

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

International Tennis Corporation,
Petitioner,

v

MTT Docket No. 15-001366

City of Southfield,
Respondent.

Tribunal Judge Presiding
Marcus L. Abood

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, International Tennis, appeal ad valorem property tax assessments levied by Respondent, City of Southfield, against Parcel Nos. 76-24-07-326-028 for the 2015, 2016 and 2017 tax years. Myles B. Hoffert and Paige H. Bachand, Attorneys, represented Petitioner, and Laura M. Hallahan, Attorney, represented Respondent.

A hearing on this matter was held on November 1-3 and 6, 2017. Petitioner's witnesses were Jason Troup and Brian Kirksey. Respondent's witness was Laurence Allen.

Based on the evidence, testimony, and case file, the Tribunal finds the true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV") of the subject property as follows:

Parcel Number: 76-24-07-326-028

| Year | TCV | AV | TV |
|------|-------------|-------------|-------------|
| 2015 | \$5,400,000 | \$2,700,000 | \$2,700,000 |
| 2016 | \$5,000,000 | \$2,500,000 | \$2,500,000 |
| 2017 | \$4,500,000 | \$2,250,000 | \$2,250,000 |

PETITIONER'S CONTENTIONS

Petitioner points to the unique nature of the subject property and the issue of deferred maintenance to the improvements. In support of its contentions of value, Petitioner references its statistical analysis,¹ valuation disclosures and extensive workfile in support of its appraiser's opinions, analyses and conclusions. Petitioner contends that the functional obsolescence attributed to the subject property is more appropriately analyzed through the extraction of the

¹ Tr., Day 3, 78-79.

Tinley Park, Illinois sale in support of its cost analysis.² Petitioner further contends the income approach was not developed because of the difficulty in parsing out the business value (going-concern) from the overall valuation of the subject property.³ While the sales comparison approach was developed, entire weight was given to the cost approach in the reconciled value of the subject property.

PETITIONER'S ADMITTED EXHIBITS

In support of its value contentions, Petitioner offered the following exhibits, which were admitted into evidence:

- P-1: Valuation Disclosure as of December 31, 2014, December 31, 2015 and December 31, 2016 prepared by Brian Kirksey.
- P-2: Brian Kirksey's Workfile (pages 19-92).
- P-3: Revisions and corrections to Brian Kirksey's appraisal report (10 pages).
- P-4: Digital Workfile for Brian Kirksey's appraisal report (2 flash drives).
- P-5: Hearing Transcript for International Tennis Corp. v City of Southfield (MTT No. 451786, December 16, 2014).
- P-7.1: Marshall Valuation Service – Calculator Method, Section 16, Page 1, August 2017.
- P-7.2: Marshall Valuation Service – Calculator Method, Section 16, Page 19, August, 2017.

PETITIONER'S WITNESSES

Petitioner's 1st witness, Jason Troup, has been the facilities and maintenance director of International Tennis since April 2014. He describes his background and involvement for the subject property. He acknowledged areas of deferred maintenance at the subject property.⁴

Petitioner's 2nd witness, Brian Kirksey, described his background and experience related to the valuation of the subject real property with the reference and consideration of the three approaches to value. Based on his education, background and experience he was acknowledged and admitted as an expert in real estate appraisal.

RESPONDENT'S CONTENTIONS

Respondent's development of the income approach is relevant because the subject's multiple uses generates revenue that is applicable as well as in other appraisal assignments.

² Tr., Day 2, 21-24.

³ Tr., Day 2, 36-40.

⁴ Tr., Day 1, 20-25.

Respondent's appraiser's prior appraisal assignment for banking purposes includes financial statements obtained from Petitioner. Respondent contends the financial data and the income approach provide a check on reasonableness to the cost approach.⁵ More specifically, Respondent believes the income approach is helpful in determining functional obsolescence.⁶ Reliability was placed on the Lifetime Fitness property in Rochester Hills.⁷ Regarding the cost approach, Respondent asserts the subject is a specialized property with unique aspects which have value contributions.⁸

RESPONDENT'S ADMITTED EXHIBITS

In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

- R-1: Valuation Disclosures prepared by Laurence Allen as of December 31, 2014, 2015 and 2016.
- R-5: Petitioner's Answers to Respondent's Second Set of Interrogatories dated March 17, 2017.
- R-18: Warranty Deed for 3409 Livernois, Troy, MI.
- R-19: Warranty Deed for 335 Lowery, Troy, MI.
- R-20: Aerial Photograph of 335 Lowery Road, Troy, MI.
- R-21: Test Graph for Residential Vacant Land prepared by Kirksey (untitled document).
- R-22: LARA Corporations Online Filing for GFA Development, Inc.
- R-23: Subject Interior Photograph of ceiling with sprinklers.
- R-24: Grand Rapids Land Sales.
- R-25: Tinley Park, Illinois Land Sales.
- R-26: Cincinnati, Ohio Land Sales.
- R-27: Record Card for 115 Crahen Ave. NE, Grand Rapids, MI.
- R-28: Photograph of commercial property located on Huron St. (M-59), Waterford, MI.

RESPONDENT'S WITNESS

Respondent's witness, Laurence Allen, Certified General Real Estate Appraiser, testified to the subject market area and various elements of his appraisal report. He developed and communicated all three approaches to value to arrive at a reconciled conclusion of market value for the subject property. Based on his education and experience, he was acknowledged and admitted as an expert in real estate appraisal.

⁵ Tr., Day 3, 118-120.

⁶ Tr., Day 4, 70.

⁷ Tr., Day 4, 71.

⁸ Tr., Day 4, 6-7.

FINDINGS OF FACT

1. The subject real property is located in the city of Southfield and within Oakland County.
2. The subject's address is 29350 Northwestern Highway and is referenced by parcel number 76-24-07-326-028.
3. The subject building improvements comprise 206,922 square feet as gross building area ("GBA").
4. Northwestern Highway is a busy thoroughfare with a traffic count of over 50,000 cars per day.
5. Michigan is designated as an extreme weather climate according to the Marshall Valuation Service.
6. The subject site has approximately 9.19 acres with ingress and egress at Northwestern Highway as well as Franklin Road.
7. The subject property has two specific zoning areas. The residential portion of site is approximately 7.168 acres and is zoned R-2, Residential. The commercial portion of the site is approximately 2.02 acres and is zoned B-3, Commercial.
8. Based on each party's independent appraisal analysis, the highest and best use (as vacant) for the subject property is mixed use as residential and retail. The subject's highest and best use (as improved) is its existing use as a health and fitness club.⁹
9. The subject property has had additions in improvements in 1969, 1975 and 1994.
10. Petitioner has been in business as a tennis and fitness facility at the subject property for 47 years.
11. The subject property continues as a fitness and tennis facility under a consent agreement. Both parties acknowledge the consent agreement through testimonial and documentary evidence.
12. Each party has appraised the subject property as fee simple.¹⁰
13. Petitioner submitted a valuation disclosure in the form of appraisal reports with signed certifications prepared by Brian S. Kirksey and Kelli L. Clark.¹¹
14. Petitioner's appraisal report considered all three approaches to value but only developed and communicated the cost and sales comparison approaches.

⁹ The parties' highest and best use analyses demonstrates the inter-relationship between the approaches to value. For example, legal permissibility is analyzed through the comparative analysis adjustment for differences in zoning. The Consent Agreement bridges the gap between residential and commercial zoned areas. In other words, the two areas together (as 1 parcel) create the greatest marketability, appeal and value to the land and improvements. Functional obsolescence is not so determinative to override the highest and best use analysis and the conclusion that the subject property is optimal as the continuation as a tennis and fitness center. Longevity, familiarity and marketability of the different aspects within the subject improvements proves its sustainability. The subject is more than just a set of tennis courts. The property has been maximized for multiple integrated uses which support the element of maximally profitable in the highest and best use analysis. The subject's revenue stream is the manifestation and direct result of the expansion of the property resulting in multiple uses.

¹⁰ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago, 6th ed, 2015), p 90.

¹¹ Curiously, while Clark is a co-author to the appraisal report, Kirksey testified that her contribution in this appraisal assignment was limited to "clerical" functions. As Petitioner should know, a signing author to an appraisal report bears full responsibility for his/her opinions, analyses and conclusions. Testimony that is not meaningful and that is misleading is quite striking for someone that claims adherence to professional standards in providing credible results.

15. Petitioner's cost approach did not calculate its costs based on the subject located in an extreme climate.¹²
16. Petitioner's sales comparison approach did not include verification sources or narrative commentary for the improved comparable write-ups.
17. Respondent submitted a valuation disclosure in the form of a narrative appraisal report prepared by Laurence Allen.
18. Respondent's appraisal report developed all three approaches to value.
19. Respondent's appraiser previously appraised the subject property for bank financing purposes.
20. Respondent's appraiser analyzed the subject's financial statements from 2009 to 2015 in support of his development of the income approach to value.¹³
21. Respondent's appraiser utilized relevant Marshall Valuation Service ("MVS") cost sheets for the tax years at issue.¹⁴
22. Respondent's cost calculations include cost entries for sprinklers, heating and cooling ("HVAC") and extreme climate.¹⁵
23. The Lifetime Fitness property located in Rochester Hills is a comparable property to the subject.¹⁶

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.¹⁷

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. 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 percent. . . .¹⁸

The Michigan Legislature has defined "true cash value" to mean:

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.¹⁹

¹² Tr., Day 3, 15.

¹³ Ironically, Petitioner's appraiser was unable to obtain financial statements from Petitioner regarding this appraisal assignment and tax appeal matter. (Tr., Day 2, 78-79)

¹⁴ Tr., Day 4, 149.

¹⁵ Tr., Day 4, 35.

¹⁶ Tr., Day 1, 81-82.

¹⁷ See MCL 211.27a.

¹⁸ Const 1963, art 9, sec 3.

¹⁹ MCL 211.27(1).

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”²⁰

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”²¹ The Tribunal is not bound to accept either of the parties' theories of valuation.²² “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”²³ In that regard, 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.”²⁴

A proceeding before the Tax Tribunal is original, independent, and *de novo*.²⁵ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”²⁶ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”²⁷

“The petitioner has the burden of proof in establishing the true cash value of the property.”²⁸ “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.”²⁹ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”³⁰

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.³¹ “The market approach is the only valuation method that directly reflects the balance of supply

²⁰ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

²¹ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

²² *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

²³ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

²⁴ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

²⁵ MCL 205.735a(2).

²⁶ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

²⁷ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

²⁸ MCL 205.737(3).

²⁹ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

³⁰ MCL 205.737(3).

³¹ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

and demand for property in marketplace trading.”³² 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.³³

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.³⁴

Petitioner developed the sales comparison approach but did not give it any weight in its reconciliation of value. Likewise, the efforts in testifying to numerous typographical errors within the sales comparison approach was a further indication for its lack of credibility.³⁵ Respondent’s development of the sales comparison approach resulted in the same assertion that there is a lack of properties similar to the subject’s unique features.³⁶ Therefore, the parties’ sales comparison approaches were considered but given no weight or credibility in the determination of market value for the subject property.

Next, for all of Petitioner’s voluminous workfile, the appraisal report’s lack explanatory narration for each improved sale write-up is telling. For example, sale 2 had a prior sale used for a 2015 grid analysis but there was no mention of the sales history in the appraisal report. In the same grid, sale 3 was given weight but cross examination revealed this was a tenant purchase and may have been an example of a lease comparable. Petitioner has convincingly demonstrated a large workfile but has failed to show its capability to retrieve information for meaningful support. An appraiser not only maintains a workfile but must have sufficient control and recall from that workfile. Petitioner’s expert testified to a lack of recollection and retrieval of specific elements for his analysis. Aside from testimony regarding a general technical methodology, the search for specific analysis relative to the property under appeal did not link up between the appraisal report and the workfile. In other words, an appraiser must summarize the analysis in the appraisal report but specifically demonstrate the actual support within the workfile.

Petitioner’s appraiser is able to analyze and modify data for statistical methods in a spreadsheet

³² *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

³³ *Antisdale*, *supra* at 277.

³⁴ See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

³⁵ Tr., Day 2, 5-16.

³⁶ However, Respondent shows a level of due diligence by including the Lifetime Fitness sale located in Rochester Hills as part of its comparative analysis.

format. This is all the more reason that an expectation is placed on an appraiser to retrieve and recount that relevant analysis in the midst of expert testimony. The admission that anyone with access to the electronic workfile can manipulate the data does not convey confidence in the understanding of an appraiser's adjustments.³⁷ Further, the thought that Petitioner's workfile contains information that ultimately may not have been relied upon in the analysis or valuation of the subject property is not beneficial. Modifications to graphs based on different assumptions and input is the very essence in communicating to the reader an appraiser's support for the opinions, analyses and conclusions.³⁸ Petitioner's workfile does not take the place for expected analysis from the appraisal report as Petitioner's valuation disclosure was not labeled as a "restricted appraisal report".³⁹

Hiding behind a voluminous workfile to then rely upon one's own knowledge and experience does not take the place of actual market supported evidence for an indication or conclusion of value. More to the point, the workfile is not exclusively intended for the appraiser's own files as suggested by Petitioner.⁴⁰ "An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to an assignment appropriate access and retrieval for the purpose of: 1) submission to state appraiser regulatory agencies, 2) compliance with due process of law, 3) submission to a duly authorized professional peer review committee; or 4) compliance with retrieval arrangements. A workfile must be made available by the appraiser when required by a state appraiser regulatory agency or due process of law".⁴¹ Workfiles give underlying support for the opinions, analyses and conclusions made in an appraisal report. Also important, a workfile brings to light an appraiser's detail (i.e. calculations) that may have been developed at some point in the past. Lastly, the perception that the only requirement for a workfile is a true copy of the report is misleading.⁴² A workfile must include:

- the name of the client and the identity, by name or type, of any other intended users;
- true copies of all written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies the requirement of a true copy.);
- summaries of all oral reports or testimony, or a transcript of testimony, including the

³⁷ Tr., Day 3, 100.

³⁸ Tr., Day 3, 102.

³⁹ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 6th ed, 2015), p 199.

⁴⁰ Tr., Day 2, 115, 168, 171.

⁴¹ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-2017 edition), p 11.

⁴² Tr., Day 2, 138.

- appraiser's signed and dated certification;
- all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other data, information, and documentation; and
- a workfile in support of a Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.⁴³

Appraisers are advised to not claim their office or workspace as the workfile for any appraisal report. As an appraisal report is specific and specialized to a property, so is the workfile to the appraisal report. The inability or unwillingness to pinpoint specific items of analysis from a workfile is not convincing. The elusive nature of a workfile does not facilitate an understanding of an appraiser's mindset/actions in a valuation assignment. More telling is Petitioner's expert's vague recollection or recall to his workfile.⁴⁴ On the other hand, Respondent's appraisal report carried a greater level of detail, analysis and support that didn't require any additional reference to Respondent's workfile.

Conclusory assumptions without the benefit of specific market support is not acceptable or credible. In other words, conclusory statements are not the equivalent of summary analysis. Valuation practice and theory encompasses the support and articulation of market data which results in a defensible conclusion of value. The Tribunal is not at liberty to take an appraiser's conclusory testimony and apply it to an appraisal report that belies the invocation of professional standards and ethics. One's epistemic virtues, experience and a vague testimony⁴⁵ do not come before customary due diligence in developing qualitative and quantitative methodologies.⁴⁶ Opinions of value must be **supportable and defensible**. Regardless of type of analysis, an appraiser must lead all readers through an appraisal report to the conclusion of value. This is the responsibility of rendering analysis which is meaningful and not misleading. "Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must

⁴³ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-2017 edition), p 11.

⁴⁴ Tr., Day 3, 36, 46, 50-51, 54, 58, 63, 65, 73, 76.

⁴⁵ Tr., Day 2, 114. Once an expert not always an expert. Touting endless aspects of a valuation practice may be impressive but is not determinative as to an appraiser's competence to handle a particular appraisal assignment. The presumption that an admitted expert's judgment and experience is automatically accepted in advance of his/her research, data and analysis in a specific valuation assignment is illogical to the definition of credible as well as in valuation practice and theory.

⁴⁶ Tr., Day 3, 96.

not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.”⁴⁷

“In applying quantitative adjustments, qualitative analysis, or both, appraisers must ensure that their reasoning is clear and adequately explained in the appraisal report. The extent of narrative explanation required also depends on the complexity of the property being appraised. The more complex the property, the more factors that must be considered in the analysis and then explained to intended users of the appraisal.” Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), p 398.

Adjustments and assumptions (based on experience and judgment) are not reasonable or logical in the context of a market based comparative analysis. For these reasons, Petitioner’s workfile is given no weight or credibility in the independent determination of market value for the subject real property.

Regarding an income approach to value, the alleged difficulty of parsing the going-concern from the value of a property stops short of demonstrating the subject property’s viability to continue as a fitness center which expanded its operations to accommodate more than just tennis activities. However, Petitioner’s expert admitted no difficulty in appraising golf courses or hotels where the going-concern value was not part of the assignment conditions.⁴⁸ An engagement for an appraisal assignment is not based on what the client desires but rather what the appraiser will do to foster credible results through its scope of work.⁴⁹ Petitioner’s expert admitted that a property that is not profitable for over 47 years won’t continue in business.⁵⁰ Respondent’s analysis of financial statements for the subject lends credence to the development of an income approach. Moreover, Respondent’s income analysis was used as support in the determination of functional obsolescence to the subject property. Therefore, Respondent’s income analysis is reliable and lends support in the determination of market value for the subject property.

Regarding the parties’ respective cost approaches to value, Respondent’s analysis embodies a meaningful approach without a need to reference his workfile. The level of detail is demonstrated with explanation and support to the adjustments for the land sales. This is also

⁴⁷ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-17 ed.), p 50.

⁴⁸ Tr., Day 2, 80.

⁴⁹ Tr., Day 2, 86, and The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-2017 ed) p 14, lines 418-420.

⁵⁰ Tr., Day 2, 82.

evident from the narration for the write-up to each sale. While the parties agree a property on Northwestern Highway has a high marketability and appeal, Respondent's commercial sales are more credible than Petitioner's commercial sales (i.e. an "L" shaped property, a dirt road property, an estate sale) even with adjusted differences. Next, cost calculations showing greater detail for the subject improvements relative to HVAC systems, wheelchair lift, sprinklers and relevant multipliers surpasses the explanation that these are covered in the base costs. Kirksey has appraised other fitness facilities in Oakland County but is unable to identify those properties due to confidentiality requirements.⁵¹ The analysis of entrepreneurial incentive (within certain properties) is not solely confidential as suggested by Petitioner's expert. In fact, such information must still be disclosed in an appraiser's workfile even if such information is omitted from an appraisal report. Further, public information obtainable from a public source is not confidential in the realm of valuation practice and theory. More specifically, an appraiser can provide a property address and the developer's fee (in percentile) without divulging the GBA and project cost for each property. In this way, a reader may visualize the property and adaptive reuse relative to the subject property's cost analysis. Nevertheless, Respondent successfully refuted Petitioner's assertions to the equivalency of adaptive reuses and new construction in the analysis of entrepreneurial incentive. Therefore, Respondent's detailed cost calculations for the specific subject improvements is more reliable to the cost analysis.

The reliance on the Tinley Park, Illinois sale was utilized to demonstrate functional obsolescence for the cost approach but the very same sale was not properly described or analyzed for this obsolescence within Petitioner's sales comparison approach. The use of this out-of-state property as a basis for functional obsolescence is striking due to the lack of confidence in this sale within the sales comparison approach. Cross examination revealed insufficient description and detail for this sale for persuasion in either approach to value. Regardless of no weight given to the sales comparison approach, Petitioner's inconsistent treatment of this sale between the two approaches is not convincing. Again, Petitioner's admitted errors and revisions to the sales comparison approach further negates the impact of the

⁵¹ Professional valuation standards acknowledge client confidentiality regarding an appraisal report. However, an actual property and property address are a matter of public domain and do not necessarily impede an appraiser's opinions, analysis and conclusions.

Tinley Park sale. A sale not properly handled or analyzed in one approach is deemed not credible analytically in another approach to value.

Next, the break-out of curable and incurable depreciation for building and site improvements showed significant functional depreciation to the subject. In fact, Respondent's detailed cost calculations resulted in a greater overall depreciation to the subject property. Respondent was undeterred by the subject's unique features⁵² in the development of all three approaches to value proved their inter-relationship. In other words, Respondent's income analysis gave reasonable and logic support to the functional depreciation to the subject. Respondent's sales comparison approach was not given any weight in its reconciliation but serves as an indication of the due diligence in examining the subject's market in the state of Michigan for a comparative analysis. Therefore, Respondent's income approach lends support to its cost approach given the fundamental concept of *substitution*⁵³ in valuation practice and theory. Therefore, reasoned and reconciled values for the subject are attainable as Respondent's cost approach provides the most reliable evidence of market value.⁵⁴

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property was not over-assessed for the tax years at issue. The subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

JUDGMENT

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

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of

⁵² The development of a cost approach for a multi-use property by itself does not signify a value-in-use proposition. The focus of this tax appeal matter is the determination of the fair market value of the subject based on value in exchange. While the subject property has multiple activities and uses it is not a "special use" property like a utility power plant. A market value (as value in exchange) does exist for fitness/tennis centers even though there have been relatively few sales similar to the subject property.

⁵³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed., 2013), pp 30-31.

⁵⁴ The reconciliation of Respondent's income approach reflects minimal weight to the conclusions of market value. In other words, exclusive weight does not rest solely on just the cost approach to value.

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 within 28 days of 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 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, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, and (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%.

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

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.⁵⁵ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and

⁵⁵ See TTR 261 and 257.

\$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.⁵⁶ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.⁵⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁵⁸

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an “appeal by right.” If the claim is filed more than 21 days after the entry of the final decision, it is an “appeal by leave.”⁵⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁶⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁶¹

By Marcus L. Abood

Entered: March 2, 2018

⁵⁶ See TTR 217 and 267.

⁵⁷ See TTR 261 and 225.

⁵⁸ See TTR 261 and 257.

⁵⁹ See MCL 205.753 and MCR 7.204.

⁶⁰ See TTR 213.

⁶¹ See TTR 217 and 267.