approach. He indicated that he first needed to estimate potential gross income and from that amount subtracted estimated operating expenses to arrive at net operating income (NOI), which would then be divided by a capitalization rate.

The potential rent income was arrived at by researched rental properties in Lansing between 2006 to 2010 (Tr, p.327). It was on this basis that he also determined operating expenses as a percentage of estimated gross income (Tr, p.329) using the same rental comparables, but also considering the actual expenses of the subject. (Tr, p.329)

In arriving at his pro forma expenses Carter provided for a 5% replacement reserve, which he indicated was supported by the market. In addition, he explained that the replacement reserve would be created and set aside for replacement of capital items such as roofs, boilers, concrete repairs, chillers, cooling towers, etc. (Tr, pp.332-333)

Carter then explained that he researched interest rates to arrive at a capitalization rate and ultimately concluded to a true cash value of \$3,051,000 for tax year 2007, \$2,799,000 for tax year 2008, and \$2,631,000 for tax year 2009. Carter's value conclusions using the income capitalization approach were also his final conclusions of value. (Tr, p.340)

In response to cross-examination by Petitioner's counsel, Carter indicated that after his inspection of the subject and his conversations with Mr. Wendling that, based on his experience, it was his belief that the conditions he observed and had become aware of were typical for building of the age of the subject. (Tr. p.364)

FINDINGS OF FACT

The Tribunal, having considered all of the documentary evidence and testimony submitted by the parties which the Tribunal finds to be credible and believable and based upon the record before it finds:

The subject property is located at 610 West Ottawa Street, Lansing, Ingham County, Michigan. The property is improved with a 14-story high-rise structure with an attached four-level parking ramp. The first floor of the building has 13,039 square feet and contains offices on each side of the lobby. There are two elevators in the lobby and a 24-hour security guard. One half of the east side office is

occupied by the manager's office. The property contains 1.25 acres and was constructed in 1967.

The level of assessment for each year under appeal is 50% and the equalization factor is one (1).

Based on the fact that this property is approximately 43 years old, the Tribunal is not convinced that the apartment structure and attached parking deck is in any worse condition than any other 43+ year old structure.

The Tribunal takes judicial notice that in the Opinion and Judgment in MTT Docket No. 314856 covering the same property for tax years 2005 and 2006, Petitioner's appraiser attempted to deduct from his value conclusions \$489,324 for deferred maintenance, whereas in this matter Petitioner now attempts to claim a deferred maintenance deduction of \$1,124,488. (P-12, p.101) Even assuming that any such deduction is proper, the Tribunal questions the amount of increase between tax years 2006 and 2007. The Tribunal finds in this matter, as did the Tribunal in the previous matter, that all of the items included in the now \$1,124,488 are items generally accepted as part of the replacement reserve in the income approach and to the extent the deferred maintenance is in fact present then

sales comparables with similar problems should be found or adjustments made to the comparables.

The Tribunal finds that the utility expenses incurred on the subject are due in part to the fact that it is an older building and may not be as energy efficient as newer buildings and that a prospective purchaser would take the increased utility costs into account in determining the purchase price he would be willing to pay.

Further, the Tribunal finds that due to the age of the subject property, the level of in-house maintenance and repair staff is higher than what one would find in either a newer structure or one that has been reconditioned to a level not present at the subject.

APPLICABLE LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value, as equalized, and that beginning in 1995, the taxable value is limited by statutorily determined general price increases, adjusted for additions and losses.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%...; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963, Art IX, Sec 3.

MCL 211.27a (2) provides:

- (2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:
- (a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.
 - (b) The property's current state equalized valuation.

The Michigan Legislature has defined "true cash value" to mean "the usual selling price."

As used in this act, "cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

“True cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735 (1); MSA 7.650 (35)(1). The Tribunal’s factual findings are to be supported by competent, material, and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.” (Citations omitted) *Jones and Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737 (3); MSA 7.650 (37)(3). “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party.” *Jones and Laughlin* at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77 (1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dep’t of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

“There are three traditional methods of determining true cash value, or fair market value, which have been found acceptable and reliable by the Tax Tribunal and the courts. They are: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the capitalization-of-income approach.” *Meadowlanes Limited Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Antisdale* at 276-277, n 1. The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, at 276, n 1. “Variations of these approaches and entirely new methods may be useful if found to be accurate and reasonably related to the fair market value of the subject property.” *Meadowlanes*, at 485, referencing *Antisdale* at 277, n 1. “It is the duty of the Tribunal to select the approach which provides the most accurate valuation under the circumstances of the individual case.” *Antisdale* at 277, citing *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968).

Under MCL 205.737(1); MSA 7.650 (37)(1), the Tribunal must find a property’s true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal may not automatically accept 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 is not bound to accept either of the parties' theories of valuation.
Teledyne Continental Motors v Muskegon Twp, 145 Mich App 749, 754; 377
NW2d 908 (1985). The Tribunal may accept one theory and reject the other, it
may reject both theories, or it may utilize a combination of both in arriving at its
determination. *Meadowlanes* at 485-486; *Wolverine Tower Associates v City of
Ann Arbor*, 96 Mich App 780; 293 NW2d 669 (1980). 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.”

CONCLUSIONS OF LAW

The central issue in this dispute is: what is the true cash (market) value of the
subject property for tax years 2007, 2008 and 2009. This case requires the Tribunal
to determine which valuation methods are useful to determine an accurate market

value estimate of the subject property and to make an independent determination of the true cash value based upon its evaluation and analysis of the evidence.

The Tribunal concludes, as did both parties' experts, that due to the age of the improvements on the subject property the cost approach is not an appropriate valuation method because of the difficulty in determining depreciation and obsolescence.

The Tribunal has also reviewed and considered the sales comparison approach and the comparables utilized the methodology employed. Petitioner's comparable sales set forth at P-1, pp.103-111 included four sales all of which were low rise complexes in contrast to the subject and none were located in downtown Lansing as is subject. The Tribunal is unconvinced of the similarity of Petitioner's comparables to the subject. Respondent's sales comparables also considered four sales. The location of Respondent's comparables in relation to the subject is superior to Petitioner's and in the case of Respondent's comparable #2 could be considered a high rise, although constructed in 1917. The Tribunal considers the balance of Respondent's comparables to be low rise projects. Respondent's expert concluded that the comparables were in similar condition to the subject, although in the course of his testimony he indicated that he had not made in depth

inspections of the comparables to ascertain the condition of the roof, boiler etc.

After considering both parties' sales comparison analysis, the tribunal does not believe that, as presented, the sales comparison approach will assist the Tribunal in arriving at a determination of true cash value of the subject.

Based on the testimony of both experts, and appraisals prepared and filed by the experts, and after careful review of both parties' income capitalization approaches, coupled with the fact that at the beginning of the second day of the hearing the parties indicated their willingness to stipulate that the income capitalization approach was the appropriate method in which to value this property, (Tr. p228) the Tribunal concludes that the income capitalization method is the most appropriate valuation method to value this income-producing property.

The Tribunal concludes, subject to modifications set forth herein, that Respondent's Income Capitalization value conclusions were better set forth and better explained than Petitioner's. The Tribunal notes in almost all essential areas both sides arrived at very similar results. For all tax years both parties' potential gross income determinations of before vacancy and credit loss are very similar. (R-10, p.65) and (P-12, p.94)

The Tribunal finds that taken as a whole Respondent's operating expense number together with capitalization rates are better set forth and are more credible than those of Petitioner. The Tribunal notes that Respondent each year under appeal increased utility and insurance expense to reflect changes in the market.

Except as otherwise explained and modified below the Tribunal adopts Respondent's conclusions derived in its Estimated Income Analysis as set forth in R-10, pp.55-57.

The Tribunal is satisfied that Petitioner's determination of an average vacancy and collection loss rate, which averaged approximately 15% (including the office space), is more reflective of actual market conditions in the subject's immediate area and building age and condition than Respondent's 10%.

Likewise, due to the overall age and condition of the subject property and considering that substantial day-to-day maintenance is required, the Tribunal concludes that a 15% EGI charge for employee wages is more realistic and credible than the 10% applied by Respondent. The 15% figure is somewhat less than the 18.5% requested by Petitioner based on historical costs, which the Tribunal finds to be somewhat excessive.

In addition, for tax year 2009 the Tribunal concludes that Respondent's overall capitalization rate of 11.90%, which was lower than its 2008 capitalization rate, did not take into consideration the economic meltdown occurring in the last quarter of 2008.

The *Korpacz Real Estate Survey* for National Apartments (P-12, p.97) showed an increase of approximately one hundred basis (100) basis points between the fourth quarters of 2007 and 2008. The Tribunal concludes that a 50 basis point increase in Respondent's 2008 overall capitalization rate for its capitalization rate of tax year 2009 is appropriate and this increase will be reflected in the Tribunal's revised calculations set forth below.

Based on the above changes, but utilizing the balance of Respondent's expense percentages and amounts, the Tribunal concludes to the following values:

For tax year 2007, adopting Respondent's Income Capitalization Approach, except as noted, yields the following results:

Potential Gross Income			\$1,334,152
(Less) Vacancy and Collection Loss (15%)			-200,123
Effective Gross Income (EGI)			\$1,134,029
Less Operating Expenses (% of EGI)			
	Management	4.50%	\$51,031

Admin	1.90%	\$21,547
Wages	15.00%	\$170,104
Contract Services	3.75%	\$42,526.10
Advertising	1.00%	\$11,340
Insurance	4.80%	\$54,433
Maintenance	8.00%	\$90,722
Supplies	2.30%	\$26,083
Utilities	24.00%	\$272,167
Reserves	5%	\$56,701
		\$796,656

Net Operating Income (NOI) 70.25% **\$337,374**

Capitalization Rate 9.71%
 Effective Tax Rate 3.18%
Combined Rate 12.89%

True Cash Value \$2,617,329

For tax year 2008 adopting Respondent's Income Capitalization Approach, except as noted, yields the following results:

Potential Gross Income **\$1,336,432**
 (Less) Vacancy and Collection Loss (15%) -200,465

Effective Gross Income (EGI) **\$1,135,967**

Less Operating Expenses (% of EGI)

Management	4.50%	\$51,119
Admin	1.90%	\$21,583
Wages	15.00%	\$170,395
Contract Svc	3.75%	\$42,598.77
Advertising	1.00%	\$11,360
Insurance	4.80%	\$54,526
Maintenance	8.00%	\$90,877
Supplies	2.30%	\$26,127
Utilities	24.00%	\$272,632
Reserves	5%	\$56,798
		\$798,017

Net Operating Income (NOI) 70.25% **\$337,950**

Capitalization Rate	9.51%
Effective Tax Rate	3.23%
Combined Rate	12.74%

True Cash Value **\$2,652,671**

For tax year 2009 adopting Respondent's Income Capitalization Approach, except as noted, yields the following results:

Potential Gross Income	\$1,310,392
(Less) Vacancy and Collection Loss (15%)	-196,559
Effective Gross Income (EGI)	\$1,113,833

Less Operating Expenses (% of EGI)

Management	4.50%	\$50,122
Administrative	1.90%	\$21,163
Wages	15.00%	\$167,075
Contract Svc	3.75%	\$41,768
Advertising	1.00%	\$11,138
Insurance	4.80%	\$53,464
Maintenance	8.00%	\$89,107
Supplies	2.30%	\$25,618
Utilities	24.00%	\$267,320
Reserves	5%	\$55,692
		\$782,468

Net Operating Income (NOI) 70.25% **\$331,365**

Capitalization Rate	10.10%
Effective Tax Rate	3.23%
Combined Rate	13.33%

True Cash Value **\$2,485,862**

The Tribunal concludes the true cash value of the subject property for the 2007, 2008, and 2009 tax years to be \$2,617,329, \$2,652,671, and \$2,485,862, respectively, the basis for which is set forth above.

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 *Final Values* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that Petitioner's request for costs is DENIED.

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

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by the Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 1995, at a rate of 6.55% for calendar year 1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a rate of 6.04% for calendar year 1998, (iv) after December 31, 1998, at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999, at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000, at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001, at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003, at the rate of 2.16% for calendar

year 2004, (x) after December 31, 2004, at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (xiv), after December 31, 2008 at the rate of 3.315 for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010.

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

MICHIGAN TAX TRIBUNAL

Entered: October 4, 2010

By: Kimbal R. Smith III, Tribunal Judge