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

Brighton Hotel Suites, Inc.,
Petitioner,

v

MTT Docket No. 366618

City of Brighton,
Respondent.

Tribunal Judge Presiding
Victoria L. Enyart

# OPINION AND JUDGMENT

## Introduction

Brighton Hotel Suites, Inc., appeals the ad valorem real property tax assessment levied by Respondent, City of Brighton, against the real property of Petitioner for the 2009, 2010, and 2011 tax years. John A. Ponitz, P.C., attorney, appeared on behalf of Petitioner. Brad Maynes, attorney for the City of Brighton, appeared on behalf of Respondent. Petitioner's witnesses include Akram Namou, CPA, and President, owner and operator of hotels; and Jumana Judeh, MAI. Respondent's witness was L. Richard Parker, MAI.

The proceedings were brought before this Tribunal on February 28, 2012, to resolve the real property valuation dispute.

## Summary of Judgment

Petitioner's contentions are:

Parcel No. 4718-30-100-079

| | | | |
|---|---|---|---|
| Year | TCV | SEV | TV |
| 2009 | $3,255,000 | $1,627,500 | $1,627,500 |
| 2010 | $2,335,000 | $1,167,500 | $1,167,500 |
| 2011 | $2,765,000 | $1,382,500 | $1,382,500 |

The City of Brighton has assessed the property on the tax roll as follows:

Parcel No. 4718-30-100-079

| | Respondent | | |
|---|---|---|---|
| Year | TCV | SEV | TV |
| 2009 | $9,570,540 | $4,785,270 | $4,071,750 |
| 2010 | $9,164,240 | $4,582,120 | $4,059,530 |
| 2011 | $8,168,200 | $4,084,100 | $4,084,100 |

Respondent's revised contentions are:

Parcel No. 4718-30-100-079

| | Respondent's Appraisal | | |
|---|---|---|---|
| Year | TCV | SEV | TV |
| 2009 | $7,887,000 | $3,943,500 | $3,943,500 |
| 2010 | $4,883,000 | $2,441,500 | $2,441,500 |
| 2011 | $6,783,000 | $3,391,500 | $3,391,500 |

The Tribunal finds the values are:

Parcel No. 4718-30-100-079

| | | | |
|---|---|---|---|
| Year | TCV | SEV | TV |
| 2009 | $8,500,000 | $4,500,000 | $3,943,500 |
| 2010 | $5,200,000 | $2,600,000 | $2,441,500 |
| 2011 | $7,000,000 | $3,500,000 | $3,391,500 |

## Background

At issue is the true cash value for the Homewood Suites Hotel located at 8060 Challis Road, Brighton, Michigan. The property includes a 78,406 square foot, 94-room, and limited-service extended stay hotel. It also contains a large lobby, two meeting rooms, pool, fitness room, an executive center, and a breakfast room. The parcel has a total of 11.43 acres.

The hotel industry has some specific terminology/acronyms relied upon by the appraisers. The acronyms utilized in the appraisals include the following:

> "ADR" is the average daily rate charged each day for a rented room,
> "RevPAR" is the revenue per available room; it measures how may dollars of revenue is raised by each room.
> "STR" is Smith Travel Report, a service that reports information for the hospitality industry.

<u>Petitioner's Arguments</u>

Petitioner believes that the true cash value of the subject property for the tax years at issue should be reduced based on Petitioner's appraisal.

Petitioner's admitted Exhibits:

P-1 Appraisal of subject property.
P-2 Zoning Map and Ordinance.
P-3 Smith Travel Reports.
P-4 2008 Financial Statement.
P-5 2009 Financial Statement.
P-6 2010 Financial Statement.
P-7 CV of Jumana Judeh, MAI, CCIM.
P-8 Errata Addendum to Appraisal Report.
P-9 Traffic Studies for Grand River Ave. and Challis St.
P-10 Transaction Documents for Grand Stay Hotel Suites, Inc.

Petitioner's first witness was Akram Namou, CPA, President, owner and operator of 70 hotels, including the subject hotel. Namou testified that he is affiliated with all national franchise associations. The Homewood Suites Hotel (subject property) is part of the Hilton franchise.

Petitioner explained that the Hilton franchise requires a "plan of improvement" or a PIP that requires the hotels to update and keep the hotel to the Hilton standard. The Hilton brand is known worldwide for its standards. As an example, Namou stated that a Holiday Inn PIP would be less expensive than a Hilton Homewood Suite PIP.

The STR reports are generated by a company that compares a specific hotel property's performance with a competitive set. The competitive set is in the surrounding area and of similar amenities. This is a report that is used by Petitioner to compare rates and occupancies with similar hotels in the area. The report was provided to the appraiser. Namou was questioned about 0.85 acres of land that Respondent has termed as excess land. He indicated there was initially some effort to market the land, but the only offer was $30,000 for an ice cream store. Namou stated such a structure would not enhance the value of the hotel, and may have a negative influence on the hotel guests.

Namou testified that the subject property has areas of costs that are extraordinary when compared to his other hotels. He indicated that the tap-in fee was contentious, the retaining wall is extra cost to construct and maintain, and a bridge was required for egress to Library Road. Further, the property has wetlands and mosquitos prohibit guests from sitting outside in the summer.

Namou was aware that the location for the subject property does not have as much visibility as the Holiday Inn that opened in 2009. The Holiday Inn is visible from I-96 and is close to the exit. It has 105 rooms with 30 suites. The Courtyard is on the other side of I-96 with over 100 rooms, for a total of approximately 299 hotel rooms in close proximity.

Namou was questioned whether the Motel 6 is a budget hotel. He stated that Motel 6 is more of a budget hotel, while the subject Homewood Suites is a mid-scale hotel. The franchise cannot be changed without a substantial penalty that would equal three to five years of franchise fees.

Jumana Judeh, MAI, was Petitioner's valuation witness. She prepared an appraisal, as well as an errata addendum to the report. She made several visits to the subject property and identified it as typical construction with nothing special about the property that makes it stand out from competing properties. The wetlands were estimated to make up approximately half of the acreage.

Judeh considered the three approaches to value and utilized the sales comparison approach, as well as the income approach. After discussions with hotel owners, the consensus was that the cost of building exceeds potential value; therefore, Judeh did not find the cost approach applicable.

Judeh explained that she found an error in the initial report in the income approach as it was stated there were 62 rooms; however, the subject hotel actually has 94 rooms. When the error was corrected Judeh also changed some percentage adjustments for the market approach. The capitalization rate and equity dividend rate were also changed. The changes resulted in a slight increase in market value. Exhibit P-8 was contested but was admitted with the weight and credibility of the exhibit to be determined.

Judeh discussed the sales that were used in her market approach, none of which were located in Livingston County. The sales were selected after 2007 because the market peaked and then spiraled down. There would be a drastic negative time adjustment for the difference in economic conditions if the older sales were used, which Judeh estimated to be from 5% to 20%.

The State of Michigan was number 49 or 50 in terms of the worst economy in the United States, according to Judeh's research. This precluded her from selecting sales of comparable properties located outside of Michigan.

Judeh selected four comparable properties that sold in 2008. The sales are located in Flint, Ann Arbor, Canton, and Auburn Hills. They were adjusted as follows:

| Sale No. | Subject | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|
| Property | Homewood Ste | Am. Motel | Motel 6 | Motel 6 | Motel 6 |
| Location | Brighton | Flint | Ann Arbor | Canton | Auburn Hills |
| Sale Date | | Sep-08 | Feb-08 | Jan-08 | Jan-08 |
| Sale Price | | $2,569,000 | $3,394,286 | $2,866,800 | $3,158,875 |
| # Rooms | 94 | 86 | 107 | 80 | 114 |
| SP/Room | | $29,872 | $31,722 | $36,085 | $27,709 |
| Gross Bldg SF | 75,489 | 36,953 | 35,100 | 34,608 | 18,370 |
| Adjustments | | | | | |
| Rooms | 94 | -5% | | -5% | |
| Eff Age | 4 Years | 5% | 5% | 15% | 10% |
| L/B Ratio | 6.6 | | | | -5% |
| In/Out Pool | Indoor | | 5% | 5% | 5% |
| Interior/Ext | Interior Ent. | | -10% | -10% | -10% |
| Gross Adj. | | 10% | 20% | 35% | 30% |

| Sale No. | Subject | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|
| Adj Sp/Room | | $29,782 | $31,722 | $37,889 | $27,709 |

Judeh adjusted the comparable sales for differences in number of rooms, effective age, land to building ratio, indoor or outdoor pool, and interior versus exterior entrances. She reconciled to $34,000 per room for 2009.

Different properties sold in 2009 for a decrease in market value, as shown below.

| Sale No. | Subject | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|
| Property | Homewood Ste | Super 8 | Lexington | Hilton | Comfort Inn |
| Location | Brighton | Canton | Romulus | Troy | Monroe |
| Sale Date | | Dec-09 | Sep-09 | Oct-09 | Feb-09 |
| Sale Price | | $1,500,000 | $3,000,000 | $3,000,000 | $1,470,000 |
| # Rooms | 94 | 69 | 135 | 185 | 65 |
| SP/Room | | $21,739 | $22,222 | $16,216 | $22,615 |
| Gross Bldg SF | 75,489 | 25,282 | 65,516 | 70,855 | 36,278 |
| Adjustments | | | | | |
| Rooms | 5 years | -5% | 5% | 10% | -5% |
| Eff Age | 5 Years | 10% | 10% | 15% | 5% |
| L/B Ratio | 6.6 | | | -5% | |
| In/Out Pool | Indoor | -5% | 5% | -10% | |
| Interior/Ext | Interior Ent. | | | | |
| Gross Adj. | | 20% | 20% | 40% | 10% |
| Adj Sp/Room | | $21,739 | $26,667 | $17,838 | $22,615 |

The last set of sales from 2010 used by Judeh is set forth below:

| Sale No. | Subject | 1 | 2 | 3 | 4 |
|---|---|---|---|---|---|
| Property | Homewood Ste | Hilton | Marriott | Microtell Inn | Super 8 |
| Location | Brighton | Auburn Hils | Lapeer | Ann Arbor | Canton |
| Sale Date | | Sep-10 | Jun-10 | Mar-10 | Dec-09 |
| Sale Price | | $5,100,000 | $1,750,000 | $2,700,000 | $1,500,000 |
| # Rooms | 94 | 224 | 72 | 82 | 69 |
| SP/Room | | $22,768 | $24,306 | $32,927 | $21,739 |
| Gross Bldg SF | 75,489 | 184,500 | 35,859 | 33,819 | 25,282 |
| Adjustments | | | | | |
| Rooms | 6 years | 10% | -5% | -5% | -5% |
| Eff Age | 6 Years | 10% | 5% | 5% | 10% |
| L/B Ratio | 6.6 | | | -5% | |
| In/Out Pool | Indoor | -10% | 5% | 15% | -5% |
| Interior/Ext | Interior Ent. | | | | |

| Sale No. | Subject | 1 | 2 | 3 | 4 |
|---|---|---|---|---|---|
| Gross Adj. | | 30% | 15% | 30% | 20% |
| Adj Sp/Room | | $25,045 | $24,306 | $31,280 | $21,739 |

Judeh testified that southeast Michigan would not require an adjustment for location, as an investor would not be limited by municipal boundaries. The adjustment for the Motel 6 brand was ten percent upward as it is just as attractive to an investor in these dire economic times. The Motel 6 Hotels have a higher demand for rooms than suites at the subject property. She discussed the adjustments with individuals who own several hotels and used the recession and demand increases for budget hotels to provide a guide for the adjustments.

Articles published by Dan Duggan from Crain's were discussed by Judeh. The articles were published in August, 2010, and addressed the hospitality market and how it was depressed, and that national companies were divesting themselves of Michigan locations. Judeh did not make adjustments for sales that were not arms-length. She found them to be the new normal. This applied to Sale 9 and 11.

Judeh's next step was to consider the income-producing portion of the subject property. She considered three years' worth of income and operating expenses to determine the behavior of the subject property. After stabilizing the appropriate income and expenses, a capitalization rate was selected. The band of investment was considered appropriate in a depressed economy, as well as RealtyRates.com. Judeh changed the selection of equity rate in an amendment to the appraisal.

The built-up method was developed based on the amount of annual cash return required. The band of investment theory behind the built-up method utilizes cash required to satisfy the mortgage payment and the equity return that the investor requires. The built-up method resulted in a capitalization rate of 7.64%, 7.47%, and 7.58% for each subsequent tax year. The capitalization rates from RealtyRates.com represented the overall national hospitality limited service market. Judeh originally stated that "[w]e have now established a capitalization rate through two different benchmarks. This appraiser did lean toward the lower rates given that they best represent local market conditions." (P-1, p 55). The reconciled capitalization rates are 7.64%, 7.47%, and 7.58% for each subsequent year.

Judeh then added the effective tax rate to the capitalization rate and divided the net operating income by the overall capitalization rate to result in an estimated market value. Judeh originally used 62 rooms for the calculation of the income approach (P-3, p 51); however, the subject property has 94 guest rooms. In the Errata Addendum to Appraisal report, Judeh also reconsidered the capitalization rate and methodology. The difference in the original estimate and the addition of the missing 32 rooms resulted in amending the market value from $3,619,959 to $3,715,982 (for tax year 2009).

In the amended pages, Judeh did not just correct the number of rooms and the resulting income; she also changed the capitalization rate. Respondent objected to the admission of the "discretionary change." Judeh testified, "[b]ased on the characteristics of the property, based on the location of the property, based on the property's ADR and occupancy rate, the rate that was applied there, again, I was doing a boutique hotel in a different kind of a market. And that's why the rate to the equity was much smaller." TR 1 p 132. The other distinct change was the capitalization rate method Judeh reconciled to the higher end of the market to reflect the subject property and its market.

Judeh responded that she is not sure that a hotel and a motel are two different things. The square footage of each of her comparable sales was calculated. She testified that it was not a factor given the economics of the deep recession. The economy for the years in question is depressed. The size of a room does not necessarily impact the value of a hospitality property.

The Sheriff's sales and other non-arm's length sales are the primary sales in the market; therefore, Judeh believed that they were controlling. When questioned, she states that a Sheriff's sale could be a common market technique to dispose of property. Judeh compared two of the "distressed" sales to non-distressed sales and found the distressed sales fell into the midrange of values.

Judeh made changes to the original appraisal's 2009 sales. Sales 9, 10, and 11 are Motel 6, with exterior entrances. They were adjusted in the original appraisal plus ten percent. The amendment adjusted the three sales minus ten percent or a 20% difference. The 20% difference between the appraisal and the amendment, with the amended income approach, resulted in an amended value of $3,355,000 as of

December 31, 2009; $2,375,000 as of December 31, 2010; and $2,915,000 as of December 31, 2011.

Respondent's Arguments

Respondent argues that the subject property is over assessed based on its appraisal.

Respondent's Exhibits admitted:

R-1 GIS Aerial Map.
R-2 Photographs.
R-3 Appraisal by Parker.
R-4 2009 Property Record.
R-5 2010 Property Record.
R-6 2011 Property Record.
R-7 Photographs of Petitioner's Sales.

Respondent's only witness was L. Richard Parker, MAI. He prepared an appraisal of the subject property. He lives in the Brighton area and is familiar with the economy.

Parker testified that he also inspected the subject property and described the physical attributes of the hotel. The hotel is approximately five years old. The cost approach was considered, but not included, as it was specifically constructed for an extended-stay hotel to produce income. The sales comparison approach and the income approach were both considered and applied in the appraisal prepared by Parker.

The appraisal began with the Michigan hospitality market in general, and then to the specifics for the subject property. Hospitality properties in general follow the economy and decreased in 2008 and 2009. This decline in revenue was due to lower occupancies and a decline in the RevPAR. The market started to increase in 2010 with increases in ADR and a slight gain in occupancy. Parker states that the extended-stay hotels had a good recovery year in 2010 due to a 13.4% increase in demand along with less new construction of competition. Room rates did not increase due to discounting during the recession to fill hotels. STR was a resource that was also used by Parker.

The hospitality industry, especially in extended-stay hotels, has room for expansion per the STR. Parker states:

> Extended-stay hotel occupancy increased 9.3% to 72.1% in 2010. Occupancy growth was considerably faster than the 5.7% gain STR reported for the overall hotel industry. The 14.5 percentage point occupancy premium extended-stay hotels have compared to the overall hotel industry is the highest ever reported. R-3 p 42.

The subject property, under the Hilton Flag, was considered an upper midprice limited-service extended stay hotel. Within the general area, Parker determined that there are 785 rooms with Holiday Inn Express and Courtyard by Marriott in the upper midprice range to compete with the subject's 94 rooms.

Based on STRs historical lodging demand, PKF Hospitality Research, and total employment growth, Parker determined that overall demand was projected to increase nominally over the 2008 to 2010 time frame.

The subject property's RevPAR is slightly above the average competitive lodging markets for the tax years at issue. Parker considered the subject property's actual income and expenses and stabilized them to reflect the national percentages for each department.

The economic indicators used by Parker to calculate the overall rate included an analysis of 20 limited-service hotel sales in the Midwest that occurred between 2006 and 2008. The average overall rate was 9.75%. Parker further isolated the all-suites or limited-stay hotels. They traded at a slightly lower rate which averaged 8.15%. The location and all-suites structure of the subject property led Parker to select an overall rate of 9.0%. Parker checked the reasonableness of his conclusion with Korpacz Real Estate Investor Survey, Third Quarter 2008. The 9.00% overall rate was deemed appropriate for the subject property.

The market value of the subject property is sought to determine the basis for property taxes; therefore, a tax neutral rate is selected for the real estate taxes. This is in lieu of adding the actual taxes as an expense. Fifty percent of the millage rate (0.02661) is added to the overall rate for a tax neutral capitalization rate of 11.66%. Parker's calculation is as follows:

| | 2009 TY |
|---|---|
| | |
| # Rooms | 94 |
| Occupancy | 60.50% |
| Average Rate | $109.94 |
| RevPAR | $66.13 |
| Room Occupied | 15,967 |
| Revenues | |
| Total Revenue | $2,309,734 |
| | |
| Dept Exp | |
| Rooms | $510,501 |
| Telephone | $13,858 |
| Total Dept Exp | $524,359 |
| Franchise | |
| Mgt Franchise | $160,040 |
| Adm General | $207,876 |
| Marketing | $80,841 |
| Prop Op Maint | $161,681 |

| | 2009 TY |
|---|---|
| Energy Costs | $94,699 |
| Total Oper Exp | $705,137 |
| | |
| PPP Tax | $0 |
| Insurance | $23,500 |
| Reserves | $92,389 |
| Total Fixed Charges | $115,889 |
| | |
| Net Income | $964,349 |
| | |
| Base Cap Rate | 9.00% |
| Effective tax rate | 2.66% |
| Loaded Cap Rate | 11.66% |
| Indicated Value | $8,636,477 |

Parker followed the same technique for the subsequent tax years at issue. This resulted in the indicated value via an income approach as follows:

| | |
|---|---|
| December 31, 2008 | $8,300,000 |
| December 31, 2009 | $5,200,000 |
| December 31, 2010 | $7,000,000 |

Parker then considered the sales comparison approach. He used eleven elements to compare comparable sales to the subject property. The transactional elements are buyer expenditures, property rights, financing terms, conditions of sale, and market conditions. The physical elements for comparison are: location, size, quality/condition, meeting room, pool, and restaurant/lounge. Parker selected a different set of sales for each tax year at issue. He did a traditional sales grid with adjustments for the above-mentioned amenities and, in addition, a gross room rent multiplier was developed.

The gross room rent multiplier ("GRRM") formula is simple: the sale price is divided by the gross room revenue over a 12-month period. This is reflective of the room revenue a hotel was generating. Investors may use this simple technique to project stable income. The GRRM considers location and overall condition, as well as the financial performance of a property.

Parker selected suites hotels as comparable to the subject property. Suites are generally larger and have the ability to charge a higher rate, which may not equate to higher occupancy. The following sales were considered for the 2009 tax year:

| Sale No. | Subject | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|---|
| Property | Homewood Ste | Staybridge | Hawthorn | Staybridge | Residence Inn | TownePlace |
| Location | Brighton | Utica | Ann Arbor | Kentwood | Ann Arbor | Ohio |
| Sale Date | | Sep-06 | Aug-06 | Mar-07 | Mar-06 | Apr-08 |
| Sale Price | | $7,000,000 | $7,600,000 | $5,500,000 | $10,877,538 | $5,350,000 |
| # Rooms | 94 | 91 | 82 | 94 | 114 | 72 |
| SP/Room | | $76,923 | $92,683 | $58,511 | $95,417 | $74,306 |
| Gross Bldg SF | 75,489 | 70,281 | 69,416 | 62,564 | 74,481 | 74,481 |
| Adjustments | | | | | | |
| Rooms | | | | | | |
| Rest/Lounge | | 1% | | 1% | 1% | 1% |
| Cond/Quality | 6.6 | 5% | -5% | 5% | 5% | 5% |
| Meeting | Indoor | 1% | | 1% | | 1% |
| Pool | Interior Ent. | 1% | | 1% | 1% | 1% |
| Location | | | -5% | 5% | -5% | |
| Adj Sp/Room | | $29,782 | $31,722 | $37,889 | $27,709 | $27,709 |

The sales were adjusted for differences in restaurant/lounge, condition/quality and whether there was a meeting space and a pool. Parker concluded to an adjusted sale price per room of $86,000 for an $8,080,000 market value as of December 31, 2008.

Parker also calculated the GRRM with the sales information. The room revenue multipliers ranged from 3.11 to 4.48; 3.6 was selected. The calculation is $66.13 X 94 rooms X 365 days X 3.66 = $8,170,000 as of December 31, 2008.

The sales used for the 2010 tax year are:

| Sale No. | Subject | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|
| Property | Homewood Ste | Homewood | Residence Inn | Staybridge | Hawthorn | TownPlace |
| Location | Brighton | Warren | Grandville | Kentwood | MA | OH |
| Sale Date | | Jan-07 | Oct-09 | Mar-07 | Aug-09 | Apr-08 |
| Sale Price | | $3,125,000 | $5,000,000 | $5,500,000 | $4,417,500 | $5,350,000 |
| # Rooms | 94 | 80 | 90 | 94 | 105 | 72 |
| SP/Room | | $41,118 | $88,889 | $58,511 | $42,071 | $74,306 |
| Gross Bldg SF | 75,489 | 51,623 | 73,620 | 62,564 | 69,533 | 43,537 |
| RevPAR | $49.41 | $49.40 | $60.88 | $51.52 | $58.23 | $45.75 |
| Adjustments | | | | | | |
| Location | | 5% | | 5% | | |
| Rest/Lounge | | 1% | | 1% | | 1% |
| Age/Qu/Cond | 5 Years | 10% | 10% | 15% | 0% | 5% |
| Meet Room | Yes | 1% | 1% | 1% | | 2% |
| Pool/Fit | Indoor/Yes | 1% | 1% | 1% | 2% | 1% |
| RevPAR Adj | $49.41 | $49.40 | $60.89 | $51.52 | $58.23 | $45.75 |
| Gross Adj. | | 18% | 7% | 13% | 2% | 9% |
| Adj Sp/Room | | $48,250 | $58,949 | $66,617 | $42,198 | $79,373 |

After adjustments to the sales, Parker concluded to $59,000 value per room, which is $5,550,000 market value for the 2010 tax year.

The GRRM indicator was extracted from the five sales and results in the following calculation: $49.41 X 94 rooms X 365 days X 3.0 = $5,090,000 as of December 31, 2009.

The following sales were selected to assist Parker in determining the market value for tax year 2011:

| Sale No. | Subject | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|
| Property | Homewood Ste | TownPlace | Hawthorn | Homewood | Homewood | Homewood |
| Location | Brighton | OH | MA | TN | CT | MA |
| Sale Date | | Apr-08 | Aug-09 | Apr-10 | Apr-10 | Apr-10 |
| Sale Price | | $5,350,000 | $4,417,500 | $11,250,000 | $11,500,000 | $12,550,000 |

| Sale No. | Subject | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|
| # Rooms | 94 | 72 | 105 | 121 | 121 | 147 |
| SP/Room | | $74,306 | $42,071 | $92,975 | $95,041 | $85,374 |
| Gross Bldg SF | 75,489 | 43,537 | 69,533 | 94,476 | 98,940 | 121,430 |
| RevPAR | $49.41 | $45.75 | $58.23 | $71.49 | $78.87 | $69.30 |
| Adjustments | | | | | | |
| Location | | | | -5% | -5% | -5% |
| Rest/Lounge | | 1% | | | | |
| Age/Qu/Cond | 5 Years | 5% | | | | |
| Meet Room | Yes | 2% | | | -1% | -1% |
| Pool/Fit | Indoor/Yes | 1% | 2% | | | |
| RevPAR Adj | $61.17 | $45.75 | $58.23 | $71.49 | $78.91 | $69.27 |
| Gross Adj. | | 9% | 2% | 5% | 6% | 6% |
| Adj Sp/Room | | $79,373 | $42,376 | $88,326 | $89,339 | $80,252 |

Parker concluded to an indicated market value of the subject property as of December 31, 2010, of $7,330,000, which is $78,000 per room.

Parker’s extraction of the GRRM from the sales indicates the following:
$61.17 X 94 rooms X 365 days X 3.4 multiplier concludes to a market value of $7,140,000, as of December 31, 2010.

In addition to the income and sales comparison approaches, Parker determined that 0.87 acre was excess and could be used for a commercial purpose. This was one of Petitioner’s areas of contention. There was a lengthy cross-examination on the feasibility of developing 0.87 acre.

Parker found sales of vacant land for each year at issue and estimated the market value of the 0.87 acre to be added to the market value of the subject property. The result was an addition to the going concern value of $370,000, $300,000, and $260,000 for the 2009, 2010, and 2011 tax years, respectively.

The going concern value includes furniture, fixtures and equipment, and business assets, as well as the real estate. The furniture, fixtures and equipment, and the business assets should be deducted from the going concern value. After the deduction for non-realty assets, the true cash value of the hotel remains to which the excess land was added. The final conclusion is a true cash value of $7,887,000 as of December 31, 2008, $4,883,000 as of December 31, 2009, and $6,783,000 as of December 31, 2010.

## Findings of Fact

1. The subject property is located south of the I-96 Interchange off Grand River on the southwest corner of Challis Road and Library Drive.
2. The address of the subject property is 8060 Challis Road, Brighton, in Livingston County.
3. The subject property is a limited-service extended-stay hotel.
4. The Homewood Suites Hotel is part of the Hilton’s midrange upper scale hotels.
5. The subject property contains 94 rooms with approximately 78,406 square feet. The building is three stories with two guest elevators.
6. Amenities include a large lobby with reception area, small executive center, gift shop, two meeting rooms, four public restrooms, pool, whirlpool, and fitness room.
7. The size of the property is approximately 11.43 acres or 497,891 square feet and located in zoning district IA, Light Industrial District.
8. The current use of the property is its highest and best use.
9. The subject property is income producing.

10. Both parties submitted appraisals by MAI professionals who were deemed experts.

## Applicable 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 to mean the usual selling price at the place where the property to which the term is applied is at the time of the assessment, being the price which could be obtained for the property at private sale, and not forced or auction sale. See MCL 211.27(1). The Michigan Supreme Court in *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450 (1974), has also held that true cash value is synonymous with fair market value.

In that regard, the Tribunal is charged in such cases with finding a property's true cash value to determine the property's lawful assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767 (1981). The determination of the lawful assessment will, in turn, facilitate the calculation of the property's taxable value as provided by MCL 211.27a. A petitioner does, however, have the burden of establishing the property's true cash value. See MCL 205.737(3) and *Kern v Pontiac Twp*, 93 Mich App 612 (1974).

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%....; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each

> parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963, art IX, Sec 3.

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

The Michigan Supreme Court, in *Meadowlanes Ltd Dividend Housing Ass’n v City of Holland*, 437 Mich 473; 473 NW2d 363 (1991), acknowledged that the goal of the assessment process is to determine “the usual selling price for a given piece of property.” In determining a property’s true cash value or fair market value, Michigan courts and the Tribunal recognize the three traditional valuation approaches as reliable evidence of value. See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737(3); MCL 211.27(1); *Meadowlanes, supra*. “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party.” *Jones & Laughlin Steel v City of Warren,* 193 Mich App 348, 483

NW2nd, 416 (1992), at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77(1976); *Holy Spirit Ass'n for the Unification of World Christianity v Dept of Treasury*, 131 Mich App 743, 752; 347 NW2d 707(1984).

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 Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff'd 380 Mich 390 (1968); *Antisdale*, at 276. 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*, at 277. The Tribunal finds that both parties used typical appraisal methods to determine the true cash value of the subject property.

The Tribunal may not automatically accept a respondent's assessment, but must make its own finding of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d 566 (1979). The Tribunal is not bound to accept either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). The Tribunal may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination. *Meadowlanes*, at 485-486; *Wolverine Tower Associates v City of Ann*

*Arbor*, 96 Mich App 780; 293 NW2d 669 (1980); *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982).

Conclusions of Law

Both parties presented an income approach and a sales comparison approach that indicate a decrease in the true cash value of the subject property.

Although the parties discussed the subtle differences between a hotel and a motel, the major difference appears to be that services in hotels are more extensive than motels. Hotels have a different targeted clientele than motels. Motels appear to cater to the traveler in need of fewer services. The Tribunal finds that the correct application of "hotel" for the subject property did not influence the market value for the tax years at issue.

The Dictionary of Real Estate Appraisal defines the hotel and motels as:

> Hotel: A facility that offers lodging accommodations and a wide range of other services, e.g. restaurants, convention facilities, meeting rooms, recreational facilities, commercial shops. P 96.
>
> Motel: A building or group of buildings located on or near a highway and designed to serve the needs of travelers by offering lodging and parking; may also provide other services and amenities, e.g., telephones, food and beverages, meeting and banquet rooms, recreational areas, swimming pool, shops. P 130. Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 5th ed, 2010).

Both parties presented sales that were relied upon to determine market value. Petitioner's sales were all from Michigan and the appropriate time period; however, that is where the comparability ends. Many of the sales utilized by Judeh were smaller, lesser quality motels that would not be similar to the subject property. Respondent did not fare very well either, although the sales were comparable in size, amenities, and quality, eight out of fifteen sales were located outside of Michigan.

Judeh's unadjusted sales for the 2009 tax year ranged from $27,700 to $36,000 per room. Sale 8 is an AmericInn; Sales 9, 10, and 11 are Motel 6 chains. Judeh failed to include the RevPAR as part of the consideration in comparability, quality, and square footage of the physical property. They were all, at a minimum 50% smaller than the subject property.

Judeh's 2010 tax year sales did include a Lexington and a full-service Hilton brand hotel. The square footage of the buildings was comparable, but the number of rooms was double. Sales 4 and 7 were Super 8 and Comfort Inn, which were again 50% of the size of the subject property.

Judeh's 2011 tax year sales included Sale 4, which was used in the 2011 sales analysis. Sale 1 was a full-service Hilton with four times as many rooms and square footage. Sales 2, 3, and 4 were approximately half the size of the subject property, but with approximately the same number of rooms.

Judeh's sales are questionable. Out of 11 sales that were used, the room count was similar; however, the square footage of the structures was half the size of the subject property. It was unknown by Judeh if any of the sales were all-suites or if the RevPAR was in line with the subject property. The quality of the chain affiliation of the sales was also a factor not considered or not contained in Judeh's appraisal. She thought the subject property was an average quality economy hotel.

The Tribunal questioned Judeh on the quality of the sales and the subject property.

> Tribunal: Ms. Judeh, what chain scale is the subject property?
> Witness: It's a Hilton.
> Tribunal: Is it luxury, upscale, mid price, economy, budget?
> Witness: I would say it's probably economy.
> Tribunal: And what would you base that on?
> Witness: Just the market that it's in, Your Honor.
> Tribunal: Would there be a source that would rate the different hotel flags?
> Witness: Not that I'm aware of. But look at its ADR too. I looked at its ADR.
> Tribunal: That wasn't my question. My question was is there a source or an-- as part of the industry that rates the hotel flags as luxury, upscale, mid scale, economy, budget?
> Witness: Yes, there is and I did not consider.
> Tribunal: So you did not consult that in determining that the subject property would be an economy?
> Witness: Yes.
> Tribunal: So if I ask that question for each one of your sale comps, what chain scale would be American Suites Motel be?
> Witness: All of my comparables, with the exception of possibly the Motel Six, would be basically in line with our subject property.
> Tribunal: This would be the same economy chain scale?
> Witness: Yes. (TR II, P 103-104).

The questions continued with Judeh explaining that the Motel 6 sales would have a lower ADR of approximately $20 per room. The description did not include whether the comparable sales were extended stays or suites, because Judeh didn't think it was a strong element of comparison. The Tribunal finds that Judeh's sales comparison approach lacks reliability and credibility.

On the surface, Parker's comparison approach fares better than Petitioner's. Parker used all-suites or extended stay hotels that sold. All of his properties were similar size and RevPAR when compared to the subject property. Unfortunately, the sales he utilized for the 2009 tax year contained stale sales that took place prior to the 2008 economic downturn. Town Place Hotel in Ohio was used as a comparable property for all three years with adjustments made for market conditions.

Parker's 2010 sales contained one sale (October, 2009) in Michigan of a Residence Inn located in Grandville. The other three sales were either prior to the 2008 economic downturn or located in another state.

Parker's 2011 sales did have three 2010 sales located in other states. Neither party presented or found appropriate sales from which to determine the value of the subject property based on a sales comparison approach.

The standard for determining whether properties are actually comparable is described as:

> In general, the following attributes of a hotel's site and improvements are important factors in determining the property's competitiveness: size, room rate structure, overall décor and physical appearance, quality of management, chain affiliation, quality and character of the market area, facilities and amenities offered and revenue per available room (RevPAR), which is a common unit of comparison used in the lodging industry to compare the income of the competing facilities. Appraisal Institute, *The Appraisal of Real Estate* (Chicago, Illinois: 13$^{th}$ ed, 2008), Page 198.

The sales comparison approach for a hotel is a verification or cross-check to determine if the income approach is reasonable and appropriate.

Respondent also determined that the subject property has 0.85 acre of excess land and added $370,000, $300,000, and $260,000 to the indicated value for each year under appeal. The Tribunal has considered the testimony and finds that Respondent did not prove that the subject property had 0.85 acre of excess land. The Tribunal also finds that the 0.85 acre, as part of the subject property hotel property, would not increase the market value of the subject property for any year at issue.

The parties also presented an income approach. The following is a comparison of the parties' 2009 tax year information:

| | Actual/Pet. | Respondent | Petitioner Revised |
|---|---|---|---|
| | 2009 TY | 2009 TY | 2009 TY |
| | | | |
| # Rooms | 94 | 94 | 94 |
| Occupancy | 60.06% | 60.50% | 46.54% |
| Average Rate | $110 | $109.94 | $105.24 |
| RevPAR | $66.62 | $66.13 | $48.98 |
| Rm Occupied | 34,310 | 15,967 | 15,967 |
| Revenues | | | |
| Total Revenue | $2,287,936 | $2,309,734 | $2,287,936 |
| | | | |
| Dept Exp | | | |
| Rooms | $103,816 | $510,501 | $80,078 |
| Telephone | $11,115 | $13,858 | $34,319 |
| Total Dept Exp | | $524,359 | $114,397 |
| Franchise | | | |
| Mgt Franchise | $173,508 | $160,040 | $228,794 |
| Adm General | $183,118 | $207,876 | $274,552 |
| Marketing | $53,312 | $80,841 | $114,397 |
| Prop Op Maint | $454,446 | $161,681 | $526,225 |
| Energy Costs | $181,641 | $94,699 | $388,949 |
| Total Oper Exp | | $705,137 | $1,532,917 |
| | | | |

| | Actual/Pet. | Respondent | Petitioner Revised |
|---|---|---|---|
| PPP Tax | $22,879 | $22,879 | $22,879 |
| Insurance | $24,816 | $23,500 | $34,319 |
| Reserves | | $92,389 | $17,160 |
| Total Fixed Charges | | $138,768 | $74,358 |
| Total Expenses | $1,208,651 | | |
| Net Income | $1,079,285 | $941,470 | $566,264 |
| | | | |
| Base Cap Rate | 9.00% | 9.00% | 12.56% |
| Effective tax rate | 2.66% | 2.66% | 2.67% |
| Loaded Cap Rate | 11.66% | 11.66% | 15.24% |
| Indicated Value | $9,665,816 | $8,431,578 | $3,713,982 |

Judeh testified that the original information she submitted was for a 64-unit boutique hotel. Using the incorrect information resulted in a value of $3,619,959. Judeh changed the number of hotel rooms, determined that a boutique hotel was less of a risk, and increased her capitalization rate from 7.64% to 12.56%. She testified that the hospitality industry was declining in participants due to the economy and the subject property was considered to be an economy hotel by Judeh's standards.

It appears to the Tribunal that the increase by one-third of additional rooms (subject has 94, boutique had 64 rooms) resulted in an increase in value of $94,023. The increase in the overall capitalization rate resulted in less than $100,000 in value difference for the additional 30 rooms. The additional value is $3,134 per room for the 30 rooms. It doesn't make sense that the value per room is $39,500, which should equate to, at minimum, an additional $1,185,000 in value.

Judeh change the equity dividend rates in her appraisal. She states:

> Equity cap rates are different than field rates in that most investors anticipate an additional return from the property rising in value over time.

> Investors will generally accept a lower equity capitalization rate in properties that are located in rapidly growing communities. In more typical suburban communities, equity cap rates generally follow the rates indicated by long term investments and the risk of such investments. Given that the subject property does represent a typical risky investment given other options, an anticipated equity rate would have to be in line with that of competing property types. (P-1 p. 66.)
>
> We have now established a capitalization rate through two different benchmarks. This appraiser did lean toward the lower rates given that they best represent local market conditions. (P-1, p. 67.)

Judeh used the extraction method of tracking capitalization rates through RealtyRates.com that represent the overall national hospitality limited service market. She also calculated the band of investment. When Judeh included the correct number of hotel rooms, she also determined that the subject property would be a higher risk for an investor and went from 5% equity rate to 30% equity rate. This changed the value indicated by Judeh. The overall capitalization rate increased to 15.24%. The increase in the overall capitalization rate resulted in a nominal increase of $94,023 in the market value of the 33% increase in rooms for the subject property.

The income approach as utilized by Parker considered other similar hotels as well as how the subject property is operated. He did a straightforward income approach using historical income and stabilized the income on his proforma. Parker explained each of the steps of his income approach. He compared the subject's actual income to the national averages for the extended stay limited service hotels. Adjustments were made to the subject's income and expenses to result in the proforma.

Parker considered overall capitalization rates extracted from the market. The reasonableness of the overall capitalization rate was checked against investment surveys from Korpacz, National Investor Survey, and 3rd Quarter 2008. The rates ranged from 6.5-14.0%. Korpacz indicated 9.8%, Parker concluded to 9.0% and added the effective tax rate for an overall rate conclusion (tax neutral capitalization rate) of 11.66%. This resulted in a market value of $8,300,000 as of December 31, 2008.

The Tribunal finds that Parker's income approach is reasonable and closely related to the subject property's actual income and expenses. He considered all of the factors, including the type of hotel, location, and amenities or lack thereof. The income approach is the most reasonable, considering that the subject hotel is an income-producing property. The cost less depreciation approach was considered by both appraisers for the five-year-old subject property; however, the economic recession began shortly after the subject property was constructed. An investor would not consider the cost to construct a new property when a suitable substitute is available.

The sales comparison approach is a good option to check the calculations and determine if the income approach is reasonable. The Tribunal found that neither party's sales comparison approach was appropriate as an indication of market value for the subject property.

The income capitalization approach, which converts income expectancy into a value, is the income divided by the appropriate capitalization rate. The subject property is a stable operation, although some sales were found which were not considered a reliable indicator of value for the subject property. The parties determined the capitalization rate using a variety of acceptable methods. The band of investment, extraction of rates from sales, and rates published by national investment publications were utilized by the parties to determine the capitalization rate, as well as the rate of return on the investment. Petitioner's error and then change in judgment left the Tribunal in a quandary as to the proper income, expenses, and return on the investment. The Tribunal finds that Petitioner's information for the income approach was more reliable and reasonable. Respondent's income approach was considered, but given no weight and minimal credibility.

The Tribunal, in a valuation appeal, is charged with determining the true cash value of the subject property as of each tax year at issue. Petitioner was not able to prove by a preponderance of its evidence that the assessment of the subject property should be modified. Respondent did prove that the assessment exceeded market value. This results in a modification of the market value of the subject property.

## JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax year at issue shall be as set forth in the *Summary of Judgment* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year 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 90 days of the entry of the Final Opinion and Judgment, the subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 28 days of the entry of this Order. 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 the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury.

Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 1995 at the rate of 6.55% for calendar year 1996, (ii) after December 31, 1996 at the rate of 6.11% for calendar year 1997, (iii) after December 31, 1997 at the rate of 6.04% for calendar year 1998, (iv) after December 31, 1998 at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999 at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000 at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001 at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003 at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004 at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005 at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006 at the rate of 5.42% for calendar year 2007, and (xiii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (xvi) 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: April 23, 2012 By: Victoria L. Enyart