

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

Lowe's Home Centers, Inc.,  
Petitioner,

v

MTT Docket No. 361984

Township of Frenchtown,  
Respondent.

Tribunal Judge Presiding  
Victoria L. Enyart

**OPINION AND JUDGMENT**

Petitioner, Lowe's Home Centers Inc, appeals the ad valorem property tax assessment levied by Respondent, Township of Frenchtown, against the real property owned by Petitioner for the 2009, 2010 and 2011 tax years.

A hearing was held on December 12, 2011, to resolve the real property dispute.

Michael B. Shapiro and Daniel L. Stanley, attorneys at Honigman Miller Schwartz and Cohn, LLP , appeared on behalf of Petitioner. James G. Petrangelo and Kerry L. Bond, attorneys at Petrangelo Bondy & Crossley, P.C., appeared on behalf of Respondent.

Laurence G. Allen, MAI, was Petitioner's valuation witness. Paul K. Bidwell, MAI, was Respondent's valuation witness.

Summary of Judgment

The subject property's 2009, 2010 and 2011 True Cash Values (TCVs), Assessed Values (AVs) and Taxable Values (TVs) as determined by Respondent are:

Parcel No. 5807-076-003-10

	Respondent		
Year	TCV	SEV	TV
2009	\$9,585,200	\$4,792,600	\$3,835,980
2010	\$9,611,000	\$4,805,500	\$3,824,472
2011	\$9,411,600	\$4,705,800	\$3,889,488

Respondent also presented an appraisal contending the values are:

Parcel No. 5807-076-003-10

	Respondent		Appraisal	
Year	TCV	SEV	TV	
2009	\$8,800,000	\$4,400,000	\$3,835,980	
2010	\$8,500,000	\$4,250,000	\$3,824,472	
2011	\$8,100,000	\$4,050,000	\$3,889,488	

Petitioner’s contentions are:

Parcel No. 5807-076-003-10

	Petitioner		
Year	TCV	SEV	TV
2009	\$3,970,000	\$1,985,000	\$1,985,000
2010	\$3,210,000	\$1,605,000	\$1,605,000
2011	\$3,020,000	\$1,510,000	\$1,510,000

The Tribunal’s conclusions are:

Parcel No. 5807-076-003-10

	Petitioner		
Year	TCV	SEV	TV
2009	\$3,970,000	\$1,985,000	\$1,985,000
2010	\$3,210,000	\$1,605,000	\$1,605,000
2011	\$3,020,000	\$1,510,000	\$1,510,000

**GENERAL PROPERTY DESCRIPTION**

The subject property is known as Lowe’s Home Center, Inc. and is located at 2191 North Telegraph, in Frenchtown Township, Monroe County, Michigan. It contains 135,916 square feet on 15.12 acres. It is a typical big box construction built to suit the Lowe’s model.

SUMMARY OF PETITIONER'S CASE

Petitioner presented testimony from its appraiser, Laurence G. Allen, MAI. Based on his experience and training, the Tribunal accepted Allen as an expert appraiser.

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

P1: An Appraisal of the subject property, prepared by Laurence G. Allen, MAI.

Allen was designated as an expert witness; he has appraised big box stores for Wal-Mart, Target, K-Mart, and Lowe's for the property owners, for tax appeals, and for the Michigan Department of Treasury.

Allen explained that big box stores are "built to suit." He testified that "They're building their stores to fulfill their business plan, to maximize their sales and profits at their stores." TR, Vol I, p 158. "They build stores like this to obtain retail sales and to establish a position in the market." TR, Vol I, p 159. When big box stores sell, the new purchaser does one of three things. First, another retailer could raze the building and build a new one because the costs to convert to their business models are expensive. Second, they might renovate and convert to their business model. Third, a developer may purchase the property to do a multi-tenant conversion. Allen gave several examples of Lowe's purchasing an existing big box store, razing the existing improvements, and constructing a store that meets its needs, and is recognized with Lowe's design and has floor markings for Lowe's specific racking system for inventory.

Allen was familiar with the sales of existing big box stores and was not aware of one that was not razed or substantially changed by the new owner to fit its own business model.

Allen had 6 sales and 13 listings that were considered in determining the value of the subject property. They ranged in sale price per square foot from \$11.00 to \$41.00. The listing for \$41.00 was a five-year-old Home Depot store, located in Holland. It closed in 2010 and was offered for sale internally. Subsequently, it was listed with a local broker for \$22.00 per square foot. He explained that the sales comparison approach was the most applicable technique to determine the fee simple value of the subject property.

Allen was questioned on what he considered to be the important factors to take into consideration when making adjustment for difference in the sale properties. He stated that the biggest factors were changing market conditions and locations. Age and conditions were less of a consideration because purchasers would either demolish the improvements or make significant renovations. Square footage less than 80,000 has a different market because there is more demand for the smaller square footage. Allen stated that the smaller square footage property would sell for a higher price per square foot than a larger counterpart.

Allen's six sales are:

Sale #	1	2	3	4	5	6
Location	Dearborn	Holland	Madison Ht.	Sterling Ht.	Frenchtown	Auburn Hills
Sale Date	Jan-06	May-04	Feb-05	Mar-06	Dec-09	Apr-11
Square Feet	192,000	80,953	113,290	111,285	124,631	151,336
Year Built	1993	1990	1986	1996	1992	1996
Sale Price	\$9,650,000	\$2,350,000	\$7,250,000	\$4,500,000	\$2,765,000	\$2,250,000
SP/SF	\$50.26	\$29.03	\$64.00	\$40.44	\$22.19	\$14.87
Adjusted SP/SF	\$31.66	\$20.73	\$28.72	\$32.35	\$29.12	\$30.81

The six sales were adjusted for each of the three years in contention. Allen also provided an analysis of the comparable listings indicating the square feet, tenant(s), listing price per square foot for the year(s) the property was listed. He does a summary indicating the range of listing prices per square foot, as well as the average for each of the tax years at issue. The range of listings for 2008 is \$47.75 to \$36.27 with an average asking price of \$42.91 per square foot. The range of listings for 2009 is \$43.89 to \$13.20 with an average asking price of \$27.76 per square foot. The range of listings for 2010 is \$36.36 to \$10.92 with an average asking price of \$25.10.

Allen also includes a listing of 32 big box stores throughout the state that were listed and sold from 2000 to 2010. Three properties were available for retail use but were eventually sold for total redevelopment. After analyzing the comparable sales, and adjusting for difference in amenities, as well as reviewing the listings, Allen concluded to \$29.00 per square foot, \$3,940,000 as of December 31, 2008; \$23.00 per square foot, \$3,130,000 as of December 31, 2009; and \$22.00 per square foot, \$2,990,000 as of December 31, 2010 for the market value.

Allen then explained his income approach, indicating that the market is studied to determine the appropriate rental rates, prevailing occupancy levels, and typical expenses to determine the net operating income ("NOI"). The NOI is divided by the appropriate capitalization rate to provide an estimate of market value for the subject property.

Allen searched for warehouse big box stores that leased outside of the metro Detroit area that were larger than 50,000 square feet. Both build-to-suit and existing leases were considered. Ten existing building leases were considered with the dates ranging from 2005 to 2009. Five of the ten leases were offerings; they averaged \$4.77 per square foot. Allen found nine build-to-suit leases from 1999 to 2005 that averaged \$6.71 per square foot. There was also a re-lease study of big box stores that went vacant and were released in the opening market. Allen used the build-to-suit lease rate and the market lease rate and found that the difference is a 47.21% reduction in value. When using the build-to-suit leases as comparables, Allen discounted the rate 35%. The average build-to-suit lease averaged \$4.36 per square foot.

Allen's final determination of the triple net lease per square foot is \$4.50 for December 31, 2008; \$4.00 for December 31, 2009; and \$3.75 for December 31, 2010. Vacancy and loss was estimated from conversations with brokers, as well as CoStar (a report issued by CoStar Group, a "real estate information company"). Allen concluded to 15% vacancy and credit loss due to the size of the subject property, which makes it subject to more risk than the typical retail property. Operating expenses that are reimbursable to the investor include common area maintenance ("CAM"), property taxes, and insurance expenses. This does not include the management fee or a reserve for capital expenditures.

Allen determined that the NOI for 2008 is \$418,976 (\$365,577 and \$338,614 for subsequent years). The next step is to determine the overall capitalization rate. Allen's

sources for the band of investment technique was RealtyRates.com, Korpacz Real Estate Investor Survey, and Investor Survey. The rates for the tax years at issue were 10.08%, 10.35%, and 10.70%. OAR extracted from offerings and sales ranged from 7.13% to 16.67%, with an average of 11.04%. Allen concluded to OAR of 10.00% (10.50% and 10.50% for the subsequent years). Allen then capitalized the NOI and deducted the leasing commission for a conclusion of true cash value of \$4,010,000 (\$29.20 per square foot) as of December 31, 2008; \$3,320,000 (\$23.61 per square foot) as of December 31, 2009; and \$3,070,000 (\$22.22 per square foot) as of December 31, 2010.

Allen also prepared a cost approach to value, but it was not used as a primary indication of value; rather, it served as a check to the sales comparison and income approaches. The sales comparison approach was the primary indicator of value.

#### SUMMARY OF RESPONDENT'S CASE

Respondent presented testimony from its appraiser, Paul K. Bidwell, MAI.

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

R1: An Appraisal by Paul K. Bidwell, MAI.

Bidwell also did the cost, sales and income approaches to value. Initially, he testified that he found that all three approaches were reliable indicators of value; however, he did recant (after his initial testimony):

However in my testimony today, the cost approach has very little significance in the valuation of this property. I feel that the sales

comparison approach has the most and primary significance in the valuation of this property, and the income approach is very little also, given the fact it's very difficult to arrive at an appropriate market rental rate for a single box retail store that in most cases in the Detroit metropolitan market are not rental occupied. In most cases they're "built to suit" or they are built for purposes of occupancy by the owner. Tr, Vol 3, p 153.

Bidwell testified that the comparable sales that he used of big box stores were fee simple.

Bidwell explained his five sales comparables. Sale 1 and Sale 5 were located across the street from each other. The five sales are:

Sale #	1	2	3	4	5
Location	Dearborn	Madison Ht.	St Clair Shores	Lincoln Park	Auburn Hills
Sale Date	Jan-06	Feb-05	Jun-05	Mar-04	Apr-11
Square Feet	192,000	113,290	127,371	205,459	151,336
Year Built	1993	1986	1967	1994	1996
Sale Price	\$9,650,000	\$7,250,000	\$10,000,000	\$14,900,000	\$2,250,000
SP/SF	\$102.24	\$64.00	\$78.51	\$72.52	\$14.87
Adjusted SP/SF	\$80.05	\$60.48	\$72.07	\$71.80	\$30.81

Initially Bidwell stated that none of the sales were leased at the time of sale. However, on cross he admitted that Sales 2, 3, and 5 were leased fee transactions. Sale 1 actually sold for \$50.27 per square foot sale price. Sale 1 is K-Mart that sold to Wal-Mart. Wal-Mart spent approximately \$10,000,000 to renovate and have the store recognized as Wal-Mart. After making adjustments for differences in amenities, Bidwell placed the most reliance on Sales 2 and 3 due to their size, similarities to the subject, and other features. He determined that the sale price per square foot for the subject property is \$65.00 (\$8,835,000) for December 31, 2008, \$60.00 (\$8,155,000) for December 31, 2009, and \$59.00 (\$8,019,000) for December 31, 2010.



Bidwell, for the income approach, cited five rental comparable properties that he used to determine market rent. The properties were located in Auburn Hills, Frenchtown Township, Livonia, and Flint.

Bidwell testified on cross-examination that all of the comparable rental properties were build-to-suit. All of the rental comparables were leased before they were constructed. In addition, all of the rents were pre-recession with the newest rental being the 2005 build-to-suit lease with Kohl's Department store. Rental 2 is the Kohl's Department Store next to the subject property. It was not given the most weight for rentals. It was adjusted for difference in square footage. It was not adjusted for quality, age, or time of the lease (2005) albeit it was the newest lease. Based on the leases Bidwell believes that the subject property would lease at \$7.00 per square foot. The subject property was owner occupied on tax day, therefore, Bidwell determined that the vacancy and credit was zero. Expenses deducted were insurance \$0, management 2%, maintenance \$0, and reserves for replacement \$0.25. The potential gross and effective gross incomes are the same at \$951,412 with total operating expenses of \$53,028. The NOI is \$898,384.

Bidwell, in determining the capitalization rate, considered several sources and relied on Realtyrates.com for the 2009 rate of 9.00%, 2010 rate of 9.20%, and 2011 rate of 9.3%. The reconciliation is NOI divided by the OAR equals value via the income approach.

The income approach is applied as follows:

12/31/08	$\$898,384 / 9.00\% = \$9,982,000$ (\$73.44 per square foot)
12/31/09	$\$898,384 / 9.20\% = \$9,765,000$ (\$71.18 per square foot)

12/31/10      \$898,384 / 9.30% = \$9,660,000 (\$71.07 per square foot)

### FINDINGS OF FACT

1. Subject property is located at 2191 Telegraph Road, Frenchtown Township, Monroe County.
2. Subject property contains 135,916 square feet.
3. Subject property has a total of 12.12 acres.
4. Subject property is an owner-occupied build-to-suit big box store.
5. The occupant of subject property should not influence the market value of the property.
6. The subject is not an income-producing property, thus the sales comparison approach will be given the most weight.

Both parties presented appraisals authored by an MAI, the highest designation from the Appraisal Institute. Expert witness status is based on the appraiser's education, experience, skill, education, and training. Based on the MAI designation, both the appraisers were designated as experts in the appraisal field. The expert witness status does not automatically grant the witness or exhibits credibility or weight.

### 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.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%.... Const 1963, art 9, sec 3.

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

...the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as

otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

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

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 must be supported by competent, material and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Department of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence. *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737(3). This burden encompasses two separate concepts: (1) the risk of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party. *Jones & Laughlin* at 354-355.

Under MCL 205.737(1); MSA 7.650(37)(1), the Tribunal must find a property’s true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept

either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). The Tribunal may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination. *Meadowlanes Limited Dividend Housing Association v City of Holland*, 437 Mich 473, 485- 486; 473 NW2d 636 (1991). The Tribunal finds that Petitioner's appraisal established the true cash value of the subject property.

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966), aff'd 380 Mich 390 (1968). The 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*, p277. Pursuant to MCL 211.27(5), "the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred."

#### Conclusions of Law

Petitioner and Respondent's appraisers presented all three approaches to value. The appraisers were charged with determining market value of the subject property.

Petitioner was able to explain and provide documentation for the sales comparison approach. Allen provided all of the known listings and sales of big box stores

throughout the state. He relied upon six sales, as well as considering information on listings for each year of the appeal. This explained to the Tribunal the decline in asking prices over a three-year period. The substance was clear, in addition to Allen explaining the market conditions; it was the documentation that gave Allen's report weight and credibility based on substance.

Allen proved that the build-to-suit leases were above market rent, as the original big box stores are all build-to-suit the business model for each particular user. Allen has testified in this Tribunal many times, but finds that his niche in the big box store appraisal was exceptional. The level of documentation and clear understanding of the difference between value-in-use and market value makes Allen's report outstanding.

Allen did a cost approach but did not place any weight on it. The cost approach was used as a check to the other approaches. The income approach was not given as much weight as this is not an income-producing property. Allen relied on the sales comparison approach.

The subject property was built for Lowe's, and continues to be used as such. The Tribunal is not looking for the market value of a Lowe's property but the market value of a big box building. The big box store is described as follows:

1. A single-use store, typically between 10,000 and 100,000 square feet or more, such as a large book store, pet store, electronics store, or a toy store. (ICSC)
2. A general merchandiser or category killer. General merchandisers like Wal-Mart, Costco, and Target offer a wide variety of deep-discounted prices. The product mix of these stores includes nearly everything shoppers need for their home, work, garden, garage, or car, as well as recreational items and apparel.

Category killers like Office Depot, OfficeMax, Best Buy, and PetSmart offer a deep selection in a single category. (CB Richard Ellis)

3. A large stand-alone store that specializes in a single line of products, such as home improvements, toys or office supplies; no-frills discount stores that sell in volume and category killers are often big-box stores. (CoStar) Appraisal Institute, *The Dictionary of Real Estate Appraisal*, (Chicago: 5th ed, 2010), p 19.

Petitioner made the point clear that the secondary uses of a big box store results in a lower market value and rent than the original construction cost. The reason is the big box stores are all build-to-suit, specifically constructed to meet the design, location and physical requirements of one major user's business needs.

Petitioner, thorough the use of listings, for multiple years, was able to show the decline in value for the secondary user. The rents for the build-to-suit users were higher than the secondary user leases resulting in a lesser market value. The resale of big box stores indicates that the improvements are razed or extensively renovated or converted to a multi-tenant use by a developer.

Bidwell's report on the surface appeared to meet criteria for an appraisal of the subject property; however, his cost approach, which he initially said was a reliable indicator of value, used vacant land sales that were 50 miles away. The subject has 15 acres of land. This Tribunal finds the cost approach is given no weight.

Bidwell's report has sections that were exact replicas of an appraisal by Micheal Lohmeier, MAI, for *Target v Auburn Hills*, MTT Docket No. 361955. Bidwell did admit in testimony that the land sales were all the same as Lohmeier's, in the same order. He

admitted that the cost, sales, and income approaches were all “relatively strong indicator of the subject property’s value”; again this is the exact wording as Lohmeier’s. On cross, Bidwell recanted that the cost approach was not a reliable indicator of value. The Tribunal agrees. He also explained on cross examination that the five sale properties were not all fee simple sales, but three were leased. The adjustments were not consistent as Sale 1 and Sale 5 were across the street from each other. Sale 1 had a good location and was adjusted a negative 20%, Sale 5 had an average location with no adjustment. Sale 1 actually sold for \$50.27 per square foot. His report stated the sale at \$102.24 per square foot. Wal-Mart purchased a K-Mart store for \$50.27 a square foot, not the \$102.24 per square foot that Bidwell reported. Wal-Mart spent an additional \$10,000,000 to extensively renovate it to meet its business model. The other fee simple, Sale 4, was purchased by Meijer and was also renovated to meet its business model. The amount of the renovation was not reported. The Tribunal finds that three of the five sales were leased fee, but no adjustment was made. The indicated value of the sales would be 35% less pursuant to Allen’s appraisal.

Bidwell’s income approach included five rental properties. The appraisal doesn’t address the fact that all five properties were build-to-suit. The leases were negotiated before the properties were constructed, specifically built for the individual tenant, and were above market rates. The expenses for the income approach began with zero allowance for vacancy and credit because Bidwell states that there is no required adjustment for vacancy or bad debt given the type of potential occupancy by a single large, big box retailer. Bidwell also did not calculate expenses for insurance, utilities or

maintenance. The Tribunal finds it highly irregular that the property owner of any income producing property would have no vacancy, insurance, utility or maintenance costs. The Tribunal finds that a proper income approach would serve as a check to the flawed sales comparison approach. Because Bidwell's sales comparison approach is also flawed, the income approach is of no value to this Tribunal in determining the market value of the subject property.

Bidwell was questioned on the verbatim use in his appraisal of another appraisal's language:

Q What weight was given to each of your approaches to value as of 12/31/08 in your reconciliation?

A. Most weight was provided to the sales comparison approach. Less weight was provided by the income approach and the least weight was provided to the cost approach.

Q. Do you state that anywhere in your appraisal?

A. It's implied throughout the report.

Q. Implied throughout the report?

A. Yeah.

Q. In your reconciliation you identify each to be a strong indicator of value; is that correct?

A. I did.

Q. And did you write that reconciliation in your report?

A. I did.<sup>6</sup>

Q. You authored it?

A. I authored it.

Q. Can you tell us, sir, if that reconciliation was not authored by you but taken word-for-word one hundred percent, every comma, every period directly out of a report prepared by Mr. Lohmeier a few months earlier?

A. No, I'm not saying that's the case.

Q. If I show you a copy of Mr. Lohmeier's report tell me if you've ever seen it before, please.

A. I've seen –

TR, Vol I, p 37.

Shapiro continues this line of questioning Bidwell:

Q. And let's go -- how many sentences are in that paragraph, sir?



A. There are two more.

Q. Two more. And in every one of them yours just happen to be that you wrote exactly identical in every word to that set forth by Mr. Lohmeier two months earlier; correct, sir?

A. Yes.

Q. Okay. Let's go to the cost approach. Read your first sentence from the cost approach, sir.

A. The cost approach is considered and implied and also provides a relatively strong indicator of the subject's property value.

Q. And read Mr. Lohmeier's sentence written months earlier.

A. The cost approach is considered and applied and also provides a relatively strong indicator of the property's value.

Q. Are those sentences identical, sir?

A. They are. TR, Vol I, p 41.

Bidwell testified that the cost approach was not a reliable indicator of value opposite of Exhibit R-1 page 154. For a variety of reasons no weight is given to Bidwell's cost approach.

Bidwell's sales comparison approach also had flaws, as he made no adjustments for the build-to-suit properties. He also incorrectly stated the sale price of Sale 1 to Wal-Mart incorrectly; this error overstated the actual sale price by 50%. He was aware of the sale price and that Wal-Mart, after the purchase, spent \$10,000,000 to renovate it. Bidwell's inclusion of the renovation to the sale price was misleading and led to a wrong conclusion. It appeared as if Wal-Mart paid \$19,650,000, when they paid \$9,650,000.

Bidwell was qualified as an expert, but his testimony indicates that he had not appraised a big box store over 30,000 square feet, and he was not familiar with the properties, that he used from the Lohmeier report. Appraisers glean information from many sources; however, once data is received it is imperative that the information is analyzed and

applied to the subject property, if appropriate. “There is nothing so frightening as ignorance in action.” (Johann Wolfgang von Goethe, 1800’s)

There were too many issues (as stated throughout this opinion) with Bidwell’s report to give it any weight or credibility. The Tribunal suggests that the next time this appraiser gathers information to not use it verbatim, and to be aware of all of the circumstances surrounding sales and leases. Bidwell’s testimony was at many times opposite to the information contained in his appraisal. The Tribunal finds that Bidwell’s appraisal of the subject property was misleading. It is not clear whether Bidwell had the knowledge or experience to perform the appraisal.

Petitioner’s appraisal is accepted as the value of the subject property for the years at issue.

### JUDGMENT

IT IS FURTHER ORDERED that the subject property’s true cash, assessed and taxable values for the 2009, 2010 and 2011 tax years are those shown in the “Summary of Judgment” section of this 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 assessed and taxable values in the amounts as finally shown in the “Final Values” section of this Opinion and Judgment, subject to the processes of equalization, within 20 days of the entry of this Opinion and Judgment. 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 Opinion and Judgment within 20 days of the entry of this 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 Order. Pursuant to 1995 PA 232, 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 the calendar year 2006, (iv) after December 31, 2006, at the rate of 5.42% for the calendar year 2007, and (v) after December 31, 2007, at the rate of 5.81% for the calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010 (xvi) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (xvii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, and (xvi) after December 31, 2011, at the rate of 1.09 for calendar year 2012.

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

MICHIGAN TAX TRIBUNAL

Entered: January 18, 2012

By: Victoria L. Enyart