

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

Predmore Land & Cattle Co &
Haze Company Ltd Partnership,
Petitioners,

v

MTT Docket No.451060

Metamora Township,
Respondent.

Tribunal Judge Presiding
Preeti P. Gadola

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioners, Predmore Land & Cattle Company & Haze Company Limited Partnership, appeal the ad valorem property tax assessments levied by Respondent, Metamora Township, against Parcel Nos. 44-015-005-001-50, 44-015-004-007-00, 44-015-004-008-00, 44-015-005-032-00, 44-015-008-001-00, 44-015-009-019-00, and 44-015-009-020-00 for the 2013 and 2014 tax years. A hearing on this matter was held on September 15, 2014. Jerome P. Pesick and Jason C. Long, attorneys, appeared on behalf of Petitioner. Thomas E. Schlichting, assessor, appeared on behalf of Respondent. Petitioners' witness was Kevin A. Kernen, MAI, MRICS, and Respondent's witness was Thomas E. Schlichting.

The subject property consists of seven parcels of vacant land, located on the east side of South Lapeer Road, also known as M-24, north of Dryden Road, south of Sutton Road, in the Southern Lapeer submarket of the Detroit Core Based Statistical Area. The parcels, which have no access to public utilities, have a total land area of more than 500 acres. Title to Parcel No. 44-015-005-001-50 is vested in Haze Development Limited Partnership, and title to the remaining parcels is vested in Predmore Land & Cattle Company. Parcel Nos. 44-015-005-001-50, 44-015-008-001-00, and 44-015-005-032-00, which have frontage along Lapeer Road, are leased to local farmers on a year-to-year basis and used primarily for agricultural purposes. The remaining parcels have no direct access and are considered recreational in nature.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values ("TCV"), state equalized values ("SEV"), and taxable values ("TV") of the subject property for the tax years at issue are as follows:

Parcel Number: 44-015-005-001-50

Year	TCV	AV	TV
2013	\$245,106	\$122,553	\$122,553
2014	\$245,106	\$122,553	\$122,553

Parcel Number: 44-015-004-007-00

Year	TCV	AV	TV
2013	\$206,400	\$103,200	\$103,200
2014	\$206,400	\$103,200	\$103,200

Parcel Number: 44-015-004-008-00

Year	TCV	AV	TV
2013	\$153,600	\$76,800	\$76,800
2014	\$153,600	\$76,800	\$76,800

Parcel Number: 44-015-005-032-00

Year	TCV	AV	TV
2013	\$274,050	\$137,025	\$104,885
2014	\$274,050	\$137,025	\$106,563

Parcel Number: 44-015-008-001-00

Year	TCV	AV	TV
2013	\$503,200	\$251,600	\$202,789
2014	\$503,200	\$251,600	\$206,033

Parcel Number: 44-015-009-019-00

Year	TCV	AV	TV
2013	\$60,000	\$30,000	\$30,000
2014	\$60,000	\$30,000	\$30,000

Parcel Number: 44-015-009-020-00

Year	TCV	AV	TV
2013	\$80,000	\$40,000	\$40,000
2014	\$80,000	\$40,000	\$40,000

PETITIONERS' CONTENTIONS

Petitioners contend that the subject property is assessed in excess of 50% of its true cash value.

Petitioners' contentions of TCV, SEV, and TV are as follows:

Parcel Number: 44-015-005-001-50

Year	TCV	AV	TV
2013	\$182,000	\$91,000	\$91,000
2014	\$182,000	\$91,000	\$91,000

Parcel Number: 44-015-004-007-00

Year	TCV	AV	TV
2013	\$181,000	\$90,500	\$90,500
2014	\$181,000	\$90,500	\$90,500

Parcel Number: 44-015-004-008-00

Year	TCV	AV	TV
2013	\$141,000	\$70,500	\$70,500
2014	\$141,000	\$70,500	\$70,500

Parcel Number: 44-015-005-032-00

Year	TCV	AV	TV
2013	\$211,000	\$105,500	\$105,500
2014	\$211,000	\$105,500	\$105,500

Parcel Number: 44-015-008-001-00

Year	TCV	AV	TV
2013	\$385,000	\$192,500	\$192,500
2014	\$385,000	\$192,500	\$192,500

Parcel Number: 44-015-009-019-00

Year	TCV	AV	TV
2013	\$48,000	\$24,000	\$24,000
2014	\$48,000	\$24,000	\$24,000

Parcel Number: 44-015-009-020-00

Year	TCV	AV	TV
2013	\$72,000	\$36,000	\$36,000
2014	\$72,000	\$36,000	\$36,000

PETITIONERS' ADMITTED EXHIBITS

- P-1: Appraisal Report prepared by Kevin A. Kernen, MAI, MRICS.
- P-4: Aerial photo and diagram of Comparable 1
- P-5: Aerial photo and diagram of Comparable 2
- P-6: Aerial photo and diagram of Comparable 3
- P-7: Aerial photo and diagram of Comparable 4
- P-8: Aerial photo and diagram of Comparable 5
- P-9: Aerial photo and diagram of Comparable 6
- P-10: Aerial photo and diagram of Comparable 7
- P-11: Aerial photo and diagram of Comparable 8

PETITIONERS' WITNESS

Kevin A. Kernen

Petitioners presented testimony from their appraiser, Kevin A. Kernen, MAI, MRICS. Based on his experience and training, the Tribunal accepted Mr. Kernen as an expert in the field of real estate appraisal and valuation of real property. Mr. Kernen prepared and communicated an appraisal of the subject property. The appraisal employs only the sales comparison approach to value; the cost and income approaches were considered but not developed.

The comparables used in Mr. Kernen's 2013 sales analyses are the same as those used in his analyses for the 2014 tax year. Additionally, six of the seven parcels share the same set of comparables. A separate set of comparables was selected for Parcel No. 44-015-008-001-00, as it is significantly larger than the other parcels.

Mr. Kernen's analyses for Parcel Nos. 44-015-005-001-50, 44-015-004-007-00, 44-015-004-008-00, 44-015-005-032-00, 44-015-009-019-00, and 44-015-009-020-00 examine six sales that were adjusted to be consistent with the characteristics of the subject property. Write-ups for each comparable are included in the appraisal report. A summary of the sales is as follows:

Sale #	1	2	3	4	5	6
Location	Wales Township	Orion Township	Lapeer Township	Dryden Township	Hadley Township	Brandon Township
Site Size (SF)	7,728,874	3,507,582	848,113	1,985,029	1,437,480	840,708
Site Size (Acres)	108.56	80.52	19.47	45.57	33.00	19.30
Configuration	Rectangular	Irregular	Rectangular	Irregular	Irregular	Rectangular
Topography	Generally Level	Generally Level	Generally Level	Generally Level	Generally Level	Generally Level
Zoning	Residential, Agricultural	SE & R-2 Suburban Estates & Single Family Residential	AE Agricultural Estate	Agricultural	AR Agricultural Residential	RE Rural Estates, Single-Family Dwelling
Highest & Best Use	Hold for Future	Hold for Future	Hold for Future	Hold for Future	Hold for Future	Hold for Future
Utilities	None Available	None Available	None Available	None Available	None Available	None Available
Transaction Date	2/25/14	1/17/14	5/30/13	4/25/13	4/25/12	1/31/12
Conditions of Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale
Sale Price	\$205,000	\$245,000	\$60,000	\$150,000	\$120,000	\$65,000
Price/SF	\$0.04	\$0.07	\$0.07	\$0.08	\$0.08	\$0.08
Price/Acre	\$1,888	\$3,043	\$3,082	\$3,292	\$3,636	\$3,368

The individual attributes of each sale were analyzed and compared to the subject parcels, and adjustments were made to account for differences between the properties. Various economic

elements of comparison, including real property rights conveyed, financing terms, conditions of sale, expenditures after sale, and market conditions were considered, as were various property characteristics, such as location, size, configuration, topography, zoning, highest and best use, utilities, and “other” factors. Mr. Kernen indicated that the property rights adjustment accounts for leases in place and other differences in the rights conveyed. All comparable sales conveyed the full bundle of rights, however, and as such, no adjustments were necessary for this element of comparison. The same is true for financing terms, which adjusts the comparables to a cash or cash-equivalent basis to account for financing-related premiums and discounts. Similarly, no adjustments were required for conditions of sale (foreclosure, related-party and other non-arms-length transactions), expenditures after sale (i.e., expenditures that would have to be completed in order for the buyer to use the property), or changes in market conditions. With respect to the latter, Mr. Kernen explained:

[I]t’s a pretty rural area or a relatively rural area, so through the recession and since, there’s not a lot of development in the Metamora Township area or surrounding areas; pretty stagnant. You know, what development has occurred, you know, would be closer to the Village center and it would all be small-type development; nothing significant in the immediate area in the last probably 10 years. TR, p. 25.

Adjustments for location encompassed market area, frontage and access, with the biggest consideration being access. These, along with size adjustments, which were premised on the theory that smaller sites sell for higher per square foot rates than larger sites (i.e., “the principle of diminishing returns”), varied between the analyses for each of the subject parcels. The same is true for configuration, topography, and zoning adjustments. No adjustments were made for highest and best use, utilities, or “other” factors, which Mr. Kernen indicated was basically a “catch-all” for anything that wasn’t already accounted for. TR, p. 48.

After analyzing the comparable sales and adjusting for differences in amenities, Mr. Kernen concluded to final true cash value indications as follows:

Parcel No. 44-015-005-001-50	\$2,600 per acre
Parcel No. 44-015-004-007-00	\$2,100 per acre
Parcel No. 44-015-004-008-00	\$2,200 per acre
Parcel No. 44-015-005-032-00	\$2,700 per acre
Parcel No. 44-015-009-019-00	\$2,400 per acre
Parcel No. 44-015-009-020-00	\$1,800 per acre

Mr. Kernen’s analyses for Parcel No. 44-015-008-001-00 similarly examine six sales that were adjusted to be consistent with the characteristics of the subject property. Write-ups for each comparable are included in the appraisal report. A summary of the sales is as follows:

Sale #	1	2	4	5	7	8
Location	Wales Township	Orion Township	Dryden Township	Hadley Township	Elba Township	Rose Township
Site Size (SF)	7,728,874	3,507,582	1,985,029	1,437,480	8,102,160	6,632,881
Site Size (Acres)	108.56	80.52	45.57	33.00	186.00	152.27
Configuration	Rectangular	Irregular	Irregular	Irregular	Slightly Irregular	Irregular
Topography	Generally Level	Generally Level	Generally Level	Generally Level	Generally Level	Generally Level
Zoning	Residential, Agricultural	SE & R-2 Suburban Estates & Single Family Residential	AG Agricultural	AR Agricultural Residential	RA & R-1 Residential Agriculture and Single-Family Residential	AG Agricultural
Highest & Best Use	Hold for Future	Hold for Future	Hold for Future	Hold for Future	Hold for Future	Hold for Future
Utilities	None Available	None Available	None Available	None Available	None Available	None Available
Transaction Date	2/25/14	1/17/14	4/25/13	4/25/12	4/22/14	11/6/12
Conditions of Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale	Confirmed Sale
Sale Price	\$205,000	\$245,000	\$150,000	\$120,000	\$600,000	\$532,000
Price/SF	\$0.04	\$0.07	\$0.08	\$0.08	\$0.07	\$0.08
Price/Acre	\$1,888	\$3,043	\$3,292	\$3,636	\$3,226	\$3,494

Again, the individual attributes of each sale were analyzed and compared to the subject parcel, and adjustments were made to account for differences between the properties.

After analyzing the comparable sales and adjusting for differences in amenities, Mr. Kernan concluded to a final true cash value indication of \$2,600 per acre.

RESPONDENT'S CONTENTIONS

Pursuant to its valuation disclosure, Respondent contends that some of the subject parcels are assessed in excess of 50% of their true cash value, while others are not. Respondent contends, however, that the assessments are not excessive to the extent asserted by Petitioner, and several of the parcels are assessed at less than 50% of their true cash value.

The property's TCV, SEV, and TV as established by the Board of Review for the tax years at issue are as follows:

Parcel Number: 44-015-005-001-50

Year	TCV	AV	TV
2013	\$459,200	\$229,600	\$229,600
2014	\$462,200	\$231,100	\$231,100

Parcel Number: 44-015-004-007-00

Year	TCV	AV	TV
2013	\$548,700	\$274,350	\$122,110
2014	\$567,600	\$283,800	\$124,063

Parcel Number: 44-015-004-008-00

Year	TCV	AV	TV
2013	\$371,200	\$185,600	\$99,781
2014	\$384,000	\$192,000	\$101,377

Parcel Number: 44-015-005-032-00

Year	TCV	AV	TV
2013	\$454,200	\$227,100	\$104,885
2014	\$469,800	\$234,900	\$106,563

Parcel Number: 44-015-008-001-00

Year	TCV	AV	TV
2013	\$1,123,900	\$561,950	\$202,789
2014	\$1,100,100	\$550,050	\$206,033

Parcel Number: 44-015-009-019-00

Year	TCV	AV	TV
2013	\$105,800	\$52,900	\$30,808
2014	\$105,800	\$52,900	\$31,300

Parcel Number: 44-015-009-020-00

Year	TCV	AV	TV
2013	\$203,200	\$101,600	\$45,948
2014	\$210,600	\$105,300	\$46,683

Respondent's revised contentions of value per its valuation disclosure:

Parcel Number: 44-015-005-001-50

Year	TCV	AV	TV
2013	\$490,200	\$245,100	\$229,600
2014	\$490,200	\$245,100	\$233,275

Parcel Number: 44-015-004-007-00

Year	TCV	AV	TV
2013	\$516,000	\$258,000	\$122,110
2014	\$516,000	\$258,000	\$124,063

Parcel Number: 44-015-004-008-00

Year	TCV	AV	TV
2013	\$448,000	\$224,000	\$99,781
2014	\$448,000	\$224,000	\$101,377

Parcel Number: 44-015-005-032-00

Year	TCV	AV	TV
2013	\$548,100	\$274,050	\$104,885
2014	\$548,100	\$274,050	\$106,563

Parcel Number: 44-015-008-001-00

Year	TCV	AV	TV
2013	\$1,129,400	\$564,700	\$202,789
2014	\$1,129,400	\$564,700	\$206,033

Parcel Number: 44-015-009-019-00

Year	TCV	AV	TV
2013	\$120,000	\$60,000	\$30,808
2014	\$120,000	\$60,000	\$31,300

Parcel Number: 44-015-009-020-00

Year	TCV	AV	TV
2013	\$240,000	\$120,000	\$45,948
2014	\$240,000	\$120,000	\$46,683

RESPONDENT'S ADMITTED EXHIBITS

- R-1: Valuation Disclosure prepared by Thomas Schlichting
- R-2: Confidential Real Property Statement-Financial Institution-Previously Foreclosed Property
- R-3: Aerial photographs, Petitioner's Land Sales 2-8
- R-4: Warranty Deed dated January 18, 2005

RESPONDENT’S WITNESS

Thomas E. Schlichting

Respondent presented testimony from its assessor, Thomas E. Schlichting. Based on his experience and training, the Tribunal accepted Mr. Schlichting, a Michigan Advanced Assessing Officer, as an expert in the field of assessing and valuation of real property. Mr. Schlichting prepared and communicated a valuation disclosure for the subject property. Like Petitioners’ appraisal, the disclosure employs only the sales comparison approach to value.

All seven of the subject parcels share the same set of comparables for the 2013 tax year. Mr. Schlichting did not prepare a separate analysis for the 2014 tax year. As explained by his valuation disclosure, “Some list prices have been reduced in 2014 from their earlier levels, but the pricing of sold parcels do not support a reduction of value from 12/31/2012 to 12/31/2013. The sales taken together support a similar conclusion of value for each year at issue.” R-1, p. 1.

Mr. Schlichting’s analysis examines nine sales that were adjusted to be consistent with the characteristics of the subject property. Write-ups for each comparable are included in the disclosure. A summary of the sales is as follows:

Sale #	1	2	3	4	5	6	7	8	9
Location									
Date of Sale	12/19/13	9/26/12	2/22/11	12/21/12	12/18/13	12/5/13	6/5/13	12/19/13	5/13/14
Price	\$125,000	\$990,000	\$3,425,000	\$750,000	\$180,000	\$165,000	\$1,200,000	\$350,000	\$262,500
Acreage	40	183.4	386.5	119.51	20	29.67	160	37.1	25
Price/Acre	\$3,125	\$5,398	\$8,861	\$6,276	\$9,000	\$5,561	\$7,500	\$9,434	\$10,500
Road Access	None	1 ½ miles 3 Roads (Gravel)	2 miles Brocker & Blood (Gravel)	Driveway Access	667 Feet Brocker (Gravel)	995 Feet Brocker (Gravel)	1,000 Feet Delano (Gravel)	500 Feet Oak	770 Feet Dryden (Paved)
Topography	Rolling	Rolling	Rolling	Rolling	Minor Slopes	Minor Slopes	Rolling	Rolling	Rolling
Open/Scrub Swamp	Minor	20%	25%	Minor	Insignificant	40%	Minor	Insignificant	None
Wooded Wetland	10%	10%	10%	15%	Insignificant	20%	Minor	Insignificant	None
Open Water	Small Creek	Small Creeks	Creeks, 14-Acre Lake	Small Creek	None	None	25-Acre Lake	None	None
Woods Dry	25%	25%	20%	Minor	Significant	Significant	30%	Significant	Insignificant
Scrub/Brush	40%	30%	Significant	Minor	None	Minor	Minor	Significant	Insignificant
Tillable/Open	15%	Significant	30%	70+%	50+%	20%	50+%	50+%	90+%
Zoning	R-1	A-2	A-2	Not provided	A-2	A-2	A2	Village R-2	R-2

Comparable 1, a landlocked parcel that sold out of foreclosure, was provided only as a point of reference, and was not included in Mr. Schlichting’s final value calculations. The property was

included because it is adjacent to the southern “backland” of the subject property, and represents a minimal liquidation value for land near the subject.

The individual attributes of the remaining sales were analyzed and compared to the subject, and adjustments were made to account for differences between the properties. Unlike Mr. Kernan, who analyzed and valued each of the subject parcels individually, Mr. Schlichting considered the property as a whole. He explained:

Now, where our approach might differ a little bit is that I’m looking at the whole land, 500 plus acres, and saying, how can that be utilized for value purposes? Right now we’re holding it for future development, we’re farming it to help defray the costs of holding it, but it didn’t make sense to me to regard the back parcels . . . in isolation from the rest of the property. You could look at them as what’s their contribution to the value of the whole piece of property So I looked at it—although I valued the parcels, I looked at them all in relationship to being together They influence each other’s value, and you can’t really look at one without thinking that it’s part of a whole. TR, p. 143-144.

Various elements of comparison, including agricultural revenue, road access, geographical and topographical features were considered. With respect to revenue, Mr. Schlichting’s disclosure notes that the range of sales prices for farmed and unfarmed land was similar, and that other factors were more influential on price. Accordingly, the subject’s income was not quantified for use as an adjustment. The road access adjustments reflect value related to this element for development potential. More specifically, for the subject area designated “Town Center,” which is located adjacent to commercial developments, an adjustment of up to 20% was utilized for comparables on gravel roads with limitations on current divisions or access. For the subject area with frontage on M-24 (“M-24 North Frontage”), an adjustment of 10% was utilized. Comparables with extensive road frontage and multiple access points received less adjustment for this factor, however, and subject areas distant from highway access were regarded as equivalent to parcels located away from the M-24 corridor access. As for geographical and topographical features, swamp land was concluded to reduce the value of large acreages by 10-40%, depending upon the quantity and placement of the swamp on the parcel. Mr. Schlichting indicated that small amounts of swamp, located in the back of a parcel, had no discernible effect on value. Wooded wetlands also had less of an impact than open or scrub wetlands, but the most important factor was the overall proportion, and how the wetland area limited access to or use of the front of the parcel. Wetland area adjustments were up to 10% for open swamp, with up to an additional 10% for large areas of wetland. Wetlands blocking access to the back of the parcel or use of the front of the property received additional adjustment. Small lakes and creeks, on the other hand, were concluded to be a positive influence on value, and properties were adjusted up to 20% for such features. Rolling terrain and high building sites looking over mixed woods and open meadows were concluded to have a premium value, but because most large-acreage properties in Metamora have such areas, only those parcels with an extra-high proportion of dry woods and open land were adjusted. Parcel size adjustments were derived from sales of parcels with acreage ranging between 20 and 40 acres, as compared to sales of parcels exceeding 100 acres. Ultimately, a flat 10% adjustment for size was utilized.

Though only sales were utilized in his determination of value, Mr. Schlichting also reviewed several market listings. He explained that

[t]he purpose of the listings is to show that the sales and the listings are not that far apart, first off, and because there were listings very similar to the subject property close to the subject property and I think it establishes an atmosphere of what sellers want to get out of their properties, and it helps support my value conclusions, which are based upon sale properties. So that's why the listings are there . . . just background information for the sale. TR, p. 147-148.

The listed properties range in size from 29 to 100 acres (approximate), and have unadjusted sales prices ranging between \$6,438 and \$10,271 per acre.

After analyzing the comparable sales, adjusting for differences in amenities and reviewing the supplemental listings, Mr. Schlichting concluded to final true cash value indications as follows:

Parcel No. 44-015-005-001-50	\$7,000 per acre
Parcel No. 44-015-004-007-00	\$6,000 per acre
Parcel No. 44-015-004-008-00	\$6,000 per acre
Parcel No. 44-015-005-032-00	\$7,000 per acre
Parcel No. 44-015-009-019-00	\$6,000 per acre
Parcel No. 44-015-009-020-00	\$6,000 per acre
Parcel No. 44-015-008-001-00	\$7,700 per acre

FINDINGS OF FACT

1. The subject property consists of seven parcels of vacant land, identified as Parcel Nos. 44-015-005-001-50, 44-015-004-007-00, 44-015-004-008-00, 44-015-005-032-00, 44-015-008-001-00, 44-015-009-019-00, and 44-015-009-020-00. The parcels, which have no access to public utilities, have a total land area of more than 500 acres.
2. Title to Parcel No. 44-015-005-001-50 is vested in Haze Development Limited Partnership, and title to the remaining parcels is vested in Predmore Land & Cattle Company. Haze and Predmore are related entities.
3. The subject parcels are located on the east side of Lapeer Road ("M-24"), north of Dryden Road, south of Sutton Road, in the Southern Lapeer submarket of the Detroit Core Based Statistical Area. The Detroit CBSA is part of the southeast Michigan region and is comprised of Oakland, Macomb, Wayne, Lapeer, St. Clair, and Livingston counties. The region is anchored by the tri-county area, which consists of Oakland, Macomb, and Wayne counties.
4. The subject neighborhood's western boundary is formed by M-24, which provides access to Lake Orion to the south. I-69 is located to the north and provides access to Port Huron to the east and Flint to the west. Primary roads include Dryden Road, East Sutton Road, and East Newark Road.

5. The predominant land use in the subject neighborhood is agricultural and vacant undeveloped land. The secondary land use is residential with development scattered throughout. A cluster of residential developments are located in the southwest portion of the subject neighborhood. Other residential developments are located along the northern boundary as well as North Oak Street. The majority of commercial properties are located in the southwest portion, along Lapeer and Dryden Roads.
6. Parcel Nos. 44-015-005-001-50, 44-015-008-001-00, and 44-015-005-032-00, which have frontage along Lapeer Road, are leased to local farmers on a year-to-year basis and used primarily for agricultural purposes. The remaining parcels have no direct access and are considered recreational in nature.
7. The subject parcels are rectangular or slightly irregular in terms of configuration, and most are generally level with some gently rolling and partially wooded areas. With the exception of Parcel No. 44-015-009-020-00, none have wetland issues. All parcels are zoned single-family residential, which allows for low-density (minimum 1-acre lots under R-1 and 5-acre lots under R-2) residential or agricultural uses. A summary of the parcels is as follows:

Parcel Number	Acres	Access	Configuration	Use	Zoning
44-015-005-001-50	70.03	Available	Rectangular	Agricultural	R-2
44-015-009-020-00	40.00	None	Rectangular	Recreational w/ Swamp	R-2
44-015-009-019-00	20.00	None	Rectangular	Recreational	R-2
44-015-008-001-00	148.00	Available	Slightly Irregular	Agricultural	R-1
44-015-005-032-00	78.30	Available	Slightly Irregular	Agricultural	R-1
44-015-004-008-00	64.00	None	Rectangular	Recreational	R-2
44-015-004-007-00	86.00	None	Rectangular	Recreational	R-2

8. The highest and best use of Parcel Nos. 44-015-005-001-50, 44-15-008-001-00, and 44-015-005-032-00 is continued agricultural use, holding for future residential development, and the highest and best use of the remaining four parcels is continued recreational use.

CONCLUSIONS OF LAW

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value. The Michigan Legislature has defined true cash value as “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). The Michigan Supreme Court has held that “true cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

The Tribunal is charged with finding a property’s true cash value to determine its lawful assessment. See *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). Determination of the lawful assessment will, in turn, facilitate calculation of the property’s taxable value as provided by MCL 211.27a. Fundamental to the determination of true cash value

is the concept of highest and best use. “It recognizes that the use to which a prospective buyer would put the property will influence the price which the buyer would be willing to pay. Land is appropriately valued ‘as if available for development to its highest and best use, that most likely legal use which will yield the highest present worth.’” *Edward Rose Bldg Co v Independence Twp*, 436 Mich 620, 633, 462 NW2d 325 (1990) (citation omitted).

A proceeding before the Tax Tribunal is original, independent, and de novo. See MCL 205.735a(2). The Tribunal’s factual findings must be supported by competent, material, and substantial evidence. See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984) and *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 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).

MCL 205.737 provides that “[t]he petitioner has the burden of proof in establishing the property’s true cash value.” The Michigan Court of Appeals has held that the petitioner must prove, by the greater weight of evidence, that one or more of the assessments in question were too high based upon the Tax Tribunal’s findings as to the true cash value.” *Alhi*, 110 Mich App at 768. The petitioner’s burden “encompasses two separate concepts: (1) the burden of persuasion; and (2) the burden of going forward with the evidence. *Jones & Laughlin*, 193 Mich App at 355. Although the Tribunal may not “automatically accept a respondent’s assessment” the Tribunal can, upon motion or its own initiative, enter a directed verdict, or more appropriately, an involuntary dismissal if the petitioner fails to meet its burden of going forward. See MCR 2.504(B)(2). See also *Jones & Laughlin*, 193 Mich App at 354-356 and *Great Lakes Div of Nat Steel Corp v City of Ecorse*, 227 Mich App 379, 408-410; 576 NW2d 667 (1998).

“[T]he weight given to the evidence is a matter within the . . . Tribunal’s discretion” and “the weighing process involves a considerable amount of judgment and reasonable approximation.” *Comstock Village Ltd Dividend Housing Ass’n v Comstock Twp*, 168 Mich App 755, 760; 425 NW2d 702(1988). In its review of the evidence, the Tribunal “is under a duty to apply its expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of property, utilizing an approach that provides the most accurate valuation under the circumstances.” *Jones & Laughlin*, 193 Mich App at 353. “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.” *Id.* The income approach is generally considered the most accurate method for valuing income-producing property. See *CAF Investment Co v Saginaw Twp*, 410 Mich 428, 476; 302 NW2d 164 (1981). However, “[t]he market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.” *Jones & Laughlin*, 193 Mich App at 353-354. In any event, the Tribunal is not “bound to accept either of the parties’ theories of valuation. It may accept one theory and reject the other, it may reject both theories, or . . . utilize a combination of both in arriving at its determination.” *Id.* at 356. “Regardless of the approach selected by the Tribunal, the value determined must represent the usual price for which the subject property would sell.” *Id.* at 353. See also MCL 211.27(1).

Here, the parties' experts were charged with developing and communicating valuations of the subject property to assist the Tribunal in making an independent determination of its true cash value for the two years under appeal. The cost and income approaches were considered, but not developed by either expert; both employed only the sales comparison approach to value. Mr. Kernan indicated that because the property is vacant and has no improvements, the cost approach is not applicable. The income-approach was also deemed inapplicable, despite Parcel Nos. 44-015-005-001-50, 44-015-005-032-00, and 44-015-008-001-00 being leased for agricultural use because the income generated is so minor. TR, p. 32. Mr. Kernan acknowledged that he did not know how many acres were leased, or what the rental rate per acre was, but testified that the owner of the property had indicated it was a minimal amount. TR, p. 81. Regarding the holding of such property for future development, Mr. Kernan testified that it would be equally desirable to a parcel producing no income: "If it's a minimal amount, it's not going to have an impact on the value. That investor would be looking more in terms of what's the potential of this property down the road." TR, p. 81. Though Mr. Schlichting seemed to dispute that the income generated was minimal, he nonetheless agreed that it had no impact on market value. Pursuant to his valuation disclosure, "the range of sales prices [is] similar in the farmed and un-farmed land. Other factors over time have seemed more consistently influential in determining price. Not all buyers in our market have an interest in revenue from acreage property, but purchase for future development, or personal residential estate use without regard to revenue potential." R-1, p. 22. Thus, no adjustments were made for this consideration in his market analysis.

"The sales comparison approach is applicable to most types of real property interests when there are sufficient recent, reliable transactions to indicate value patterns or trends in the market. For property types that are bought and sold regularly, the sales comparison approach often provides a credible indication of market value." Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p 380. The Tribunal finds that there were sufficient sales in the subject market during the relevant time periods, and given the nature of the subject property, agrees that the sales comparison approach provides the most reliable indication of true cash value or "usual selling price" within the meaning of MCL 211.27 for the tax years at issue. The parties' approaches to this methodology differ substantially however, and ultimately, they conclude to widely disparate estimates of value for the subject property. Counsel for Petitioners argued that a fundamental difference lies in a dispute regarding highest and best use. Specifically, counsel posed the issue as a dispute regarding whether the highest and best use of the subject property is future subdivision development as Petitioners propose, or single-family residential, private estate "acreage" development as Respondent proposes. Counsel also argued that Respondent's comparables were not reliable indicators of value because they were not subject to the same influences, particularly that of its proximity to Lapeer Road ("M-24").

The Tribunal is persuaded, for the reasons set forth below, that the subject location lends itself, potentially, to future subdivision development, and not private estate development as Petitioners contend. However, the Tribunal also finds that while the subject property's highest and best use, at least for Parcel Nos. 44-015-005-001-50, 44-15-008-001-00, and 44-015-005-032-00, includes holding it for its maximally productive use, future residential development, the financially feasible highest and best use is continuation of its current use. Mr. Kernan explained: "[T]here hasn't been a lot of development here. There's not a lot of demand for a residential development, you know, where these parcels are located. The current market conditions don't

justify making that—the initial outlay to develop a residential parcel at this time.” TR, p. 29. Mr. Schlichting agreed that “[t]here is little demand currently to develop additional residential land or commercial property.” R-1, p. 2. See also TR, p. 173. Thus, the highest and best use of Parcel Nos. 44-015-005-001-50, 44-15-008-001-00, and 44-015-005-032-00 is continued agricultural use, and the highest and best use of the remaining four parcels, due to their limited access, is continued recreational use. Though several of Mr. Schlichting’s comparables sold for such uses, the majority sold for private estate development. This is because unlike Mr. Kernen, who sought out properties with similar uses and locations, Mr. Schlichting’s primary criterion was market proximity. He argued that this element was of particular importance: “Metamora Township is different from St. Clair County. Metamora Township is different than land further north in Lapeer County. It’s different from Oakland County, and you can’t just go grab parcels from anywhere and say that they’re comparable when you leave out that main location factor, is it near the subject.” TR, p. 250. The Tribunal agrees that location within a particular market is ideal, and even Mr. Kernen acknowledged as much. However, not all locations within a market are equal, and “[a]n adjustment for location within a market area may be required when the locational characteristics of a comparable property are different from those of the subject property.” Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p. 417. Further, “[e]xcessive locational differences may disqualify a property from use as a comparable sale.” *Id.* The evidence on record persuasively establishes that buyers of properties like the subject have different motivation than those purchasing for private estate development, and that the latter properties have higher market values.

Because the concept of highest and best use is fundamental to the determination of true cash value, the Tribunal finds that Respondent’s comparables do not provide the best evidence of true cash value or “usual selling price” within the meaning of MCL 211.27. Even assuming arguendo that Respondent’s comparables fit the highest and best use of the subject parcels, the Tribunal agrees with Petitioner that they are extremely dissimilar with respect to location, and as a result, are not subject to the same market influences. With the exception of Comparables 1, 4, and 8, all are located in the southeast portion of the Township, in or near what is commonly referred to as “hunt country.” Similarly, all but these three comparables, along with Comparable 9, are zoned agricultural, which unlike the subject classifications, provides for lower-density lots of 10 acres or more. The subject parcels sit northwest of the Village of Metamora, just south of the Township’s northern-most boundary. The testimony and evidence provided establishes the majority of commercial properties are located in the Village and to the southwest, along Lapeer and Dryden Roads. Mr. Schlichting described the area in which the subject sits as “the commercial core of the Township.” TR, p. 174. The bulk of residential development has likewise occurred in the area immediately surrounding the Village, though there are other developments scattered throughout. Notably, a cluster of residential developments are located in the southwest portion of the subject neighborhood; others are located along its northern boundary, as well as North Oak Street. The nature of the area is further explained by Respondent’s highest and best use analysis:

The current zoning allows residential development on as little as a one-acre lot, without sewer development, on the front parcels, and on a 5-acre minimum lot in the back areas. Because much of the property is located in an area designated for commercial development, some rezoning would likely be available for a

commercial/residential mixed development plan. The township master plan also designates this corridor, known as the town center, as the area for development of a future sewer system, which would expand the number of units per acre allowable and facilitate more commercial uses. These potential improvements may influence the decisions of an informed buyer, but this potential can be given little weight in the current market. There is little demand currently to develop additional residential land or commercial property. The speculative value related to development potential will be hard to define until actual sales along the M-24 corridor occur. Higher per acre values could be obtained for smaller portions of the land along M-24, but over-sale of these parcels into a still-weak market could reduce the value of the remaining land. R-1, p. 2.

Undoubtedly, any attempt to determine the value, if any, related to the noted potential improvements is speculative as Respondent contends. The subject property is, however, clearly located in an area not only designated for dense development, but actually established as such. There is a large area of commercial development abutting Parcel Nos. 44-015-005-032-00, 44-015-008-001-00, and 44-015-004-008-00. It effectively splits Parcel Nos. 44-015-005-032-00 and 44-015-008-001-00. Additionally, a subdivision, which Mr. Schlichting described as being relatively built-out, abuts Parcel No. 44-015-009-020-00. Respondent's "hunt country" comparables are relatively removed from any such development. And at least two are plainly superior to the subject parcels. With respect to Comparable 3, Mr. Schlichting testified:

This is a much nicer piece of property than [Comparable 2]. It's rolling. The wetlands along the front provide for privacy for what they wanted an estate to do. There's also a little wetlands in the back, which is excellent deer habitat. They're setting up hunting blinds. They're planning to have a family compound with several houses in here to be their second homes And then down on the south end of the property you'll see some small lake areas which were developed by the previous recreational user where he trapped and impounded water flowing through the property. So that's a definite plus feature to this property is that it has these lakes on it. TR, p. 149-150.

The Tribunal is not satisfied that Respondent's adjustments are sufficient to account for these superior features, particularly in light of the fact that on cross, it was revealed that the water flowing through the property is the south branch of the Flint River. TR, p. 195. The same is true for Comparable 7, which Mr. Schlichting described as follows:

[T]he previous landowner improved this property by making it possible for water to build up on it, and in many areas it looks like a regular lake, and I think it's an amenity benefit to the property, and I regard that—any time there's a sizeable body of water like that that's open, it's going to add value to the property The access there is fairly limited The road right-of-way that the county could have extends further up, but they have not developed the road further up, so it stops there. There's also some high ground in there and some nice views. The wooded areas here on the south end are high. It's a very desirable property. Now, for development purposes, it's not quite so useful because it's a minimum

10-acre size area and you'd literally have to build a public road along the front to be able to access the north part But it wasn't bought for development purposes. Again, this was a guy coming in saying, I want my dream house right near that lake. TR, p. 154-156.

As for the comparables located outside of Metamora's "hunt country," Comparable 1, which sold out of foreclosure, was not utilized in Mr. Schlichting's value calculations. It was, as noted above, provided only as a point of reference, representing in Mr. Schlichting's opinion, a minimal liquidation value for land near the subject. Although the "Tribunal may not summarily reject evidence solely because a bank-owned sale is involved," *Abbas v City of Dearborn*, unpublished opinion per curiam of the Court of Appeals, issued December 27, 2012, the Tribunal is not satisfied, given Respondent's own failure to rely on the sale, that this comparable should be considered in its final value determination. This is particularly true given that this property sold on land contract, and such sales, the negotiations of which commonly focus on the monthly payments and security required rather than the ultimate sale price, are generally not considered to accurately reflect a property's true cash or fair market value. Comparable 8 is located in the Village of Metamora, and in fact was purchased by the Village for public recreational use. Mr. Schlichting explained: "Metamora has had a balloon launch for many years. They bring in a lot of balloons. They wanted a place big enough to keep doing that, and the original pieces they used were all being sold out years ago, so they saw this coming on the market and they went and negotiated and bought it" TR, p. 158. Though Mr. Schlichting asserted that this property was nonetheless subject to "competition in the regular market," he later testified that he thought "they saw it as the last open space they could own close to the village where they could do these activities," so "[t]hey figured they'd better buy it." TR, p. 188. Mr. Schlichting acknowledged that the seller likely knew this, and as a result, wasn't going to come down a lot on the price. *Id.* Given these statements, and the fact that actual market exposure is unknown, the Tribunal is not persuaded that this property sold subject to normal market conditions and pressures so as to provide a reliable indication of value. Petitioners' argument that the Village was highly motivated to purchase this property, and as a result, paid a premium price for it, is persuasive. Comparable 4, though seemingly similar to the subject property with respect to both topography and use, is quite different with respect to location. Like Mr. Schlichting's "hunt country" comparables, this property is located in a fairly developed lower density, large-parcel residential area. TR, p. 199.

Respondent observed that despite Petitioners' focus on the influence of the subject's main road frontage, that none of Petitioner's comparables abut a similar state road. Mr. Schlichting noted that in fact, while most have frontage on one or more roads, many front unpaved, gravel roads, and several are accessed through other parcels and have no frontage at all. Thus, all appear to be very similar to Respondent's comparables, or at least no better in that respect. Respondent, however, focuses on actual road frontage, while Petitioners' appraiser focused on proximity, and more importantly, overall location. As noted above, Mr. Kernan testified that location, including the *surrounding development*, was among the key factors for selection of his comparables. See TR, p. 116. He also testified that regardless of the amount of frontage, the access of the comparables is similar, and indicated that when talking about residential development, access to a main road like M-24 is not particularly important: "It's, frankly, not a critical—I mean, it has, like I said, positives and negatives in terms of traffic and can be an issue, so it's not an

overriding factor in terms of the appeal of the site and the parcel.” TR, p. 127. Respondent also disputed Petitioners’ 30% adjustment to account for the “landlocked nature of Parcel Nos. 44-015-004-007-00, 44-015-004-008-00, 44-015-009-019-00, and 44-015-009-020-00, particularly with respect to the comparables that were indicated as having only driveway access. Mr. Kernen testified, however, that those comparables, unlike the subject parcels, already had “that access in place, so there’s no cost necessary to achieve the easement or to get the easement to get access to these. It’s all already in place at the time of sale.” TR, p. 117. Further, while the owners of the subject property could deed access or “an easement to the back parcels . . . there would still be a cost with getting that done.” TR, p. 117. Specifically, “there’s cost and time and . . . risk associated with making that happen and providing the access and determining how that access impacts the front parcel because you’re going to have to give up something in order to . . . give that access to the back parcel. An owner’s not going to give that away for free.” TR, p. 129. Respondent also argued that these parcels were accessible through the front parcels, and could not be divided and sold off without adequate access to a road under the Land Division Act of 1977. Mr. Schlichting himself acknowledged, however, that the back parcels had lesser values than those fronting M-24, and Mr. Kernen testified that “ultimately you’re still going to get a relatively similar value. So if you value them combined, those back parcel areas are going to have less value than the front. It’s still going to essentially average out to the same value” TR, p. 104. See also TR, p. 178.

Although the Tribunal finds that the subject’s location would likely prevent an informed buyer from purchasing the property for purposes of building his or her “dream home,” and at the very least, renders Respondent’s comparables unreliable on the issue of true cash value in the absence of proper adjustments for locational differences, it is not persuaded that Petitioner’s appraisal provides a fully supportable conclusion of value. Comparable 1 has an unadjusted sale price of only \$1,888, while all others cluster around \$3,000, and the Tribunal finds that it is an outlier with respect to both the adjusted and unadjusted sales range. Outliers are often evidence of an error or something other than “usual selling price” and “may have an inordinate effect on a statistical model if the reason for [their] departure from the typical range cannot be explained.” Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: Appraisal Institute, 13th ed, 2008), p. 355. Mr. Schlichting, who in addition to working in Metamora Township for seventeen years, has also assessed properties in St. Clair and Macomb counties since 1993, testified that historically, “St. Clair County had the lowest land prices just across the board, any kind of large acreage piece. If it was farmland, it sold lower; if it was residential development, it sold lower. At the same time we were selling parcels in Metamora for development at 12-18,000 an acre, or for an estate, they would sell in St. Clair County for \$2,000, \$2,500.” TR, p. 137. The Tribunal finds this testimony credible, reliable, and persuasive, and notes that Comparable 1 was also indicated as having a railroad track and an interstate as its northern and southern boundaries. A rail line that services the General Motors Lake Orion Plant also runs north and south across Petitioners’ Comparable 2. Mr. Kernen acknowledged that a railroad line bisecting a residential property is typically not a positive factor when it comes to value, and the Tribunal finds that these comparables proximity to the lines likely affected their sales prices. TR, p. 105-109. As such, and inasmuch as Mr. Kernen failed to adjust for these influences, the Tribunal finds that Petitioner’s Comparables 1 and 2 are not reliable indicators of value. Even assuming arguendo that adjustments had been made, the Tribunal is simply not satisfied that the properties are sufficiently similar to properly be considered comparable to the subject parcels. In addition to

being located in an admittedly superior location, Comparable 2, like many of Respondent's comparables, does not fit the subject's highest and best use.

There is no indication as to how Petitioners' appraiser, in arriving at his value estimates, weighted his comparable sales. "The accepted procedure is to review each sale and judge its comparability to the property being appraised. The final value is based on all the information available to the appraiser." George F. Bloom, MAI and Henry S. Harrison, MAI, *Appraising the Single Family Residence*, American Institute of Real Estate Appraisers, Chicago, Illinois (1978), p 147. See also *The Appraisal of Real Estate*, Appraisal Institute, 14th ed. (2013), p 392 ("In reconciling valuation indications in the sales comparison approach, the appraiser evaluates the number and magnitude of adjustments and the importance of the individual elements of the comparison in the market to judge the relative weight a particular comparable sale should have in the comparative analysis"). Though the Tribunal is satisfied that Petitioner's Oakland County comparables, Comparables 6 and 8, are properly considered, it finds nonetheless that they should be given less weight in the final conclusion of value. Mr. Kernen testified that Oakland County, unlike Lapeer and other counties in the region, has seen some new residential development in recent years. TR, p. 83. The Tribunal finds that this testimony supports a finding that the Oakland County market is somewhat different, and slightly superior to the subject market. The Tribunal finds that Comparable 3 should also be given less weight, as like most of Respondent's comparables, it is zoned agricultural. This is true notwithstanding that Mr. Kernen, unlike Mr. Schlichting, adjusted for this difference. With these considerations, the Tribunal concludes to true cash values as follows:

Parcel No. 44-015-005-001-50	70.03 acres	\$3,500 per acre	\$245,105
Parcel No. 44-015-004-007-00	86.00 acres	\$2,400 per acre	\$206,400
Parcel No. 44-015-004-008-00	64.00 acres	\$2,400 per acre	\$153,600
Parcel No. 44-015-005-032-00	78.30 acres	\$3,500 per acre	\$274,050
Parcel No. 44-015-009-019-00	20.00 acres	\$3,000 per acre	\$60,000
Parcel No. 44-015-009-020-00	40.00 acres	\$2,000 per acre	\$80,000
Parcel No. 44-015-008-001-00	148.00 acres	\$3,400 per acre	\$503,200

In arriving at these value conclusions, the Tribunal excluded Comparables 1 and 2 from its analysis, and for purposes of determining similarity *only*, as evidenced by the least amount of gross adjustments, excluded Comparables 3, 6, and 8. Thus, with respect to Parcel No. 44-015-005-001-50, the comparables have adjusted sales prices ranging between \$2,619 and \$3,636. Comparable 5, which has an adjusted sales price of \$3,636, is most similar to the subject parcel. Given appropriate weight and consideration, these sales support a true cash value of \$3,500 per acre. With respect to Parcel No. 44-015-004-007-00, the comparables have adjusted sales prices ranging between \$1,695 and \$2,633. Comparable 4, which has an adjusted sale price of \$2,633, is most similar. These sales support a true cash value of \$2,400 per acre. With respect to Parcel No. 44-015-004-008-00, the comparables have adjusted sales prices ranging between \$1,695 and \$2,633. Comparables 4 and 5, which have adjusted sales prices of \$2,633 and \$2,545, respectively, are equally similar. These sales support a true cash value of \$2,400 per acre. With respect to Parcel No. 44-015-005-032-00, the comparables have adjusted sales prices ranging between \$2,619 and \$3,636. Comparables 4 and 5, which have adjusted sales prices of \$3,621 and \$3,636, respectively, are most similar. These sales support a true cash value of \$3,500 per

acre. With respect to Parcel No. 44-015-009-019-00, the comparables have adjusted sales prices ranging between \$2,157 and \$3,273. Comparable 5, which has an adjusted sales price of \$3,273, is most similar. These sales support a true cash value of \$3,000 per acre. With respect to Parcel No. 44-015-009-020-00, the comparables have adjusted sales prices ranging between \$1,233 and \$2,182. Comparable 5, which has an adjusted sale price of \$2,182, is most similar. These sales support a true cash value of \$2,000 per acre. With respect to Parcel No. 4-015-008-001-00, the comparables have adjusted sales prices ranging between \$3,091 and \$4,018. Comparable 7, which has an adjusted sale price of \$3,548, is most similar. These sales support a true cash value of \$3,400 per acre.

JUDGMENT

IT IS ORDERED that the properties' 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 properties' 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 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, and prior to July 1, 2012, at the rate of 1.09%, and (iv) after June 30, 2012, through December 31, 2014, at the rate of 4.25%.

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

By: Preeti P. Gadola

Entered: Dec 12, 2014