

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

SVC Realty, Inc.,  
Petitioner,

v

MTT Docket No. 338870

City of Fenton,  
Respondent.

Tribunal Judge Presiding  
Victoria L. Enyart

**OPINION AND JUDGMENT**

Introduction

Petitioner, SVC Realty, Inc, (“SVC”) appeals ad valorem property tax assessments levied by Respondent, City of Fenton (also “City”), against the real property owned by Petitioner for the 2007, 2008 and 2009 tax years. William R. Connolly, attorney, appeared on behalf of Petitioner. Stephen O. Schultz, attorney, appeared on behalf of Respondent. Witnesses appeared on behalf of both parties. They include: Steven Singer, practice manager for SVC Dermatology; Tonya Molloseau, Assessor; Mark Bollinger, MAI for Petitioner; and Robert Vertalka, MAI, SRA, for Respondent.

The proceedings were brought to this Tribunal on August 31, 2009, to resolve the real property dispute.

At issue before the Tribunal is the determination of true cash value of Petitioner’s real property for the 2007, 2008 and 2009 tax years.

The City of Fenton has assessed the property on the tax roll at:

Parcel No. 53-25-515-023

Year	TCV	AV/SEV	TV
2007	\$1,750,000	\$875,000	\$803,410
2008	\$1,776,600	\$888,300	\$821,888
2009	\$1m704,800	\$852,400	\$852,400

Respondent's appraisal for the three years at issue states the values as:

Parcel No. 53-25-515-023

Year	TCV	AV/SEV	TV
2007	\$1,850,000	\$925,000	\$803,410
2008	\$1,850,000	\$925,000	\$821,888
2009	\$1,700,000	\$850,000	\$850,000

Petitioner's appraiser believes that the values of the subject property are:

Parcel No. 53-25-515-023

Year	TCV	AV/SEV	TV
2007	\$1,200,000	\$600,000	\$600,000
2008	\$1,200,000	\$600,000	\$600,000
2009	Unknown	Unknown	Unknown

The Tribunal finds that no information has been provided by Petitioner that includes a valuation conclusion for 2009; therefore, Respondent's evidence is accepted as uncontested.

The Tribunal finds the following values for the subject property for the tax years at issue:

Parcel No. 53-25-515-023

Year	TCV	AV/SEV	TV
2007	\$1,850,000	\$925,000	\$803,410
2008	\$1,850,000	\$925,000	\$821,888
2009	\$1,700,000	\$850,000	\$850,000

Background and Introduction

At issue is the true cash value for a commercial office complex located at 305 N Leroy St, Fenton, Michigan, for the tax years at issue. Petitioner states that subject property is

a one-story concrete block building with 10,880 square feet (SF), average quality, designed as a retail facility with a highest and best use as a medical office. Respondent states that the subject property is a single-story medical office building with 10,880 SF on the first floor, with an additional 2,160 SF of mezzanine storage. Both parties agree that the land is 1.18 acres. The appraisals are \$650,000 apart.

### Petitioner's Arguments

Petitioner believes that the true cash value of the subject property for the tax years at issue should be reduced because it has a 1,020 SF mezzanine and 22 foot ceiling heights. Its prior use was as a retail drug store. Subject property was acquired for \$1,000,000 in September, 2003, and Petitioner incurred \$450,000 for renovations.

Petitioner offered the following exhibits:

- P-1 Petitioner's Executive summary. (Not admitted)
- P-2 Bollinger appraisal dated April 4, 2003.
- P-3 Bollinger appraisal dated December 1, 2008.
- P-4c Rent Rolls
- P-5l 2008 depreciation projection.

Petitioner's first witness was Steven Singer, practice manager for SVC Dermatology. His testimony covered the property's purchase price, the other properties that were considered, and the income tax statements that he did not prepare.

Petitioner's second witness was Tonya Molloseau, Assessor. Molloseau testified regarding the property record cards. She did a walk-through of the property one time during the summer of 2008. She described the building as a cinder block building with a

cement foundation, mezzanine, formerly used as a CVS drug store. Molloseau did not measure the subject property, or appraise it, or know the exact square footage. She testified that the ceiling height was 22 feet. Petitioner questioned Molloseau about the functional obsolescence of the building, and she replied that she did not believe that a higher ceiling height alone would have an effect on the purpose or use of the building. She agreed that it could cost more to heat the building. She did not believe that would fit into the category of functional obsolescence.

Petitioner questioned Molloseau about the property record card and what appeared to be an addition to the assessment in 2004 and again in 2005. However, since those tax years were not before the Tribunal the issue was not relevant.

Molloseau, during her tour of the building, noticed that the entire building was not utilized by Petitioner. Petitioner asked if she would consider the building as overbuilt for its current use. She answered "no," because it was not constructed for the current use, if the owners purchased a building too large for their own use, it is not an aspect of functional obsolescence. She testified she did not use an income approach that would take vacancy into consideration.

Mark Bollinger testified that he is an MAI certified appraiser. He owns 100,000 SF of real estate in Genesee County. Bollinger prepared a bank appraisal for the subject property in April, 2003, with no consideration for any functional obsolescence. Bollinger now considers the property over-built for its current use.

Bollinger appraised the subject property's highest and best use as a medical office (P-3, p 6). He stated that the subject property is in a good area for office use. (P-3, p 20). Bollinger found that the highest and best use as vacant is as a medical-type office or commercial use; the highest and best use as improved is as a medical office building. (P-3, p 37).

Bollinger's appraisal of the land as vacant used eight sales of property located in Grand Blanc, Flint Township, Clayton Township, Flushing, Burton, and one in Fenton. The size of the comparable properties ranged from 76,230 SF to 436,036 SF to compare with subject's 51,330 SF. Bollinger then selected the four most comparable sales, made adjustments for location and size, concluding to an estimated true cash value of \$3.25 per SF or \$170,000 for land.

Bollinger's next step was a market analysis of ten improved office sales. The date of the sales ranged from August, 2003 to May, 2008. Five of the sales were located in Flint Township, two in the City of Flint, and one each in the cities of Burton and Grand Blanc and Munday Township. Bollinger selected the following sales as most comparable: Sale 4 was a skin and vein center, with a sale date of 2008, adjusted for location; sale 5 was all offices for a medical society, with a sale date in 2005; adjustments were made for a better location and a poor condition; sale 6 was an eye center that sold in 2007, adjusted for its superior location; and sale 10 was a medical facility that sold in 2008, adjusted for a slightly better location.

Bollinger's appraisal established that unadjusted sale prices ranged from \$113.14 to \$123.84 per SF, and adjusted sale prices ranged from \$113.14 to \$115.84 per SF. The value of the subject property, pursuant to the sales comparison approach, was concluded to be \$1,240,000.

Bollinger then estimated the value with an income approach by first determining the fair market rent for subject property. He selected 13 comparables, 12 located in Flint Township and one located in Mundy Township. Bollinger selected gross rents for income ranging from \$14.00 to \$22.00 per SF. He selected the middle of the range at \$20.00 per SF.

Bollinger briefly discussed a regional study by Fifth Third Bank that indicated a 20-22% office vacancy rate. He determined that the local area had 10-20% vacancy and used 15% as the average vacancy rate.

Bollinger then used actual expenses for the subject property. The capitalization rate was based on a range of 9.30% to 9.5% from various sources. He selected the higher end of the range and added 2.86% for property taxes for an overall capitalization rate of 12.36%.

The following is a recap for the income approach:

Gross Income:		
10,880 SF @ \$20.00 gross		\$217,600
Vacancy & Credit (15%)		<u>(32,640)</u>
Effective Gross income		\$184,960
Expenses:		
Management 5%	\$9,248	
Insurance	\$3,000	
Maintenance	\$5,000	
Utilities	\$3,000	
Snow/lawn	\$5,000	
Garbage	\$1,500	
Janitorial	\$6,000	
Reserves	\$3,500	
Total Expenses		<u>(\$36,248)</u>
Net Operating Income:		<u>\$148,712</u>
Divided by		
Overall Capitalization Rate (.1236)		.1236
Rounded Value via Income Approach		\$1,200,000

Bollinger, for the cost-less-depreciation approach, utilized Marshall Valuation Services, section 15, page 12, class C, Good Quality, Medical, with a low cost of \$72.56 and an excellent cost of \$135.96. Bollinger selected \$90.00 per square foot as the base rate for the cost approach. To the base cost a perimeter adjustment, a current cost multiplier, and an area multiplier were also used to adjust the base rate. The composite multiplier is:

$1.03 \times 1.00 \times 0.97 \times 1.01 = 1.01 \times \$90.00 = \$90.90$  @ 10,880 square feet equals a replacement cost new of \$990,000 (rounded).

Bollinger then determined the site costs for blacktop parking, concrete, curbs, exterior lighting, soil balance and grade, drainage, utilities, landscaping and miscellaneous for a total site cost of \$215,000.

Depreciation from all sources is determined based upon a 10 year effective age and a 50 year life, 10% physical incurable depreciation, and \$1,000 for site and \$1,000 for improvement for physical curable. The \$170,000 land value is added back to the depreciated cost of \$1,078,000. The cost approach is summarized as \$1,250,000 true cash value (rounded).

Some of Petitioner's testimony included explaining the differences between the subject's December 31, 2006 and December 31, 2007 appraisals (\$1,200,000) and an April, 2003 appraisal prepared for Comerica Bank (\$1,500,000).

Petitioner stated in closing arguments that the subject property is overbuilt on the edge of downtown Fenton. The property is not located adjacent to a hospital or close to highway access.

#### Respondent's Arguments

Respondent requests that the true cash value of subject property be slightly increased based on its appraisal.

Respondent offered the following exhibits:

R-2 Qualifications Vertalka.

R-3 Appraisal by Vertalka for all three years.

R-8 Lease.  
R-9 List of medical office buildings.

Robert Vertalka, MAI, SRA, prepared an appraisal for the subject property as of December 31, 2006, December 31, 2007, and December 31, 2008.

Vertalka has a detailed description of subject property including the 2,160 square foot L-shaped second floor mezzanine, the original 1997 construction, and the 2004 renovation. The appraisal includes a sales comparison approach and an income approach. Vertalka did not consider the cost approach to be applicable due to the difficulty in determining depreciation from all causes, as well as the fact that an investor would place little reliance on the cost analysis.

Vertalka began with the income approach and attached in the addendum a copy of the lease by a related entity that began with \$19.85 per square foot net rent for the first floor and \$16.56 per square foot for the mezzanine in equal installments of \$18,000 a month. Economic rent was then determined using five rent comparables. Rent one is located in Fenton, Rentals two and five are on Linden Road in Flint Township and Rentals three and four are located in Grand Blanc Township. All five rent comparables were on a triple net basis. The rents ranged from \$15.00 to \$19.14 per SF. All of the comparables have similar locations and were not adjusted. The lower priced rents were of inferior age, quality and condition when compared to subject. The mid to upper level comparables were considered more similar to subject. The gross rent selected was \$16.50 per SF.

The expenses determined by Vertalka included vacancy and credit loss of 5% based on gross income, which considers tenant turnover and market conditions. Subject is fairly new and in a good area, according to Vertalka.

The next expense considered is management based on a percentage of effective gross income. This rate is also 5% to include the number of tenants, age, condition, and structure of the leases and includes leasing commissions. Vertalka stated that reserve for replacements is an owner responsibility for replacement of major mechanical systems. This was estimated at \$0.15 per SF or \$1,600.

The remainder of expenses for property taxes, insurance, utilities, janitorial, maintenance and operating expenses are tenant responsibilities. Vertalka then estimated the capitalization rate and found a 75% mortgage with a 25-year amortization period and a 10% return on equity. The formula is:

.75 mortgage	X .810 (constant)	=	6.08	
.25 equity	X .10	=	<u>2.50</u>	
Total			8.58	rounded to 8.60%

The income analysis is:

Potential Gross Income	10,880 X \$16.50	\$179,500
Vacancy and Credit 5%		<u>( \$ 9,000)</u>
Effective Gross Income		\$170,500

Expenses:

Management 5%	\$8,500	
Reserves for Replacement	<u>\$1,600</u>	
Total Expenses	\$10,100	<u>( \$10,100)</u>

Net Operating Income:	\$160,400
Overall Capitalization Rate:	.856
Net operating income divided by Capitalization Rate	\$1,865,000

The December 31, 2006, and December 31, 2007, true cash value via the Income Approach is \$1,865,000.

Vertalka then conducted a sales comparison approach using five sales from office buildings located in Fenton and Grand Blanc. They ranged in size from 3,508 to 11,326 SF; the sale dates ranged from April 2005 to November 2007, and the sale prices per square foot ranged from \$141.27 (largest square footage) to \$200.00 (for the smallest square footage).

Vertalka made adjustments to the sales for size, quality, condition and medical vs non-medical office space. The adjusted sale prices per square foot ranged from \$152.00 to \$190.00 with the mean at \$170.00. Vertalka concluded to \$170.00 per SF.

Vertalka's value consideration by the sales comparison approach is  $\$170 \times 10,880 = \$1,850,000$ , as of December 31, 2006, and as of December 31, 2007.

Vertalka concluded that the true cash value as of December 31, 2006 is **\$1,850,000**; and as of December 31, 2007 is **\$1,850,000**. Vertalka also included an update for December 31, 2008 and estimated the true cash value at **\$1,700,000**.

#### Tribunal's Findings of Fact

Although Petitioner would like the Tribunal to believe that there is some functional obsolescence for the excess ceiling heights and mezzanine, there was no documentation or proof that functional obsolescence exists or to what extent either would have on subject property. Although Petitioner fails to provide any proof that

functional obsolescence exists, the Tribunal would find that extraordinary ceiling heights may influence all of the approaches to value, but should have been discovered through Petitioner's appraisal, not necessarily through the assessor. The Tribunal notes that Respondent should be aware of the definition of functional utility to determine if obsolescence is present in any property. The Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13<sup>th</sup> ed, 2008), pp 262, 265 states:

Functional utility is the ability of a property or building to be useful and to perform the function for which it is intended according to current market tastes and standards; the efficiency of a building's use in terms of architectural style, design and layout, traffic patterns and the size and type of rooms.

Functional inutility is the impairment of the functional capacity of a property or building according to market tastes and standards; equivalent to functional obsolescence because ongoing change makes layouts and features obsolete.

#### Commercial

Important considerations of functional utility in commercial properties include

- Column spacing
- Bay depth
- Live-load floor capacity
- Ceiling height
- Module width
- Elevator speed, capacity, number and safety
- Level of finish
- Energy efficiency
- Parking

Ceiling height and increased cost for heating and cooling or maintenance may be a sign of functional obsolescence, if it is, then it should be reflected in all three approaches to value. It is not exclusively reserved for the income approach.

Petitioner stated:

And if we have a battlefield, it's, in our opinion, it's the rental rates. The judge, as the independent fact finder, could easily discover the accuracy of this testimony. The name of the realtor, Siegel Realty, is in the documents, and Becky is certainly the name of the person we all talked to. Tr. p 178.

The Tribunal will not, after a hearing is closed and after testimony is taken, call to determine whether information provided at the hearing is accurate. It is the responsibility of the parties, based on documents and testimony, to prove their cases. The Tribunal is not an independent fact finder, but may have to do an independent determination of value based upon the facts presented, evidence, testimony and law.

After Petitioner rested, Respondent requested that the Tribunal not consider the 2009 appeal because Petitioner presented neither evidence nor a valuation disclosure setting forth its valuation for tax year 2009.

Respondent guided the Tribunal through Petitioner's 2003 bank appraisal. While it was done for a different purpose, the building was not altered between the April 2003 appraisal and the December 31, 2006 appraisal. There was no functional obsolescence in either report and the building quality did not change. The largest most impressionable problem was the use of triple net rents for the 2003 appraisal and Petitioner's changing of the triple net rents to gross rents for the Tribunal. Petitioner was not successful in explaining why adding common area maintenance to triple net rents would indicate what gross rents should be; when it was clear that triple net rents were the market normal.

The Tribunal agrees with Respondent that there is no justification for Bollinger's use of a 15% vacancy rate. It appears as though it was extracted from the regional market for the county instead of the local market.

Respondent found that the numbers used by Bollinger for his cost approach actually were numbers that he came up with himself from experience. This was not disclosed in the appraisal done for the Tribunal. The appraisal also does not disclose that as owner of buildings in Flint Township and the City he used some of the information based on his ownership and management of property. Respondent advised the Tribunal that this was not the first time the Tribunal would find Bollinger's appraisals not convincing. In *Vemco Inc v Township of Grand Blanc*, MTT Docket No. 247039 (2002), the Tribunal stated: "The evidence indicates Petitioner's appraiser used the wrong Marshall-Swift cost data sheets and incorrectly applied the cost multipliers, thereby resulting in grossly understated cost approach." In the instant case, the Tribunal again finds that Bollinger's cost approach is not valid; he did not use the Marshall Valuation Services cost data sheets as indicated in his appraisal.

Bollinger changed his methodology from the 2003 bank appraisal going from triple net income to gross income. Without any support from the market he used triple net income and added information and added \$2.50 to \$6.00 per square foot for the differences. Bollinger's 2003 bank appraisal determined that the Flint locations were good; however, in 2008 the Flint locations were a negative adjustment. The Tribunal finds that when the appraiser changes basic methods for the purpose of a tax appeal it

is, at best, a suspect report. The Tribunal especially finds the income approach troubling. Petitioner's use of triple net income and then adding common area maintenance to make it gross rental when the market clearly is not is a large error.

The Tribunal finds that Petitioner was not able to successfully carry its burden of proving that the assessments exceed 50% of market value.

#### Conclusions of Law

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

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

“The petitioner has the burden of establishing the true cash value of the property....”  
MCL 205.737(3); MCL 211.27(1); *Meadowlands Limited\_Dividend Housing Ass’n v City*

*of Holland*, 437 Mich 473, 483-484; 473 NW2d 363 (1991). “This burden encompasses two separate concepts: (1) the burden 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*, *supra* 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; *Pantilind 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.

Under MCL 205.737(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 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).

In this case, the Tribunal concludes that the evidence, testimony and law favor the application of the income approach. An appraisal of fair market value requires a determination of the property's "highest and best use," which is "the reasonably probable and legal use of vacant land or an improved property that is legally permissible, physically possible, financially feasible, and that results in the highest value." Appraisal Institute, *Appraising Residential Properties*, (Chicago, 3<sup>rd</sup> ed., 1999, p 211).

## 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 *Introduction* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 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, and (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, and (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009.

This Order resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: December 4, 2009

By: Victoria L. Enyart