

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

GMO Threshold Timber Michigan, LLC,  
Petitioner,

v

MTT Docket No. 409399

Township of Eagle Harbor,  
Respondent.

Tribunal Judge Presiding  
Preeti P. Gadola

**OPINION AND JUDGMENT**

Introduction

Petitioner, GMO Threshold Timber Michigan, LLC, appeals the ad valorem property tax assessments levied by Respondent, Eagle Harbor Township, against the real properties owned by Petitioner for the 2010 tax year (parcel numbers: 42-202-04-150-001 and 42-202-09-150-001.) The properties consist of 130 acres (Parcel No. 42-202-04-150-001) and 196 acres (Parcel No. 42-202-09-150-001) of vacant land. Stuart Deming, attorney, represented Petitioner; Respondent did not appear at the hearing. Petitioner's witness was Michael C. Jukuri, appraiser.

Respondent was placed in default on August 2, 2011, for failure to file an answer to the Petition pursuant to TTR 247. Respondent did not file a motion to set aside the default and thus a default hearing was scheduled and occurred on March 7, 2012, before the Tribunal Judge.

The subject properties' True Cash Value ("TCV"), Assessed Value ("AV"), and Taxable Value ("TV") as determined by Respondent's 2010 March Board of Review are as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$163,066	\$81,533	\$81,533

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$600,612	\$300,306	\$300,306

The property's TCV, AV, and TV as indicated by the property's assessment change notice for the tax year in question were as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$543,486	\$271,743	\$212,023

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$1,040,612	\$520,306	\$512,945

Petitioner's contentions of TCV, SEV, and TV for the tax year in question are as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$137,000	\$68,500	\$53,443

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$230,000	\$115,000	\$113,367

### **SUMMARY OF JUDGMENT**

Based on the evidence, testimony, and case file, the Tribunal finds that the TCV, SEV, and TV of the subject properties for the year under appeal are as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$137,000	\$68,500	\$68,500

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$230,000	\$115,000	\$115,000

### **PETITIONER'S CONTENTIONS**

Petitioner contends that the evidence presented in this case strongly supports a determination that the true cash values of the subject properties as presented by Respondent are substantially overstated. Petitioner presented two appraisals of the property prepared by Michael C. Jukuri, State Licensed Appraiser, as evidence that Respondent and its local board of review overvalued the property.

### **PETITIONER'S ADMITTED EXHIBITS**

- P-1 Qualifications of Michael C. Jukuri
- P-2 Appraisal Report of Michael C. Jukuri – Parcel 04
- P-3 2010 Notice of Assessment – Parcel 04
- P-4 2010 Board of Review Decision – Parcel 04
- P-6 2010 Appraisal Report of Michael C. Jukuri – Parcel 09
- P-7 2010 Notice of Assessment – Parcel 09
- P-8 2010 Board of Review Decision – Parcel 09

### **PETITIONER'S WITNESS PRESENTATION OF PETITIONER'S ARGUMENT**

#### **Michael C. Jukuri**

Mr. Jukuri testified that he is a licensed appraiser with 17 years of appraisal experience for North Country Agency. He further testified that he is an associate real estate broker and designated business appraisal expert through the Michigan Association of Real Estate Appraisers/Northern Michigan University. (Petitioner's Exhibit 1, Transcript pp. 5-6.) Mr.

Jukuri testified that he grew up in Northern Michigan, went to college there, and currently resides in the area. (Transcript, p. 5-6.)

Mr. Jukuri prepared two appraisals giving the value of the properties as of February 15, 2010, as \$137,000 (Parcel No. 42-202-04-150-001) and \$230,000 (Parcel No. 42-202-09-150-00.) (Petitioner's Exhibits 2 and 6.) In determining the market value of the subject properties, Mr. Jukuri relied upon the sales comparison approach. (Transcript, p. 8.) He identified four comparable sales that took place in the same market area as the subject properties. With respect to each comparable sale, Mr. Jukuri made adjustments for the differences in acreage and water frontage (buildable or unbuildable) as compared to the subject properties. (P-2 and P-6.)

Mr. Jukuri testified that the subject properties are vacant parcels of land with unbuildable water frontage due to low lands that cause water drainage into the properties and wet soil. (Transcript, p. 15.) Mr. Jukuri chose four sales that he considered most comparable to the subjects and utilized them, with adjustments, to determine the true cash value of the properties.

Parcel No. 42-202-04-150-001:

The first comparable sale is located on US-41, about seven miles from the subject property, and consists of 411 acres of unbuildable frontage on Lake Medora. It sold for \$390,000 in 2006. The sale price of the property was \$948 per acre and an adjustment for acreage was made at \$950 per acre (\$948, rounded) between the subject acreage and the comparable acreage. The adjusted sale price of the comparable property was \$143,100. (Transcript, p. 8, P-2.) Comparable sale two was along Gay-Lac LaBelle Road located about 11 miles from the subject property. It had a sale price of \$155,000 for 200 acres on January 25, 2007. The sale price of comparable one was \$775 per acre. (Transcript, pp. 9-10.) It had a

similar location to the subject and an adjustment was made for difference in acreage at \$775 per acre. The adjusted sale price of comparable two was \$121,000. (Transcript, pp. 9-10, P-2.) The third comparable sale was a 27-acre parcel with buildable frontage of 400 feet on Lake Medora. (Transcript, p. 10, P-2.) This comparable was presented to show the difference in value between a buildable and unbuildable lot with lake frontage. (Transcript, p. 17.) The comparable sold for \$199,900 on November 25, 2008. The adjusted sale price of the property was \$119,900 and an adjustment was made of \$400 per foot of lake frontage. (Transcript, p. 10, P-2).

Mr. Jukuri testified that the subject property and two of the comparables had seasonal access while the third technically had year-round access. Mr. Jukuri testified that the year-round access of the comparable property required no adjustment when compared to the subject property as the comparable property was only utilized until October or November. (Transcript, p. 9.) When questioned by the Tribunal regarding the time of sale of the comparables in relation to December 31, 2009<sup>1</sup>, Mr. Jukuri testified that properties in the subject properties' area are primarily state owned; therefore, it is difficult to find private sales. Further, the population of Keweenaw County (under 2,000 people) also makes sales few and far between. He further stated that the market in the area of this type of property is fairly stable given the lack of sales. (Transcript, pp. 10-11.) In summation, Mr. Jukuri testified that the sales comparables he used

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<sup>1</sup> MCL 211.2(2) states: (2) The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day, any provisions in the charter of any city or village to the contrary notwithstanding. An assessing officer is not restricted to any particular period in the preparation of the assessment roll but may survey, examine, or review property at any time before or after the tax day.

were the best comparables available as adjusted to be consistent with the subject property.

(Transcript, p. 11.)

Parcel No. 42-202-09-150-001

Mr. Jukuri compared the subject property, a 196-acre parcel along Washington Mine Road, to three sales comparable properties. Two of the comparable sales were the same sales as those utilized in the appraisal of parcel no. 42-202-04-150-001. The first comparable sale was the Gay-Lac LaBelle Road property, which was 32 miles from the subject property. Its adjusted sale price was \$217,500. The second sales comparable was the US 41 sale, which was located 24 miles from the subject property. Its adjusted sale price was \$249,500. The third comparable was located on Sand Point Road, which was eight miles from the subject property. It consisted of 773 acres and sold in December, 2007, for \$699,000 or \$904 per acre. Its adjusted sale price was \$238,000. (Transcript, pp. 20-21, P-2.) Once again, Mr. Jukuri testified that the sales comparables he used were the best comparables available as adjusted to be consistent with the subject property.

**RESPONDENT'S CONTENTIONS, ADMITTED EXHIBITS,  
AND WITNESSES**

Respondent did not appear at the hearing on this matter to provide any contentions, exhibits, or witnesses.

**FINDINGS OF FACT**

1. The subject properties consist of 130 acres (Parcel No. 42-202-04-150-001) and 196 acres (Parcel No. 42-202-09-150-001) of vacant land.
2. The properties are located in Eagle Harbor Township, Keweenaw County, Michigan.
3. The properties are classified as residential real.

4. The subject properties' True Cash Value ("TCV"), Assessed Value ("AV"), and Taxable Value ("TV") as determined by Respondent's 2010 March Board of Review are as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$163,066	\$81,533	\$81,533

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$600,612	\$300,306	\$300,306

5. The property's TCV, AV and TV as indicated by the properties' assessment change notice for the tax year in question were as follows:

Parcel No. 42-202-04-150-001

Year	TCV	AV/SEV	TV
2010	\$543,486	\$271,743	\$212,023

Parcel No. 42-202-09-150-001

Year	TCV	AV/SEV	TV
2010	\$1,040,612	\$520,306	\$512,945

6. Petitioner presented an appraisal of each of the subject properties that consisted of three comparable sales of vacant land, adjusted to be consistent with the characteristics of the subject property.

### **ISSUES PRESENTED AND CONCLUSIONS OF LAW**

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.

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%. Const 1963, art 9, sec 3.

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 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).

The Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value." See *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588 (1974).

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 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 Limited Dividend Housing Association v City of Holland*, 437 Mich 473, 485- 486; 473 NW2d 636 (1991).

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 Department 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. *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). 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. However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.” MCL 205.735(3).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, p278. 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*, p 277. The Tribunal finds that the appropriate method of determining the true cash value of the subject property for the tax year at issue is the sales comparison approach.

#### VALUATION OF THE SUBJECT PROPERTY

Petitioner presents the Tribunal with two appraisals of the subject properties prepared by Michael J. Jukuri, State Licensed Appraiser, in support of its valuation of the properties. The

appraisals each present three sales of properties comparable to the subjects with adjustments consistent with the characteristics of the properties. There were very few adjustments to the comparable properties, such only consisting of the difference in acreage and buildable or unbuildable water frontage of the comparable land. The comparable sales were all located in Keweenaw County and given the amount of state land, lack of population, and lack of private sales, the sales comparables were persuasive to the Tribunal in determining the true cash value of the subject property despite their time of sale in relation to December 31, 2009. Mr. Jukuri's conclusion of true cash value of the properties was within the range of the sale price per acre of the comparable properties.

Mr. Jukuri testified that he grew up in Houghton County, Michigan, and currently lives there. Houghton County is directly adjacent to Keweenaw County where the subject property is located. Mr. Jukuri has been a state licensed real estate appraiser for 17 years and the Tribunal finds his testimony to be credible and reliable with regard to determining the true cash value of the property. The Tribunal finds that the appraisals presented by Mr. Jukuri are the best evidence to be relied upon in making its independent determination of the fair market value of the subject properties.

Respondent did not appear at the hearing on this matter. Respondent was defaulted for failure to file an Answer to Petitioner's Petition, and failed to cure the default.

### **JUDGMENT**

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner did prove by a preponderance of the evidence that the subject properties

are assessed in excess of 50% of market value for the 2010 tax year. As such, the properties' TCV, SEV and TV are as stated in Summary of Judgment section above.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year at issue shall correct or cause the assessment rolls to be corrected to reflect the properties' true cash and taxable value 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 28 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, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010 at the rate of 1.12% for calendar year 2011 and (iii) after December 31, 2011, at the rate of 1.09% for calendar year 2012.

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

MICHIGAN TAX TRIBUNAL

Entered: April 2, 2012

By: Preeti P. Gadola