

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

Polynorm Automotive North America,
Petitioner,

v

MTT Docket No. 324992

City of Novi,
Respondent.

Tribunal Judge Presiding
Kimbal R. Smith, III

OPINION AND JUDGMENT

A hearing was held in the above-captioned matter on January 13 and 14, 2009. Petitioner was represented by Christopher P. Wylie of Ernst & Young, LLP. Respondent was represented by Stephanie Simon Morita, of the law firm of Secrest, Wardle.

This matter involves two parcels of real property located in the City of Novi, Oakland County, State of Michigan, identified by tax parcel numbers 22-15-326-009 and 22-15-326-011.

Petitioner in timely fashion invoked the jurisdiction of the Tribunal for tax years 2006 and 2007.

At issue are assessed, taxable, and true cash values for each of the years for the subject property.

Information relevant to the property's contested true cash, assessed and taxable values is as follows:

Parcel Number	Year	AV	SEV	TV
50-22-15-326-009	2006	\$3,828,850	\$3,828,850	\$3,249,520
50-22-15-326-009	2007	\$3,899,550	\$3,899,550	\$3,369,750

Parcel Number	Year	AV	SEV	TV
50-22-15-326-011	2006	\$2,260,500	\$2,260,500	\$2,017,850
50-22-15-326-011	2007	\$2,271,250	\$2,271,250	\$2,092,510

FINAL VALUES

Parcel Number	Year	True Cash Value	SEV	TV
50-22-15-326-009	2006	\$5,944,350	\$2,972,065	\$2,972,065
50-22-15-326-009	2007	\$5,837,750	\$2,918,875	\$2,918,875

Parcel Number	Year	AV	SEV	TV
50-22-15-326-011	2006	\$3,982,175	\$1,991,088	\$1,991,088
50-22-15-326-011	2007	\$3,886,000	\$1,943,000	\$1,943,000

THE SUBJECT PROPERTY

The subject property consists of two separate and contiguous parcels of land located in the City of Novi, Oakland County, State of Michigan. Parcel 22-15-326-011 is located at 44550 Grand River Avenue and consists of an 80,024 square foot building constructed in 1991 on 10.93 acres of land. Parcel 22-15-326-009 is located at 44700 Grand River Avenue and consists of two buildings, the first having 100,130 square feet of space and the second having 20,125 square feet, on 18.76 acres of land. The combined land area of both parcels is 29.69 acres and 200,339 square feet of building space split between the three buildings as set forth above.

PETITIONER'S CONTENTIONS

Petitioner contends that as of each valuation date the assessed value of the subject properties exceeded 50% of its true cash value. Petitioner states that the proper methodology to value the property is as one unit, that the cost approach to value the property is not applicable and, after considering both the sales comparison and income approach, the income approach yields the most valid indicator of value. In considering the income approach, Petitioner concludes that the Direct Capitalization method is applicable. In arriving at its value estimate using the income approach, Petitioner used a \$5.00/SF rental rate, a vacancy and credit loss of 15%, a management

fee of 3% and replacement reserve of \$.25 to arrive at an annual net operating income of \$774,418, which translated in a capitalized value conclusion of \$7,744.153 when applying a 10% overall capitalization rate for tax year 2006. Petitioner, to support its value using the income capitalization approach, uses a 15% vacancy and credit loss rate and bases its vacancy rate on the Novi market as reflected in the “Signature Associates Mid-year 2005 Market report” (P-11, 420), which indicates a vacancy rate of 14.87%.

Petitioner contends that considering the four comparable properties that it selected for its sales comparison analysis and making adjustments for terms of sale, size, % office, age, condition, location, land-to-building ratio, height and other (non-contiguous/flood plain) a unit rate of \$40.00 per square foot was arrived at with a concluded (rounded) value of \$8,000,000 for 2006. For tax year 2006 Petitioner contends the true cash/market value of the fee simple interest for both parcels combined is Seven Million Nine Hundred thousand dollars (\$7,900,000). Petitioner did not set forth a value contention or evidence for the 2007 tax year.

RESPONDENT’S CONTENTIONS

Respondent contends that for each of the tax years at issue the properties are properly assessed and valued at 50% of their respective true cash value and the proper methodology to value the subject parcels is to value them separately, rather than as a single unit, because the potential exists that a higher selling price/rent could be achieved if marketed separately. Respondent acknowledges that the cost approach to value the property is not applicable. After considering and analyzing both the sales comparison and income approaches, Respondent concluded both should be given equal weight in arriving at an ultimate value conclusion. In arriving at its

estimate of value using the income approach for 2006 Respondent contended a \$5.15 per SF rental rate was appropriate with a 5.5% vacancy and credit loss, a management fee of 1% and reserves for replacement of \$.10 per/SF and \$.10 deduction per square foot for lessor's operating expenses during vacancy, which would yield a net operating income of \$555,348. Using an 8.9% capitalization for tax year 2006, a true cash value of \$6,240,000 (rounded) for parcel #22-15-326-009 was concluded. For 2007 reducing the rental rate to \$5.00 per SF with a 9% capitalization rate with all other items being constant would yield an indicated value of \$6,000,000. In arriving at its contention of value using the income approach for 2006 for parcel # 22-15-326-011 Respondent again used a \$5.15 per SF rental rate with 5.5% vacancy and credit loss with a 1% management fee and \$.10 for lessor's operating expenses during vacancy to arrive at a net operating income of \$369,835 and, when a 9% capitalization rate is applied, an indication of true cash value (rounded) of \$4,160,000 for 2006 for parcel 22-15-326-011 and for 2007, lowering the rental rate to \$5.00 per SF and increasing the capitalization rate to 9%, but leaving all other items constant, arriving at an estimate of true cash value of \$4,000,000. For the 2006 tax year Respondent contends that the true cash value in fee simple of parcel 22-15-326-009 is \$6,200,000 and for parcel 32-15-326-011 of \$4,150,000. For tax year 2007, Respondent contends that the true cash value in fee simple for parcel 22-15-326-009 is \$6,000,000 and for parcel 22-15-326-011 it is \$4,000,000.

WITNESSES

In support of their respective contentions the parties called a total of four separate witnesses. Petitioner's witnesses consisted of Donald Piper, CFO of Petitioner, who testified as to the nature of the manufacturing activities conducted at the property; D. Glenn Lemmon, assessor of the City of Novi, who testified to the assessment; and Anthony Sanna, MAI, who was qualified as an

expert in the appraisal and valuation of property by the Tribunal to explain and support the appraisal prepared by him on July 26, 2007 that concluded to a value for tax year 2006 of Seven Million Nine Hundred Dollars (\$7,900,000). Respondent's witnesses included D. Glenn Lemmon, who briefly testified as to the general area of the subject property and the technique employed in establishing the assessments; and Michael Gerendasy, Certified General Appraiser, who was qualified as an expert by the Tribunal in the valuation and appraisal of property to explain and support the appraisal prepared by him on November 23, 2007, which concluded to a true cash value in fee simple for parcel 22-15-326-009 of \$6,200,000 for tax year 2006 and \$6,000,000 for tax year 2007 and for parcel 22-15-326-011 for \$4,150,000 for tax year 2006 and \$4,000,000 for 2007.

ANALYSIS OF VALUATION PROBLEM

Since both parties have concluded that the cost approach to value is inappropriate in this matter and further that the direct capitalization is the appropriate methodology to employ in arriving at an estimate of value using the income approach to value, the Tribunal will analyze the methodology employed by both parties in arriving at their respective conclusions of value utilizing the sales comparison and income approaches to value. In analyzing the parties' sales comparison, the Tribunal will discuss the comparables themselves and the adjustments made to them. In analyzing the parties' conclusions of value using the income approach, the Tribunal will consider the concluded rental rates to arrive at potential rental income, vacancy and credit loss assumptions and other expenses charged against the rental income and capitalization rate used to determine an estimate of value for each valuation date. In addition, the Tribunal will

analyze the parties' positions regarding whether the two parcels should be valued separately or as one.

The basic tenet to the sales comparison approach is that an informed purchaser would pay no more for a property than the cost of acquiring another existing property with the same utility.

The sales comparison approach is especially appropriate when an active market provides sufficient reliable data than can be verified. Conversely, the sales comparison approach is less reliable in an inactive market, or when estimating the value of properties for which no real comparable sales data is available. In this matter, both parties found sales which they respectively deemed reliable. Petitioner utilized four properties ranging from 150,384 SF to 62,250 SF with sale or listing dates between May of 2003 until the date of the appraisal (comparable 1, a listing and not a sale). Two of Petitioner's properties were in Wixom (Comparables 1 & 2) and two were in Rochester Hills (Comparables 3 & 4). Petitioner took a - 20% adjustment to all of its comparables for what it calls "other," which it describes as:

[t]he subject consists of three non-contiguous buildings. This separate layout is not as efficient as one large building. Further, the site is bisected by the Middle Rouge River, which could flood the subject. The comparables will be adjusted accordingly to recognize these differences." (P-11, p 37)

Petitioner's value indication using the comparison approach with its adjustment yields a range of value from \$39.62/SF to \$52.37/SF with a true cash value estimate as of December 31, 2005 for \$8,000,000 using a \$40.00 per square foot rate due to the "softness in the market as of the date of value." (P-11, p 37)

Respondent selected six properties that it deemed comparable to the subject based on use, date of sale, percentage office, ceiling height, occupancy, size and quality/condition.

These six properties were located in Clinton Township, Livonia, Chesterfield Township, Rochester Hills, CVS Building, Novi (Letter of Intent), and 22925 Venture Drive in Novi. The square footage of the comparables ranged from 203,100 SF (comp 2) to 75,000 (comp 3) with comp 5 being most similar in size (120,938 SF) to subject parcel 22-15-326-009 (120,255 SF). The sale or listing dates of Respondent's comparables ranged from January 2004 to December 2006. After adjustment, Petitioner's expert opined that "[f]or the 12/31/05 valuation date, comparable No. 4 is close to value to both properties as improved; on a square foot basis. It is our opinion that it is marginally lower in value compared to the 22-15-326-011 improvements, and marginally higher in value compared to the 22-15-326-009 improvements for the same reason."

For 12/31/05 valuation date and both properties, Comparable No. 1 sets the upper parameter of value per square foot. This comparable is an owner-user building and these buildings are typically selling at modestly higher prices per square foot versus investment properties. It sold in January 2004 when rental rates and prices were arguably modestly higher. Moderating these advantages is the comparable's inferior location in Clinton township and lower ceiling height.

For the 12/31/06 valuation date, we believe comparable No. 6 best establishes the upper parameter of value per square foot for both properties. Relative to this comparable, the primary factors supporting the overall need to downward adjustments relative to the subject properties are:

Its newer age
Greater percentage of office space

The minor difference in true cash value per square foot between the properties due to size of land area and improvements will be recognized in the subsequent reconciliation of the analysis. (R-1, pp 39-40)

To support its use of a 5% vacancy rate in its application of the income capitalization approach, Respondent uses a “Subject Neighborhood” area bounded by Haggerty Road on the east, Beck Road on the west, West 10 Mile on the south and W 12 Mile on the north. Utilizing this neighborhood, Respondent concludes to a 3.9% vacancy rate as of 12/31/05 and a 1.6% vacancy rate as of 12/31/06 (R-1 p18). This is in contrast to a 12.6% vacancy rate for Oakland County as of 12/31/05 and 14.7% vacancy rate as of 12/31/06. Respondent indicates that within its “Neighborhood” there are +/- 952,925 square feet of which approximately 23% is the subject property.

Respondent derived its overall capitalization rate by first analyzing the OAR of the six comparable sales it used for its comparable sales analysis. (R-1, p49) As a result of this analysis, Respondent concluded to an 8.9% OAR as of 12/31/05 and 9.00% OAR for D12/31/06. To test its market extraction conclusion, Respondent analyzed the CBRE National Investor Survey for Class C Warehouse/Distribution, which yielded a range between 6.50% and 9.00%, and Karpacz Real Estate Investor Survey, which yielded a range of 5.50% to 9.00% for 12/31/05 and 5.00% to 8.50% as of 12/31/2006. Respondent concluded to an overall capitalization rate using both the market extraction and national survey methods of 8.90% for 12/31/05 and 9.00% for 12/31/06.

Respondent based its management fee expense item in its income capitalization analysis at 1% of effective gross income (EGI) due to its conclusion that the properties would be expected to lease on single tenant occupancy basis and management’s duties would essentially be asset management in nature. Respondent also concluded that, based on its research and considering

the condition and age of the properties, a \$.10 per square foot per year replacement reserve would be appropriate, together with a \$.10 per square foot per year share for lessor's operating expense during vacancy charge.

FINDINGS OF FACT

The Tribunal, having considered all of the documentary evidence and testimony submitted by the parties and based upon the record before it, concludes:

Considering the physical layout of the subject property, which is divided by a wet lands area (see site plan/aerial map R-1, p.21), with tax parcel 22-15-326-009 consisting of two buildings (44700 Grand River Ave. totaling 120,255 SF) and tax parcel 22-15-326-011 (44550 Grand River), which consists of one building totaling 80,024 SF, the Tribunal finds Respondent's conclusion that the Highest and Best Use of the property improved is consistent with the existing uses of the property and, more importantly, that leasing or selling the properties individually will likely maximize the value of the property in contrast to the conclusion reached by Petitioner that concluded that the Highest and Best Use of the subject would be to market it as one property as evidenced by its one value found by the appraisal.

Nothing exists on this record for either of the years currently under appeal that there were any "additions or losses" as set forth in MCL 211.34d.

The Tribunal finds that Respondent's utilization of a subject neighborhood on which it based its vacancy rate (5%) for the purpose of establishing its value using the income capitalization

approach, is too restrictive and results in an unduly low vacancy rate that is not reflected by either the Oakland County or Novi market.

The Tribunal finds that the six sales comparables utilized by Respondent and the adjustments made to the sales yield a more reliable indicator of value than those considered by Petitioner. In particular, the Tribunal determines that the -20% adjustment utilized by Petitioner for each one of its sales comparables under the adjustment item entitled “other” for non-contiguous/flood plain is not based on market evidence and, as a result, distorts Petitioner’s ultimate conclusion of value. As a result, the Tribunal rejects Petitioner’s sales comparison analysis.

Petitioner’s utilization of the “Novi” vacancy rates as published by “Signature Associates Mid-Year 2005 Market Report” of 14.87% is a broader and less restrictive neighborhood than that used by Respondent and, as a result, the Tribunal finds it is a better supported basis upon which to establish a vacancy rate subject to the Tribunal’s modification in the Conclusions of Law section of this Opinion and Judgment.

The Tribunal finds that Respondent’s overall capitalization rate and expenses charged against effective gross income for both of the tax years at issue are better supported by the “market” than those advocated by Petitioner, with the exception of the vacancy rate above discussed.

The Tribunal finds that the evidence presented by Respondent proves the market value of the subject property based on both its sales comparison and income approach analysis declined from

the 2006 to the 2007 tax year and the Tribunal's conclusion of value for tax year 2007 will reflect Respondent's establishment of this fact.

APPLICABLE LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value, as equalized, and that beginning in 1995, the taxable value is limited by statutorily determined general price increases, adjusted for additions and losses.

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.

MCL 211.27a (2) provides:

- (2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:
- (a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.
 - (b) The property's current state equalized valuation.

MCL 211.34d(1)(b)(iii) provides that “new construction” constitutes an “addition” for the calculation of a property’s taxable value and provides in pertinent part:

- (c) For taxes levied after 1994, “additions” means, except as provided in subdivision (c) all of the following:

- (iii) New construction. As used in this subparagraph, “new construction” means property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to the provisions set forth in Section 27(2)(a) to (o). For purposes of determining the taxable value of property under Section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

The Michigan Legislature has defined “true cash value” to mean “the usual selling price.”

As used in this act, “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); MSA 7.27(1).

“True cash value” is synonymous with “fair market value.” *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735 (1); MSA 7.650 (35)(1). The Tribunal’s factual findings are to be supported by competent, material, and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). “Substantial evidence must be more than a scintilla of evidence, although it may be

substantially less than a preponderance of the evidence.” (Citations omitted) *Jones and Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737 (3); MSA 7.650 (37)(3). “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 and Laughlin* 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 Dep’t of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

“There are three traditional methods of determining true cash value, or fair market value, which have been found acceptable and reliable by the Tax Tribunal and the courts. They are: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the capitalization-of-income approach.” *Meadowlanes Limited Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Antisdale* at 276-277, n 1. The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale* at 276, n 1. “Variations of these approaches and entirely new methods may be useful if found to be accurate and reasonably related to the fair market value of the subject property.” *Meadowlanes*, at 485, referencing *Antisdale* at 277, n 1. “It is the duty of the Tribunal to select the approach which provides the most accurate valuation under the circumstances of the individual case.” *Antisdale* at 277, citing *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), *aff’d* 380 Mich 390 (1968).

Under MCL 205.737(1); MSA 7.650 (37)(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal may not automatically accept a respondent's assessment but must make its own findings 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). A similar position is stated in *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982): "The Tax Tribunal is not required to accept the valuation figure advanced by the taxpayer, the valuation figure advanced by the assessing unit, or some figure in between these two. It may reject both the taxpayer's and assessing unit's approaches."

CONCLUSIONS OF LAW

The Tribunal, having considered all of the evidence properly before it in this matter and having made its findings of fact based upon evidence that it has found credible, competent and material, concludes that the approaches to value which provide the most accurate valuation of the subject property in this case is an equal consideration of the sales comparison and income approach.

In arriving at its ultimate determination of true cash value of the subject property for both valuation dates, the Tribunal has primarily adopted the comparable sales and income capitalization methodology utilized by Respondent with the exception adjusting the vacancy rate employed by Respondent from 5% to 10%, which is a mid-range between that argued by the parties in their Direct Income Capitalization Approach, and also to accept Petitioner's \$5.00 per square foot rental rate for 2006 to arrive at its indication of value using this approach.

The Tribunal concludes to an indication of true cash value using the direct capitalization approach for tax year 2006 for Parcel # 22-15-326-009 (120,355 SF based on the following:

Income		\$/SF/yr	Total
Potential Gross Income		\$5.00	\$601,275
Vacancy	(10%)	(0.50)	(60,128)
Credit Loss	(.50%)	(.03)	<u>(3,006)</u>
Effective Gross Income		\$4.48	\$537,625
Expenses			
Management Fee	(1.00%)		(5,376)
Lessor's operating expenses during			
Vacancy	(2.00%)		(10,752)
Reserves for Replacement	(2.00%)		<u>(10,752)</u>
Operating Expenses			\$26,880
Net Operating Income			\$510,745
OAR			8.9%
Indicated Market Value			\$5,738,700

The Tribunal having found that Respondent's capitalization rate of the 2007 tax year of 9.0% is an appropriate capitalization rate, and its \$5.00 per square foot rental rate was undisputed by Petitioner, the Tribunal concludes that the indicated market value of the subject property for tax year 2007 using this approach to value is **\$5,675,500** for tax parcel #22-15-326-009.

The Tribunal concludes to an indication of true cash value using the direct capitalization approach for tax year 2006 for Parcel # 22-15-326-011 (80,084SF based on the following:

Income		\$/SF/yr	Total
Potential Gross Income		\$5.00	\$400,420
Vacancy	(10%)	(0.50)	(40,042)
Credit Loss	(.50%)	(.03)	<u>(2,002)</u>
Effective Gross Income		\$4.48	\$358,397
Expenses			
Management Fee	(1.00%)		(3,784)
Lessor's operating expresses during			
Vacancy	(2.00%)		(7,768)
Reserves for Replacement	(2.00%)		<u>(7,568)</u>
Operating Expenses			\$18,920
Net Operating Income			\$339,477
OAR			8.9%
Indicated Market Value			\$3,814,350

The Tribunal having found that Respondent's capitalization rate of the 2007 tax year of 9.0% is an appropriate capitalization rate, and its \$5.00 per square foot rental rate was undisputed by Petitioner, the Tribunal concludes that the indicated market value of the subject property for tax year 2007 using this approach to value is **\$3,772,000** for tax parcel #22-15-326-011.

The Tribunal having found that Respondent's sales comparison approach both as to the quality of the comparables and market based propriety of the adjustments superior to those advocated by Petitioner hereby adopts Respondent's indications of value for both tax years (2006 and 2007) for parcel 22-15-326-009 of \$6,150,000 and \$6,000,000, respectively, and for tax parcel 22-15-326-011 of \$4,160,000 and \$4,000,000, respectively.

The Tribunal having found that equal weight should be given its indications of value to both the income capitalization approach and sales comparison approach concludes the **true cash value** of the parcels for tax year **2006** as:

Parcel 22-15-326-009 **\$5,944,350** (\$6,150,000 +\$5,738,700/2)

Parcel 22-15-326-011 **\$3,982,175** (\$4,150,000+\$3,814,350/2)

and for **2007**:

Parcel 22-15-326-009 **\$5,837,750** (\$6,000,000+\$5,675,500/2)

Parcel 22-15-326-011 **\$3,886,000** (\$4,000,000+\$3,772,000/2)

Having determined the true cash value of the each of the two subject parcels for both 2006 and 2007, the Tribunal concludes that the assessed and taxable values for each parcel is 50% of the above determined true cash values and is reflected in the final values section of this Opinion and Judgment.

JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax years at issue shall be as set forth in the *Final Values* 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 as required by the Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 1995, at a rate of 6.55% for calendar year 1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a 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, (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, and after December 31, 2008 at the rate of 3.31% for calendar year 2009.

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

MICHIGAN TAX TRIBUNAL

Entered: January 30, 2009

By: Kimbal R. Smith III