

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

Tsipis Realty Inc,
Petitioner,

v

MTT Docket No. 15-001845

Frenchtown Township,
Respondent.

Tribunal Judge Presiding
Steven H Lasher

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Tsipis Realty, Inc., is appealing the ad valorem property tax assessment levied by Respondent, Frenchtown Township, for the 2015 tax year. A hearing was held in this matter on November 7, 2016. Erik G. Chappell, attorney, appeared on behalf of Petitioner. Kerry L. Bondy, attorney, appeared on behalf of Respondent. Petitioner presented testimony from Angie Dunn and Evangelo Tsipis and Respondent presented testimony from Susan Iott-Garrison.

SUMMARY OF JUDGMENT

The subject property's true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV"), for the tax year(s) at issue, shall be as follows:

Parcel Number: 5807-087-015-00

Year	TCV	SEV	TV
2015	\$325,000	\$162,500	\$162,500

PETITIONER'S CONTENTIONS

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

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

Parcel Number: 5807-087-015-00

Year	TCV	SEV	TV
2015	\$325,000	\$162,500	\$162,500

PETITIONER'S ADMITTED EXHIBITS

P-1: Limited Warranty Deed

PETITIONER'S WITNESSES

Angie Dunn

Ms. Dunn testified that she has been a realtor for 20 years, and that she has handled both commercial and residential property during that time. Ms. Dunn made initial contact with Bob Evans on behalf of Mr. Tsipis in early 2011; she had no familiarity with the seller or listing agent. The property was not listed at that time. Ms. Dunn testified that she believed that the property was listed late in 2012, and that it was initially listed for over \$1,000,000. She received a response in October 2011, and was informed that there were several parties interested in the property. She was also informed that with the restrictions that Bob Evans was imposing on the property, they were proposing to sell it for the value of the land only. A letter of intent was submitted in May 2013 for \$310,000. Prior to submitting that offer, Ms. Dunn had emailed back and forth with the listing agent for almost a year. She recommended that Mr. Tsipis not offer more than \$350,000 for the property, based on its condition as compared to others along Dixie Highway and the amount of work that would have to be done. In that regard, Ms. Dunn testified that the property was more or less messy from sitting for so long, and that it smelled of mold and stagnant water. The roof tiles had water stains and the parking lot had become a rest area for semi-trucks. Mr. Tsipis' budget was also a factor, as were the deed restrictions. Ms. Dunn engaged in negotiations to modify the restrictions to suit Mr. Tsipis' intended use. There was a counteroffer to the letter of intent for \$350,000 in June 2013. Mr. Tsipis submitted an offer in writing for \$325,000 on June 20, 2013. He received an acceptance in July 2013, and began the financial process. He closed on the property on May 7, 2014.

Evangelo Tsipis

Mr. Tsipis testified that he has lived in Frenchtown Township for 28 years. He has been in the restaurant business for nearly 38 years, and currently operates Angelo's Northwood Villa in Erie Township. Mr. Tsipis is the sole shareholder of Tsipis Realty. The subject property caught his eye when he drove by it one day and saw a real estate sign. He liked the location because it was close to his house. He phoned Ms. Dunn, who inquired about it for him, and made an offer. Mr. Tsipis looked at other real estate prior to making an offer on the subject, including a property located approximately one mile east. He made an offer on that property, but it wasn't accepted. There were three or four potential properties total. Mr. Tsipis paid \$325,000 for the subject property and he thinks that is a fair value because the place was a mess. It had sat vacant for 2-3 years, and having personally inspected the property prior to purchase, Mr. Tsipis knew he had work to do. The property was not taken care of. There were leaks in the roof and the waterlines were all busted. The carpet was mildewed. Some of the furniture was old looking. Most of the equipment in the kitchen, most of the coolers needed repair and cleaning. There were water spots on the ceiling and some of the tiles had fallen and were wet on the ground on top of the carpet. In some areas you could see dark spots on the carpet. He had to take it all out. The exterior also needed some care. The siding was faded, and the sidewalks and parking lot were cracked. The property was basically a truck stop for two years. Renovations began right after purchase. Mr. Tsipis repaired the outside of the building, for the most part, but renovations are ongoing. The roof leaks were fixed, but the shingles still need to be repaired, probably replaced. The sidewalk was dug out and the parking lot stripped, but it still needs to be filled and sealed.

Mr. Tsipis testified that he has spent approximately \$90,000 to \$110,000 on renovations since his purchase, doing more than 50% of the work himself with the help of his wife and sons. He believes he is done with the inside of the building, but that is up to the building inspector. The deed restrictions prohibit chain restaurants and restaurants serving breakfast; they didn't want anyone competing with the store on Telegraph. Some personal property was included in the sale.

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property is not assessed in excess of 50% of its true cash value.

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

Parcel Number: 5807-087-015-00

Year	TCV	SEV	TV
2015	\$872,200	\$436,100	\$436,100

RESPONDENT'S ADMITTED EXHIBITS

R-1: Valuation Disclosure

R-2: Record Cards for 1300 N Dixie Hwy & 1150 Ternes Dr

RESPONDENT'S WITNESSES

Susan Iott-Garrison

Ms. Iott-Garrison testified that she is the assessor for Frenchtown Charter Township. She is a Level Three Assessor and has been in the profession since 1992. Based on her experience and training, the Tribunal accepted Ms. Iott-Garrison as an expert in the field of assessing real and personal property in Michigan.

Ms. Iott-Garrison prepared a valuation disclosure for the subject property. She determined that as vacant, the property's C3C zoning supports the highest and best use for development. The property is right off the expressway, and Frenchtown has become a mecca of commercial and industrial development. There are basically two locations that the Township has excelled in: The Telegraph and Monroe Street corridor and Dixie Highway, the subject corridor. Though not addressed in her report, Ms. Iott-Garrison testified that as improved, the restaurant is supported because it is a permitted use within the zoning. She analyzed all three approaches to value, but did not give any weight to the market or income approaches; these were used only to support the value on the roll and demonstrate that the cost approach was not high or excessive. As for that approach, the township utilizes the BS&A software program that incorporates the Marshall Swift building cost structure into the pricing formula. For this purpose, occupancy was determined to fall within the restaurant/fast food classification; quality was determined to be low cost because usually these buildings are pretty much cookie cutter, and while decent construction, there's not anything overelaborate in them. Ms. Iott-Garrison presented additional specifics on the

Township's cost calculations, but later acknowledged that the values and various factors shown on the card provided, including the ECF and county multiplier, relate to the 2017 tax year and not the 2015 tax year at issue in this appeal. She agreed that the card did not support the 2015 value indicated.

Several sales were also examined, including a former White Castle Building that sold in April 2015 for \$470,000 and a Red Lobster that went from a corporate-owned property to Spirit Master Funding in December 2014. Like the subject, the Red Lobster is located in the area that the Township developed for the industrial park. It was a leased property, but Ms. Iott-Garrison felt that it was noteworthy because the location is just to the east of the subject and it demonstrated that there is confidence in the commercial restaurant business in that location. Also included was a former Big Boy that sold to IHOP for \$650,000 in July 2014. Based on building records for the City of Monroe, this property is located directly diagonally across I-75 from the subject. It is not right on the highway, just a few properties to the west. Over \$350,000 has been put into the remodeling of this facility. Another sale is a former Wendy's located a few blocks north on Telegraph Road, on the opposite side, in front of Meijer. It sold in February 2014 for \$500,000. The building was first leased to a physical therapy business and they made several leasehold improvements, including an addition to the building and a therapy pool. They then purchased the property within a few years' time. Ms. Iott-Garrison testified that this property was used to demonstrate that properties with deed restrictions can be converted to a different use and still support a reasonable value comparable to what other fast foods are selling for, but later acknowledged that she did no research on whether this property or any of the other comparables were subject to such restrictions. The market analysis also included two vacant land sales, one of which was omitted from the valuation report. This 3.28-acre property sold to Nicholas Associates for \$1,000,000 in 2014. It now has 10,000 SF mini strip mall that currently has a Starbucks, Olga's, Wild Bills Tobacco, T-Mobile Wireless retail store, and one vacant unit. It is approximately 5 miles to the west of the subject. The other property is a 1.372-acre parcel located 5 miles east of the subject on North Dixie Highway. It sold for \$253,000 and is now the home of a Family Dollar. While the occupancy is different, Ms. Iott-Garrison felt that it demonstrated the market value of vacant property in this area. Overall, the sales indicated an average sale price of \$246.70/SF, which Ms. Iott-Garrison felt more than supported the \$176/SF indicated for the subject by the cost approach. She did not make adjustments to the comparables because she is not an appraiser. Adjustments might be warranted for some comparables, but not for others. By way of example, Ms. Iott-Garrison testified that the Big Boy is pretty much the same age and construction, the land was a little bit smaller, but it is actually a little further from the interchange, so that one probably would not have made much difference. Also reviewed, but not included in the market analysis, was the former Knight's Inn, which sold for \$690,000 in March 2016. It was purchased with the structures, but they have since been torn down. Even though this is beyond the sales study, it demonstrates that this location where the subject property is located is not in a depressed area, but a sought after location. It certainly is supporting the value that's been determined, be it two years prior.

In developing the income approach, Ms. Iott-Garrison reviewed lease information provided via personal property statements for two restaurants in the area: A Buffalo Wild Wings on Telegraph Road with a \$2.27/SF lease, and a fast food store on North Dixie Highway with a \$2.42/SF lease. She found it reasonable to assume that the subject property would have the ability to command a

similar revenue as other sports bars and properties in this location. Keeping it more in comparison with a family restaurant with a liquor license, Ms. Iott-Garrison didn't feel \$2.27 was overrated, so she used this rate to calculate what she thought would be something that an investor would look at. She determined vacancy to be 3% and allotted 1% for bad debt, which is pretty much standard in the industry. These are leased at triple net typically. Expenses were estimated to be 10%, and the final value was calculated using two different capitalization rates. Both numbers indicated a value higher than what the subject is assessed at.

FINDINGS OF FACT

1. The subject property is located at 1950 Welcome Way, Frenchtown Township, Monroe County, Michigan, and is identified as Parcel Number: 5807-087-015-00.
2. The subject parcel has a total land area of 2.42 acres. It is improved with a 4,928 SF commercial building originally constructed in 1989.
3. Petitioner purchased the subject property for \$325,000 in May 2014.
4. Evangelo Tsipis is Petitioner's sole shareholder and authorized representative.
5. Petitioner's realtor made initial contact with the listing agent in early 2011.
6. The subject property was not listed for sale until late 2012, but there was a real estate sign on the property as of Petitioner's 2011 inquiry.
7. The subject property was initially listed for over \$1,000,000.
8. There were several parties interested in the property when Petitioner's realtor received a response from the listing agent in October 2011.
9. Petitioner's realtor emailed back and forth with the listing agent for almost a year prior to submitting a letter of intent in May 2013 for \$310,000. There was a counteroffer of \$350,000 in June 2013, after which Petitioner submitted an offer in writing for \$325,000.
10. Petitioner received an acceptance of his offer to purchase in July 2013, and closed on the subject property on May 8, 2014.
11. The subject property sat vacant for 2-3 years and was in poor condition at the time of Petitioner's purchase. It smelled of mold and stagnant water; there were roof leaks and the waterlines were busted; the roof tiles had water stains and some had fallen; the carpet was mildewed; the siding was faded and the sidewalk and parking lot severely cracked.
12. Petitioner has spent approximately \$90,000 to \$110,000 on renovations, which were ongoing as of the date of hearing in this matter.
13. The subject property sold subject to a deed restriction/protective covenant.
14. The subject deed restriction prohibits ownership and operation of a family-style restaurant for a period of 40 years.
15. Petitioner's realtor participated in negotiations to modify the deed restrictions to suit its intended use.
16. For purposes of the subject deed restriction, "family-style restaurant" means a sit-down restaurant serving moderately priced food in a casual atmosphere, specifically including Shoney's, Cracker Barrel, Denny's, IHOP, Friendly's, Big Boy, Perkins, Eat-N-Park, Silver Diner, Waffle House, Country Kitchen, Friday's, Applebee's, Outback Steakhouse, Bennigan's, Chili's, Panera, First Watch, Scramblers, Café Marie's, Scrambler Marie's, Rise & Dine Restaurants and Peach's.
17. The subject deed restriction does not apply to a fast food or quick service type restaurant similar to McDonald's, Arby's, Quizno's or Starbucks.

18. The subject deed restriction states that Evangelo Tsipis, his designated entity, as well as his successors, heirs and assigns, is permitted to operate an independently owned restaurant or sports bar that does not offer a breakfast menu, but will offer an extensive fine-dining lunch and dinner menu and will serve alcoholic beverages.
19. Respondent determined the subject property's true cash value using the cost-less-depreciation approach to value, which includes market adjustments through the use of a county multiplier and an economic condition factor (ECF).
20. Respondent did not submit a property record card for the 2015 tax year at issue in this appeal; only a 2017 record card was provided.
21. In developing her sales analysis, Respondent's assessor identified the sales of six comparable properties, four improved and two vacant. She did not research deed restrictions on any of the properties.
22. Respondent's market comparables have unadjusted sales prices ranging from \$190.69/SF to \$419.10/SF. The properties were not adjusted for any relevant elements of comparison.
23. Respondent's Market Comparable 1 sold in April 2015 for \$470,000. It has a total land area of 1.322 acres and is improved with a 1,861 SF commercial building. The property is a former White Castle that was converted to a Dunkin Donuts after sale.
24. Respondent's Market Comparable 2 sold for \$2,105,527 in December 2014. It has a total land area of 2.18 acres and is improved with a 5,024 SF commercial building. The property is a Red Lobster that sold to Spirit Master Funding subject to a lease in place.
25. Respondent's Market Comparable 3 sold in July 2014 for \$650,000. It has a total land area of 1.38 acres and is improved with a 5,229 SF building. It is located across I-75 from the subject property in the City of Monroe. The property is a former Big Boy that was converted to an IHOP after \$350,000 in renovations.
26. Respondent's Market Comparable 4 sold for \$500,000 in February 2014. It has a total land area of .60 acres and is improved with a 2,622 SF commercial building. It is a former Wendy's that was converted to a physical therapy business. It sold to the tenant after leasehold improvements were made.
27. Respondent's Vacant Comparable 1 sold for \$253,000 in 2014. It has a total land area of 1.372 acres. It is now home to a Family Dollar store.
28. Respondent's Vacant Comparable 2 sold for \$1,000,000 in 2014. It has a total land area of 3.28 acres. It is now home to a 10,000 SF strip mall that currently has a Starbucks, Olga's, Wild Bill's Tobacco Shop, T-Mobile Wireless, and one vacant unit.
29. In developing her income analyses, Respondent's assessor identified two comparable properties. The lease rates were obtained from personal property statements; lease terms were not examined or considered.
30. Respondent's lease comparables have unadjusted rental rates ranging from \$2.27/SF to \$2.42/SF. They were not adjusted for any relevant elements of comparison.
31. Respondent's assessor concluded to a vacancy rate of 3% and a collection loss of 1%.
32. Respondent's assessor did not conclude to a singular base capitalization rate, but two alternative rates. The rates of 8% and 10% were derived from articles from an unknown source about the changes in the Down River real estate market, and their suggestion that recent sales indicate that the days of 12% and 14% investments are gone.

CONCLUSIONS OF LAW

Pursuant to Section 3 of Article IX of the State Constitution, the assessment of real property in Michigan must not exceed 50% of its true cash value.

The Tribunal is charged with finding a property's true cash value to determine its lawful assessment.¹ Determination of the lawful assessment will, in turn, facilitate calculation of the property's taxable value as provided by MCL 211.27a.

A proceeding before the Tax Tribunal is original, independent, and de novo.² The Tribunal's factual findings must be supported by competent, material, and substantial evidence.³

"[T]he tribunal is not bound to accept either of the parties' theories of valuation. It may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination."⁴

The Tribunal is required to select the valuation methodology that is accurate and bears a reasonable relationship to the property's true cash value.⁵

By law, "the purchase price paid in a transfer of real property is not the presumptive true cash value."⁶ "A great many factors enter into the determination of a sale price, such as need or ability to utilize the property, potential income, actual income, age and physical condition, tax considerations, and financing costs."⁷ Actual selling price is relevant in determining the "usual selling price" of similar properties, however, and must be considered by the Tribunal in the absence of an auction or forced sale.⁸ Petitioner purchased the subject property for \$325,000 in May 2014. Ms. Dunn testified that she made initial contact with the listing agent in early 2011. Though the property was not listed at that time, Mr. Tsipis testified that there was a real estate sign on the property. Further, when Ms. Dunn received a response in October 2011, she was informed that there were several parties interested in the property at that time. It is clear from this testimony that the property was available for sale and that this was a known fact, despite the absence of a traditional listing. Ms. Dunn emailed back and forth with the listing agent for almost a year prior to the submission of a letter of intent in May 2013 for \$310,000. There was a counteroffer of \$350,000 in June 2013, after which Mr. Tsipis submitted an offer in writing for \$325,000. Petitioner received an acceptance in July 2013, and closed on May 7, 2014. When the property was listed in late 2012, it was initially listed for over \$1,000,000, and Ms. Dunn participated in negotiations to modify the deed restrictions. The property was in poor condition at the time of sale and renovations were ongoing as of the date of hearing. It had sat vacant 2-3

¹ See *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

² See MCL 205.735a(2).

³ See *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984) and *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁴ *Id.* at 356.

⁵ See *Safran Printing Co v Detroit*, 88 Mich App 376; 276 NW2d 602 (1979).

⁶ MCL 211.27(6).

⁷ *First City Corp v City of Lansing*, 153 Mich App 106, 115; 395 NW2d 26 (1986).

⁸ See *Jones & Laughlin*, 193 Mich App at 354 and *Samonek v Norvell Twp*, 208 Mich App 80; 527 NW2d 24 (1994).

years before Petitioner first's inspection. Ms. Dunn testified that the property was messy from sitting for so long, and that it smelled of mold and stagnant water. Mr. Tsipis testified that there were roof leaks and the waterlines were all busted. The roof tiles had water stains and some had fallen; they lay wet on top of the carpet, which was mildewed. The siding was faded and the sidewalk and parking lot severely cracked, having served as a truck stop for nearly two years. Mr. Tsipis testified that he has spent approximately \$90,000 to \$110,000 on renovations since his purchase of the property. This testimony is persuasive, and the Tribunal is satisfied that the property had reasonable market exposure subject to normal market conditions and pressures, so as to provide a reliable indication of value. The Tribunal is further satisfied, given the available evidence, that it provides the best indication of true cash value within the meaning of MCL 211.27.

Respondent determined the TCV of the subject property using the mass appraisal cost-less-depreciation approach. Although this approach is lawful, and generally mandated by state guidelines for purposes of assessing, it is most applicable to newly constructed properties.⁹ “When improvements are considerably older or do not represent the highest and best use of the land as though vacant, the physical deterioration, functional obsolescence, and external obsolescence may be more difficult to estimate.”¹⁰ Further, the cost approach is persuasive only “when land value is well-supported.”¹¹ Respondent failed to submit its land sale study or even the appropriate record card, and inasmuch as the Tribunal cannot review the calculations utilized in determining the assessed values indicated for the subject, the reliability and credibility of both the record card and Respondent's cost-less-depreciation approach as an indicator of value is substantially lessened. See *Antisdale v Galesburg*,¹² wherein the Court noted that the Tribunal's findings must be supported by competent and substantial evidence on the whole record.

Though Respondent contends that its market and income approaches support its true cash value determination, the Tribunal disagrees. First and foremost, there is no value to support for the reasons discussed above. Second, Ms. Iott-Garrison failed to reconcile the widely disparate value indications provided by the same, particularly as compared to the cost approach, and while the values indicated by these approaches may support a finding that the property is not assessed in excess of 50% true cash value, to the extent that they reflect significantly higher true cash values, they in no way support the specific true cash value contended by Respondent. Ms. Iott-Garrison also failed to adjust the market comparables for any relevant elements of comparison, despite acknowledging that some adjustments would be warranted. Though she opined that adjustments would not make much of a difference, such a finding is not supported on the record. Indeed, the wide-ranging sales prices suggest otherwise, and even assuming that the properties are sufficiently similar to the subject so as to properly be considered comparable, Market Comparables 1 and 4, both of which are approximately half the size of the subject, would require significant adjustments for square footage. Consistent with the principal of diminishing returns, (i.e., the theory that smaller properties sell for higher per unit rates than larger properties), these

⁹ See MCL 211.10e and Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p 566 (“Because cost and market value are usually more closely related when properties are new, the cost approach is important in estimating the market value of new or relatively new construction.”)

¹⁰ *Id.* at 567-568.

¹¹ *Id.* at 566.

¹² *Antisdale v Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984),

sales would indicate significantly lower rates for the subject based on that element alone. Market Comparable 4 also sold to the tenant after leasehold improvements were made, and Comparable 2 was a sale of a property that was subject to a lease in place, otherwise known as a sale-leaseback or leased-fee transaction. The Tribunal has consistently held that such transactions are not reflective of market value.¹³ Market Comparable 3 is located across the highway, in the City of Monroe, and Respondent provided no evidence establishing that the markets and locations are sufficiently competitive. Additionally, while Ms. Iott-Garrison suggested that some of the comparables may be subject to similar deed restrictions, she ultimately acknowledged that she did not do any research on that issue. As for the income approach, the subject is not an income-producing property. Further, as with the market approach, Ms. Iott-Garrison did not consider or adjust her lease comparables for any relevant elements of comparison. Lease terms were not examined, and rates were obtained from personal property statements. Ms. Iott-Garrison also failed to sufficiently support the various factors utilized in her analysis, including the indicated vacancy and credit loss, operating expenses and alternate capitalization rates. Absent support for the various factors affecting the value determination, the Tribunal cannot find Respondent's valuation credible or reliable.¹⁴

JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) 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(s) at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.¹⁵ 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

¹³ See *Meritax, LLC v Richmond*, 23 MTTR 214 (Docket No. 425425), issued October 18, 2012, *Home Depot USA, Inc v Breitung Twp* 23 MTTR 468 (Docket No. 366428), issued December 26, 2012 and *Lowes v Marquette Twp*, 23 MTTR 248 (Docket No. 385768), issued December 13, 2012.

¹⁴ See *Antisdale*, 420 Mich App at 220, wherein the Court of Appeals noted that the Tribunal's findings must be supported by competent and substantial evidence on the whole record.

¹⁵ See MCL 205.755.

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%, and (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%.

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.¹⁶ 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.¹⁷ 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.¹⁸ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.¹⁹

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."²⁰ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.²¹ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.²²

By Steven H. Lasher

Date Entered by Tribunal: January 13, 2017

ejg

¹⁶ See TTR 261 and 257.

¹⁷ See TTR 217 and 267.

¹⁸ See TTR 261 and 225.

¹⁹ See TTR 261 and 257.

²⁰ See MCL 205.753 and MCR 7.204.

²¹ See TTR 213.

²² See TTR 217 and 267.