



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Janu LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 19-000359

City of Warren,
Respondent.

Presiding Judge
Victoria L Enyart

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Paresh Shah, appeals ad valorem property tax assessments levied by Respondent, City of Warren, against parcel number 12-13-27-276-020 for the 2019 tax year. Paresh Shah, represented Petitioner, and Caitlin Murphy, Attorney, represented Respondent.

A hearing on this matter was held on July 27, 2019. Petitioner was self-represented and was also the sole witness. Respondent's sole witness was Jennifer Czeiszperger, MMAO, (IV) Assessor.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (TCV), state equalized value (SEV), and taxable value (TV) of the subject property for the 2019 tax year are as follows:

Parcel Number: 12-13-27-276-020

Year	TCV	SEV	TV
2019	\$223,340	\$111,670	\$111,670

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property has needed renovations since the 1999 purchase. It is requested that the City of Warren reimburse the property taxes that have been paid on an "improved" commercial property for the last twenty-years.

Parcel Number: 12-13-27-276-020

Year	TCV	SEV	TV
2019	\$125,000	\$62,500	\$62,500

PETITIONER'S ADMITTED EXHIBITS

- P-6 24425 Hoover Interior Photos
- P-7 Property Valuation with Written Comments
- P-8 Property Tax History (1999-Summer 2018)
- P-10 2019 Winter Tax bill
- P-11 2019 Change of Assessment Notice
- P-12 Parking Lot Estimate
- P-13 Rebuttal Letter

PETITIONER'S WITNESS

Parish Shah, the owner of the subject property was the only witness.¹ Mr. Shah believes that Respondent's Valuation Disclosure is misrepresenting the facts. The city has been aware that since the 1999 purchase that the subject property is not improved. It has negative value and requests the Tribunal to refund the taxes. Petitioner has paid taxes and tried to improve the property with a new roof and HVAC in 2006.

Petitioner explained:

Well building is a negative value if you include build out expense. If you took off 7,400 square feet, if you will take, and just for the mechanical, it would be at least \$60-70 per square foot. So now if you the formula, what Jennifer has in her appraisal report in my

¹ The Tribunal notes that as the property owner, he has the unique and specific knowledge of the subject property.

true appraised number or where the formula is right there, you know basically building has a negative number.

THE COURT: Mr. Shah, you have nothing, zero, that gives me an indication of what you believe, how you believe the true cash value of this property is \$125,000.”

MR. SHAH: Well, building is a negative cash value if you include build out expense. If you took off 7,400 square foot, if you will take, and just for the mechanical, it would be at least sixty to seventy dollar per square foot. So now if you take the formula, what Jennifer has in her appraisal report, in my true appraised number or where the formula is, right there, you know, basically building has a negative value.

THE COURT: So, the City should pay you to have a building that needs maintenance and repair?

MR. SHAH: You know, I paid \$400,000. That money could have been used to rebuild this. Yes, answer is yes.²

Petitioner went through the black and white photos of the subject that he took in January 2020.

Upon cross-examination, Petitioner was asked

Q. ...did you come up with any of your own comps, meaning did you find any properties that sold in the area recently.

A. Yeah. I have a broker who has...

Q. Did you submit them to the Tribunal?

A. From my broker, but those are – incorrect because neither of the buildings are...

Mr. Shah admitted that no comparables were available.

² Tr. at 20.

In closing Petitioner believes that Respondent's use of "improved" commercial is wrong, and the assessor is not aware of the many things wrong with the building. It is inappropriate for someone who is coming up with the taxable value.

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property is undervalued for the area. After the preparation of the valuation disclosure and relying upon the sales comparison approach, an increase in value was proposed.

Currently on the roll:

Parcel Number: 12-13-27-276-020

Year	TCV	SEV	TV
2019	\$223,340	\$111,670	\$111,670

Respondent's revised value:

Parcel Number: 12-13-27-276-020

Year	TCV	SEV	TV
2019	\$298,700	\$149,350	\$111,670

RESPONDENT'S ADMITTED EXHIBITS

- R-1 Curriculum Vitae
- R-2 Valuation Disclosure

RESPONDENT'S WITNESS

Jennifer Czeiszperger, City Assessor MMAO, was Respondent's only witness. Ms. Czeiszperger was deemed an expert in assessing based upon her skill, knowledge, education, experience, and training. She prepared a valuation disclosure that contained a sales comparison approach and cost approach.

Ms. Czeiszperger explained in detail the adjustments made in the sales comparison approach, and how they were considered in her valuation disclosure. The valuation disclosure contained the following three properties³:

	Subject	Sale 1	Sale 2	Sale 3
	24425 Hoover	25625 Schoenherr	18591 W 10 Mile	30050 Hoover
Sale Price		\$215,000	\$330,000	\$345,000
Sale Date		12/16	12/16	6/19
Sq Feet	7,435	5,004	8,368	8,762
SP/Sq Ft		\$42.97	\$39.44	\$39.37
ADJ Value		\$298,664	\$306,396	\$271,155
ADJ Value/ SF		\$40.17	\$41.21	\$36.47

Respondent's three sales selected because they were gutted after the sale, or in similar condition to the subject property all requiring substantial renovations and were medical offices. Adjustments were made for the following: Terms; Sale 3 was a land contract, Time; all three sales were adjusted for differences between tax day (December 31, 2018) and Sale Date; Sale 1 and 2 were adjusted for land to building ratio, Condition; Sale 1 and 3 were adjusted for below average to fair condition, Sale 2 was adjusted for size difference. Respondent considered the subject property to be in fair condition. The adjusted sale prices were reconciled. The adjusted indication of market value is \$298,700 or \$41.17 per square foot via the sales comparison approach.

The next approach utilized was a cost approach. The land is valued separately from the building. Three vacant land sales were found, adjustments were made for differences. The market value of \$3.50 a square foot. Applied to subject's land of 19,535 square feet equals \$62,500 for land value. Site improvements (asphalt) was calculated

³ This is an abbreviated portion of Respondent's Sales Grid at R-2 p. 39.

at \$2,056. The replacement cost new was calculated from the time of construction to the December 31, 2018 tax date (\$1,221,384). Physical, Functional, and External depreciation were deducted from the cost new resulting in a depreciated value of the building \$244,277. The last step in the cost approach is adding the land, site improvements and depreciated building results together for a true cash value via the cost approach for \$308,833 as of December 31, 2018.

The sales comparison approach and cost approach were both considered. The income approach was considered but not utilized as the subject property was not in a rentable condition, therefore it was not used. Respondent gave the most weight to the sales comparison approach. The final true cash value of the subject property is \$298,700

FINDINGS OF FACT

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusion and has rejected evidence contrary to those findings.

1. The subject property is located at 24425 Hoover Road, Warren, Macomb County.
2. The subject property is Commercial property, improved with a 7,435 square foot building, that is gutted inside with no separation walls, or finish.
3. Petitioner has owned the property for twenty years.
4. Petitioner has requested reimbursement of \$400,000 in property taxes from the City of Warren.
5. The City of Warren presented a Valuation Disclosure considering the cost and sales comparison approaches.
6. City of Warren requests costs.

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 TCV.⁴

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.⁵

The Michigan Legislature has defined TCV 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.⁶

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”⁷

“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.”⁸ The Tribunal is not bound to accept either of the parties' theories of valuation.⁹ “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.”¹⁰ In that regard, the Tribunal “may accept one theory and reject the other, it may

⁴ See MCL 211.27a.

⁵ Const 1963, art 9, sec 3.

⁶ MCL 211.27(1).

⁷ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁸ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁹ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

¹⁰ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

reject both theories, or it may utilize a combination of both in arriving at its determination.”¹¹

A proceeding before the Tax Tribunal is original, independent, and de novo.¹² The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”¹³ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”¹⁴

“The petitioner has the burden of proof in establishing the true cash value of the property.”¹⁵ “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.”¹⁶ 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.”¹⁷

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.¹⁸ “The market approach is the only valuation method that directly reflects the

¹¹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

¹² MCL 205.735a(2).

¹³ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

¹⁴ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

¹⁵ MCL 205.737(3).

¹⁶ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

¹⁷ MCL 205.737(3).

¹⁸ *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).

balance of supply and demand for property in marketplace trading.”¹⁹ 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 TCV of the property, utilizing an approach that provides the most accurate valuation under the circumstances.²⁰ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.²¹

The Tribunal finds that after substantial calls to the Tribunal to assist in filing the appeal, and questions on what to file, and several conference calls and video conference prior to the hearing, that Petitioner fails to submit valuation evidence.

This is a dispute as to the true cash value of the subject property as of December 31, 2018. Petitioner did not submit any valuation evidence that indicates the market value of the property. Petitioner’s request for the City of Warren to refund the \$400,000 in property taxes from the last twenty years is not within the jurisdiction of the Tribunal. Petitioner has been told multiple times that the Tribunal does not have equitable powers, which includes the inability to refund taxes for years not under appeal. Essentially, Petitioner is requesting an exemption from taxes, because in the last twenty-years he has failed to build-out the subject property. In 2006, two building permits were issued for the roof and a mechanical permit. That is the only improvements made since the 1999 purchase of the property. It is not the City of Warren’s duty to reward Petitioner for a property that is improved with a building on it. It is Petitioner’s responsibility to build-out the medical offices or sell it or decide what to do

¹⁹ *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

²⁰ *Antisdale, supra* at 277.

²¹ See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

with the subject property. Petitioner did not object to Respondent's disclosure, he objected to the term "Improved" commercial property. The subject property is not vacant, and regardless of the condition of the building and the need for build-out it is an improved commercial property.

Without any valuation evidence (an appraisal or anything that indicates the value of the property) Petitioner fails to carry the burden of proving that the subject property is overvalued.

Ms. Czeiszperger in addition to the MMAO also holds a Limited Appraiser License. She was qualified as an expert in property appraising. She presented a 74-page valuation disclosure with both a sale and cost approach. Respondent clearly understands the assessment process utilizing the cost approach as well as adjustments in the sales comparison approach. The lower value of the sales approach was selected. The subject property has not been occupied or a finished interior since the 1999 purchase. This was considered in the report giving 80% depreciation for the subject property.

The Tribunal finds that Petitioner fails to prove that the subject property is not properly assessed. Petitioner's evidence presented was of no assistance in determining the true cash value of the subject property as of December 31, 2018 for tax year 2019.

Respondent has indicated a \$75,360 increase in the value of subject property from \$223,340 to \$298,700. While the Tribunal finds that the valuation submitted was substantially more than Petitioner submitted. The underlying information for the adjustments were not included in the valuation disclosure, therefore, the Tribunal finds the 2019 True Cash, Assessed and Taxable Value remain unchanged.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner fails to carry the burden of proving that the subject property is over assessed. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's SEV and TV for the tax year(s) at issue are AFFIRMED/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 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%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (xi) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (xii) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, and (xiii) after June 30 2020, through December 31, 2020, at the rate of 5.63%, and (xiv) after December 31, 2020, through June 30, 2021, at the rate of 4.25%.

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.²² 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 \$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.²³ 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.²⁴ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.²⁵

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."²⁶

²² See TTR 261 and 257.

²³ See TTR 217 and 267.

²⁴ See TTR 261 and 225.

²⁵ See TTR 261 and 257.

²⁶ See MCL 205.753 and MCR 7.204.

A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.²⁷ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.²⁸

By Victoria H. Emjart

Entered: January 4, 2021

²⁷ See TTR 213.

²⁸ See TTR 217 and 267.