

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

Rough Road Holding Co LLC,
Petitioner,

v

MTT Docket No. 15-001837

Surrey Township,
Respondent.

Tribunal Judge Presiding
Marcus L. Abood

ORDER DENYING PETITIONER’S MOTION FOR DEFAULT JUDGMENT

ORDER DENYING PETITIONER’S MOTION FOR COSTS

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Rough Road Holding Co, LLC, appeals ad valorem property tax assessments levied by Respondent, Surrey Township, against Parcel No. 014-035-400-20 for the 2015 and 2016 tax years. H. Adam Cohen and John E. Scheibelhut, Attorneys, represented Petitioner, and Frank Gentz represented Respondent.

A hearing on this matter was held on March 31, 2017. Petitioner’s witnesses were Douglas Murphy and John R. Widmer, Jr. Respondent’s only witness was Frank Gentz. On the day before the hearing, Petitioner filed a Motion requesting the Tribunal to enter a default judgment and to grant costs to Petitioner. Contrary to Petitioner’s contentions, the Tribunal does not have the authority to grant default judgments. With regard to the specific contentions, the Tribunal finds that the issues regarding evidence was addressed at the hearing. With regard to the zoning issue, the Tribunal finds it is outside the Tribunal’s jurisdiction and an award of costs is not supported, on record.

Based on the evidence, testimony, and case file, the Tribunal finds the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property as follows:

Parcel Number: 014-035-400-20

Year	TCV	AV	TV
2015	\$300,000	\$150,000	\$150,000
2016	\$300,000	\$150,000	\$150,000

PETITIONER'S CONTENTIONS

Petitioner contends the subject has a rural location, access via dirt roads and limited parking.¹ Petitioner details the subject's market area analysis regarding population, income and employment within Petitioner's appraisal report. The general area is not conducive in attracting music concerts and other entertainment gatherings on a large scale. More specifically, access and location have a negative impact on the subject property as Petitioner claims that the few events that were produced resulted in financial failures.² Further, the subject site and improvements are in need of repairs and maintenance.³ In totality, entertainment professionals do not consider the subject to be a viable venue by industry standards.⁴

Petitioner points to extensive photographs of the subject property as further description of the limitations of this property as an entertainment venue. Specifically, the subject's permanent structures are a deterrent to musical groups and bands that have their own stage equipment. Petitioner's appraiser also points to seven musical festival events in the state of Michigan as examples of venues without permanent structures.⁵ Again, the subject improvements are a drawback to entertainment promoters and music entertainers.

Petitioner's appraiser considered all three approaches to value, but Petitioner asserts that only the sales and cost approaches were applicable for this tax appeal appraisal assignment.

Widmer describes his initial research which included publically available information regarding the subject sales history, the subject property and the general entertainment/concert market in the state of Michigan. His appraisal report includes a highest and best use analysis and claims his report is consistent with *The Appraisal of Real Estate* (Chicago: 14th ed, 2013) published by the Appraisal Institute.

Regarding the sales comparison approach, Petitioner contends there is an overall lack of comparable sales data in the subject market area. Nevertheless, Petitioner believes two prior sales involving the subject property are relevant for a comparative analysis. Petitioner's appraiser asserts this relevance through his compliance of the 3-year sales history of the subject

¹ Tr., 33-43, 120-121.

² Tr., 42, 115.

³ Tr., 44.

⁴ Tr., 45-46.

⁵ Petr.'s Ex. 1, 11-12.

property.⁶ The prior sales of the subject property demonstrate market exposure and market reaction as an entertainment venue. Widmer explains the support for the limited adjustments to the two comparable sales and then arrives at adjusted sale prices resulting in an averaged indication of value from the sales comparison approach.

Regarding the cost approach, Petitioner points out that its conclusion of land value is very similar to Respondent's land value conclusion. Petitioner develops cost calculations for the subject's improvements and then deducts functional and external obsolescence in the final reconciliation of approaches to value. While the cost approach was properly analyzed, Widmer asserts no weight is placed on this approach in his final reconciliation.

PETITIONER'S ADMITTED EXHIBITS

In support of its value contentions, Petitioner offered the following exhibits, which were admitted into evidence:

- P-1: Appraisal Report prepared by John Widmer.
- P-2: Purchase and Sale Agreement dated September 30, 2015.
- P-4: Termination of Purchase Agreement and Release of Deposit dated January 14, 2016.
- P-5: Land Contract dated November 13, 2012.
- P-6: Amendment to Land Contract dated October 23, 2013.
- P-8: Summary Appraisal Report prepared by William O. McDonald.
- P-9: Photographs of the subject property.
- P-13: Deconstruction Estimate.

PETITIONER'S WITNESSES

Petitioner's 1st witness, Douglas Murphy, is the sole member of the entity, Rough Road Holding Co, LLC. He described the sales history, improvements and number of events coordinated at the subject property.

Petitioner's 2nd witness, John Widmer, MAI, prepared an appraisal report for the subject property. He is primarily a commercial appraiser with nearly 30 years of valuation experience. He is licensed in the state of Michigan and designated through the Appraisal Institute. Based on his education and experience, the Tribunal accepted Mr. Widmer as an expert real estate appraiser.

⁶ Tr., 138-141.

RESPONDENT'S CONTENTIONS

Respondent contends that his cost approach is developed on a mass appraisal basis with adherence to State Tax Commission (STC) guidelines. In turn, he relies on land sales, economic conditions factor (ECF) and multipliers derived from the Clare County study. "The valuation is determined by mass appraisal, looking at saying similar properties in the overall view of the township in land and building, those corrections are being made through studies each year, because I do a land study for whatever class of property."⁷ Respondent asserts that Petitioner did not appeal the property taxes to the BOR in years prior to this appeal. Respondent would have no way of knowing if corrections were needed to Petitioner's assessments. "In talking with the owner, in talking with the owner's associates and representatives, everybody agreed that the assessment was a fair assessment."⁸ Respondent argues mismanagement is the primary issue involving Petitioner's property as an entertainment venue and not the improvements to the property.⁹ Respondent further argues there is no functional or external obsolescence found to the subject property. Respondent points to his TCV from the mass appraisal cost approach which is relatively similar to Petitioner's cost approach indication of value.

RESPONDENT'S ADMITTED EXHIBITS

In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

R001:	2015 Subject Property Record Card.
R002:	2016 Subject Property Record Card.
R013:	Deconstruction Estimate.
R022:	Property Transfer Affidavit.
R023:	Real Property Statement.

RESPONDENT'S WITNESS

Respondent presented testimony from its assessor, Frank Gentz. He is the contract assessor for Surrey Township and Freeman Township. He is currently a Michigan Certified

⁷ Tr., 235.

⁸ Tr., 237.

⁹ Tr., 230.

Assessing Officer (formerly known as a Level 2 Assessor). Based on his education and experience, the Tribunal accepted Mr. Gentz as an expert in mass appraisal and assessing.

FINDINGS OF FACT

1. The subject property is located at 1001 Mott Mountain Road, in Surrey Township, and within Clare County.
2. The subject parcel code number is 014-035-400-20 and is zoned C-1 District.¹⁰
3. The subject site has gross land area of 59.119 acres and net land area of 57.621 acres.
4. Douglas Murphy is the sole member of the entity Rough Road Holding Co, LLC.
5. Rough Road Productions, LLC was formed to handle and produce concerts at the subject property.
6. Petitioner purchased the subject property from Chemical Bank for \$250,000 on November 13, 2012 on a land contract. The overall purchase price of \$310,000 included a 2nd parcel of land located in Gilmore Township with Isabella County.
7. Petitioner held one concert and two parties as entertainment venue.¹¹ None of the events made a profit.
8. Petitioner defaulted on the land contract and was approached by Chemical to amend the land contract agreement.¹²
9. The subject property does not have delineated parking spaces.¹³
10. The subject property is accessed by a two-track dirt roadway.¹⁴
11. The subject property has a pole barn, 2-story apartment building, ticket booth, sound/lighting building, entertainment/stage building and an electrical building.
12. This tax appeal matter involves a singular property and not a “universe of properties.”
13. Petitioner submitted a valuation disclosure in the form of a narrative appraisal report prepared by John Widmer.
14. In testimony, Petitioner’s appraisal report conforms to the fundamental concepts and principles of *The Appraisal of Real Estate* (Chicago: 14th ed, 2013).
15. Petitioner’s appraisal report cites 7 music festivals throughout the state of Michigan.¹⁵
16. Petitioner’s appraisal report includes the cost and sales comparison approaches to value for the years under appeal.
17. Petitioner’s appraiser did not develop the income approach because the subject does not have a history of an income stream. The property was owner-occupied as a ski hill prior to its use as an entertainment venue.
18. Petitioner’s appraiser investigated, analyzed and disclosed the 3-year sales history for the subject property.¹⁶

¹⁰ Petr.’s Ex. 1, 36 and Resp.’s Ex. 1, 1

¹¹ Tr., 41 and 115.

¹² Tr., 40-41 and 233.

¹³ Tr., 43 and 121.

¹⁴ Tr., 33 and 120.

¹⁵ Tr., 114 and Petr.’s Ex. 1, 11-12.

¹⁶ Petr.’s Ex. 1, 19-20. In fact, the historical analysis includes 2006 and 2010 sale transactions.

19. Petitioner's appraiser's data and verification sources include a bank appraisal report prepared by William McDonald. In other words, this bank report was utilized as a factual source for information regarding the subject property.¹⁷
20. Petitioner's market area analysis includes population, income, unemployment data and employment information.¹⁸
21. Petitioner appraisal report includes a highest and best use analysis.¹⁹
22. Petitioner's cost approach includes an analysis of 54 land sales.²⁰
23. Petitioner's cost approach includes cost calculations for the subject improvements on a replacement cost new (RCN) basis from the Marshall Valuation Service (MVS).²¹
24. Petitioner's cost approach develops a physical depreciation for the subject improvements.²²
25. Petitioner analyzed functional obsolescence and external obsolescence for the subject property in the final reconciliation section of the appraisal report.²³
26. Petitioner's appraiser relies on the expertise of a concert promoter regarding the functional and external obsolescence attributed to the subject property.²⁴
27. Petitioner's sales comparison approach analyzes 2 comparable sales to derive a price per acre (as a unit of comparison). These comparable sales involve the subject property.²⁵
28. Petitioner's purchase price to Chemical Bank is Petitioner's comparable sale 1. The 2nd comparable sale utilized by Petitioner is the pending sale from Petitioner to Harmony Hills Acquisition LLC for \$515,000. This 2nd sale was not closed or finalized because the purchaser's due diligence uncovered infrastructure costs to the subject between \$200,500 and \$750,000. The purchaser negotiated a termination agreement and forfeited \$37,500 of the \$50,000 earnest money.²⁶
29. Respondent submitted a valuation disclosure prepared by Frank Gentz.
30. Frank Gentz is the contract assessor for Surrey and Freeman Townships. He is a Michigan Certified Assessing Officer (MCAO) formerly known as a Level 2 Assessor.
31. Respondent's valuation disclosure is the subject property record cards for the tax years under appeal.
32. Respondent relied on the Clare County equalization sales study for the economic conditions factor (ECF) and multipliers for the mass appraisal cost approach.
33. Respondent's Clare County improved sales studies do not include actual market sales. In testimony, Respondent admits that the improved properties are developed to obtain a land/improvement ratio based on each property's TCV assessment.²⁷

¹⁷ Petr.'s Ex. 8.

¹⁸ Petr.'s Ex. 1, 40-43.

¹⁹ Petr.'s Ex. 1, 44-46.

²⁰ Petr.'s Ex. 1, 47-50.

²¹ Petr.'s Ex. 1, 51-52.

²² Petr.'s Ex. 1, 52-53.

²³ Petr.'s Ex. 1, 53-55 and 63.

²⁴ Petr.'s Ex. 1, 63 and Tr., 168-170.

²⁵ Petr.'s Ex. 1, 58-61.

²⁶ Tr., 151-153.

²⁷ Tr., 209-210.

34. Respondent relies on cost figures from the State Tax Commission and admits that the cost manual was published in 2003.²⁸
35. Respondent's 2015 and 2016 record cards denote only physical depreciation for the subject property. In testimony, Respondent admits that no functional or external obsolescence was applied to the subject property.²⁹
36. In testimony, Respondent asserts that he determined the economic conditions factor (ECF) and that it was not derived by the county.
37. In testimony, Respondent admits that his valuation disclosures do not include any reference to investigation or research of the subject improvements, no market demand analysis for his TCV, no super-adequacy analysis and no interviews with market participants.³⁰
38. In testimony, Respondent agrees that the subject is a unique property.
39. In testimony, Respondent admits that he has not observed any market demand for the subject property based on his determination of TCV.³¹
40. Respondent valued the subject property on the basis of a mass appraisal cost approach. In other words, Respondent did not value the subject property on a singular basis separate from a universe of properties in uniformity.

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.³²

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. 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 percent. . . .³³

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.³⁴

²⁸ Tr., 223-224.

²⁹ Tr., 217-220.

³⁰ Tr., 226-229.

³¹ Tr., 231-232.

³² See MCL 211.27a.

³³ Const 1963, art 9, sec 3.

³⁴ MCL 211.27(1).

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”³⁵

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”³⁶ The Tribunal is not bound to accept either of the parties' theories of valuation.³⁷ “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”³⁸ In that regard, 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.”³⁹

A proceeding before the Tax Tribunal is original, independent, and *de novo*.⁴⁰ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”⁴¹ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”⁴²

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁴³ “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.”⁴⁴ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments 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.”⁴⁵

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.⁴⁶

³⁵ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

³⁶ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

³⁷ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

³⁸ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

³⁹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁴⁰ MCL 205.735a(2).

⁴¹ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁴² *Jones & Laughlin Steel Corp*, *supra* at 352-353.

⁴³ MCL 205.737(3).

⁴⁴ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

⁴⁵ MCL 205.737(3).

⁴⁶ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

“The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁴⁷ 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.⁴⁸

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁴⁹

Again, Petitioner developed and analyzed the cost and sales comparison approaches to value. Respondent developed and analyzed the mass appraisal cost approach to value. Petitioner’s appraiser was charged with determining the market value of the subject property for the 2015 and 2016 years under appeal. Respondent was charged with defending the assessments for the subject property for those years under appeal.

As noted in the extensive Findings of Fact, Respondent’s documentary and testimonial evidence has inconsistencies, deficiencies, and misrepresentations.⁵⁰ Specifically, Respondent’s adherence to the State Tax Commission guidelines for mass appraisal is commendable, but misplaced for the valuation of a single property. This tax appeal matter focuses on a singular property and not on a universe of properties in uniformity. The reliance on a county equalization study is equally broad in scope to the analysis and application to the subject property. More specifically, the development of a land sales study, an ECF and multipliers was identified as the county’s work and care should be taken in the use of the overall study. Cogent testimony was lacking for the details of this sales study which was completed by someone other than the assessor. Equally troubling is the 2003 cost manual with unconfirmed and unspecified updates relied upon by Respondent. Reference to an outdated cost manual is not the equivalent of actually showing the cost calculations specifically applied to the subject improvements. Testimony merely identifying a cost manual and property record cards, in conjunction with deference to the STC, did not result in cost details. The admission that the county’s sales were in

⁴⁷ *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁴⁸ *Antisdale, supra* at 277.

⁴⁹ See *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁵⁰ Likewise, Respondent’s representative’s lack of understanding for this tax appeal proceeding in formulating lucid articulate statements was magnified by his lack of decorum (dressed in a flannel shirt, jeans and tennis shoes).

fact properties, with noted TCVs used for an extraction of improvements for a ratio determination, is equally unpersuasive. For these reasons, Respondent's mass appraisal cost approach is given no weight or credibility in the determination of market value for the subject property.

Regarding Respondent's assertion that Petitioner's property was mismanaged, the Tribunal is not at liberty to give credence to a singular conclusory statement by Respondent for this allegation. Respondent did not present any evidence (i.e., profit/loss statements, entertainment production standards) of negative management for the three entertainment events held at the subject property. The subject property was not purported to be a world class entertainment venue⁵¹ and equating mismanagement to market value was unsuccessful.

Petitioner's development and communication of a cost comparison approach was rendered to further analyze the functional and external obsolescence noted in the subject property. The cost figures and calculations are taken from the current Marshall Valuation Service (MVS). The limitations of this approach are acknowledged, but Petitioner's appraiser developed the cost approach to illustrate the relationship to the sales comparison approach through the concept of substitution.⁵² Petitioner's appraiser sets forth this approach to show the market's reaction to subject's improvements and not for the premise that replacement cost new of the improvements equals market value. ". . . A buyer will not pay more for one property than for another that is equally desirable."⁵³ Replacement costs were taken from a current manual and cost page excerpts were included in the appraiser's addendum. Testimonial and documentary evidence was consistent and persuasive to the cost calculations for the subject improvements. Therefore, Petitioner's cost approach is relevant to the Tribunal's independent determination of market value for the subject property.

Petitioner was able to explain and provide documentation for the sales comparison approach. Widmer analyzed the subject's 3-year sales history to determine the validity and justification for using the subject as a comparable sale.⁵⁴ Petitioner's purchase of the subject

⁵¹ Even an impromptu concert event such as Woodstock was fortunate enough to have the skills of Jimi Hendrix.

⁵² Petr.'s Ex. 1, 10.

⁵³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), p 30.

⁵⁴ Respondent's efforts in applying a Jurisdictional Exception (See Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 6th ed, 2015), p 123) is wholly inapplicable to Petitioner's appraiser's appraisal assignment or

property from Chemical Bank demonstrates a land contract sale that otherwise appears to be an arm's length transaction. Conclusory statements from Respondent in repudiating this sale transaction are not convincing in the absence of any other evidence by Respondent. Valuation practice and theory acknowledges the permissibility in the use of the sale of the subject property as a comparable sale in a comparative analysis. Petitioner's 2nd comparable sale, which is the unconsummated sale of the subject property, demonstrates the marketability, exposure and appeal of a property that was not received by a market participant. The buyer forfeited earnest money because expenditures after sale would be excessive in its attempt to make the subject a viable entertainment venue. Petitioner's due diligence in analyzing the subject's sales as comparable sales relative to entertainment/promotion professionals (as market participants) is the epitome of applying the subject property to the market. Therefore, Petitioner's sales comparison approach is relevant to the Tribunal's independent determination of market value for the subject property.

Again, Petitioner developed and communicated the sales comparison and cost approaches, but placed exclusive reliance on the comparative analysis. The Tribunal accepts Petitioner's approaches to the value as the most reliable methodologies in this tax appeal, but disagrees with Petitioner's manner of reconciliation. The development of a particular approach to value, to only then disregard, it makes no sense. Evidence of an investor/promoter's costs to stabilize an entertainment venue is applicable to the projected replacement costs for the subject improvements. Acknowledged expenditures after sale directly impacts the subject's sale price that ultimately could not be consummated by a potential purchaser. In this regard, the extensive development of the cost approach demonstrates the existence of functional and external obsolescence in the subject property. The sales comparison approach alone does not exclusively exhibit the existence of depreciation to the subject property. Therefore, a reasoned and reconciled conclusion of market value places weight on both of Petitioner's approaches to value.

The Tribunal finds that Petitioner was able to show that the subject's real property was over-assessed for the tax years under appeal. The extensive Findings of Fact not only focus on Petitioner's detailed evidence, but on Respondent's insufficient evidence. As such, and in light

Respondent's property record cards. Respondent was unable to articulate the definition of such an exception or the relevance to this tax appeal matter.

of the above, the Tribunal finds that Petitioner has succeeded in meeting its burden with competent evidence on the issue of true cash value, assessed value, and taxable value. Petitioner has provided credible documentary evidence and testimony for the 2015 and 2016 tax years at issue and, as such, the Tribunal finds Petitioner's sales comparison and cost approaches sufficient to arrive at an independent determination of value.

As indicated in the Introduction, the Motion for Default Judgment and Motion for Costs shall be denied as Petitioner has failed to support the Motions. The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property was over-assessed for the tax years at issue. The subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that Petitioner's Motion for Default Judgment is DENIED.

IT IS FURTHER ORDERED that Petitioner's Motion for Costs is DENIED.

IT IS FURTHER ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are MODIFIED 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 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 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 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.⁵⁵ 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.⁵⁶ 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.⁵⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁵⁸

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

⁵⁵ See TTR 261 and 257.

⁵⁶ See TTR 217 and 267.

⁵⁷ See TTR 261 and 225.

⁵⁸ See TTR 261 and 257.

than 21 days after the entry of the final decision, it is an “appeal by leave.”⁵⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁶⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁶¹

By Marcus L. Abood

Entered: May 25, 2017

⁵⁹ See MCL 205.753 and MCR 7.204.

⁶⁰ See TTR 213.

⁶¹ See TTR 217 and 267.