



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Detroit Diesel Corporation,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 17-001174

Redford Township,
Respondent.

Presiding Judge
Preeti P Gadola

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Detroit Diesel Corporation, appeals ad valorem property tax assessments levied by Respondent, Redford Township, against Parcel No. 82-79-032-99-0001-000 for the 2017 tax year. Steven Schneider and Dan Stanley, Attorneys, represented Petitioner, and Laura Hallahan and Seth O'Loughlin, Attorneys, represented Respondent.

A hearing on this matter was held on March 25-29, 2019 and April 4-5, 2019. At the conclusion of the hearing, Respondent indicated it would take the *de bene esse* deposition of Mark Wiley, Petitioner's witness who was not available at the hearing. However, on May 6, 2019, Respondent informed the Tribunal that it would no longer require the deposition.

Petitioner's witnesses were Keith Vaughn, Technical Services Manager, Detroit Diesel and Laurence Allen, Appraiser. Respondent's sole witness was John Widmer, Appraiser.

The subject property is an approximately 3,000,000, square foot, powertrain, diesel engine, transmission and axle manufacturing plant for heavy and medium-duty trucks.¹ It is located in both the City of Detroit and Redford Township. The parties have stipulated to the value of the portion of the parcel located in Detroit and have agreed to file the stipulation after the Tribunal issues its decision in this matter. The parties have also stipulated to the allocation of the property between the City of Detroit and Redford Township. As a result, the Tribunal will determine the true cash value of the entire property, and allocate the appropriate portion of that determination to the property located in Redford Township.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (“TCV”), state equalized value (“SEV”), and taxable value (“TV”) of the subject property for the 2017 tax year (allocated to Redford Township) are as follows:

Parcel No.	Year	TCV	SEV	TV
82-79-032-99-0001-000	2017	\$15,900,000	\$7,950,000	\$7,950,000

PETITIONER’S CONTENTIONS

Petitioner contends that its expert appraiser determined the true cash value of the fee simple interest of the subject property. It contends that when a purchaser buys the fee interest, that person or entity can use it in any way it sees fit, because it is unencumbered. The new owner could move in and use all the square footage, attempt to lease it as is, convert the property to multi-tenant, or tear down a portion of the property, among other options. However, the thing the new owner cannot do immediately upon

¹ Tr. Vol 1 at 85.

purchasing the property is rent it out to multiple tenants because the building is not configured as a multi-tenant property.

Petitioner contends the most likely use of the property is for *conversion* to multi-tenant because the vast majority of large manufacturing properties, are not utilized as is. Petitioner alleges the typical purchaser of the subject property would want to remove some space, put in more dock doors, raise the ceiling heights, and make part of, or all of it appropriate for warehouse/distribution, which is what is demanded in the marketplace.

Petitioner contends Respondent's expert's contention of the highest and best use of the property is for continued single-user manufacturing, but he presented only one comparable where that occurred. Petitioner's highest and best use, however, is industrial use which could include single-user manufacturing, but also, warehouse/distribution. Petitioner contends the subject property is over-assessed and its market value for the 2017 tax year is \$9,410,000.

PETITIONER'S ADMITTED EXHIBITS

P-1: Appraisal Report by Allen and Associates.

P-2: Resume of Keith Vaughn.

P-3: Series of Detroit Diesel archival aerial photos – 1941-2011.

P-4: Various schematics of the subject plant, pp. 1-6 admitted.

P-5: Notice Letter, General Motors cessation of environmental remediation at site due to bankruptcy.

P-6: Detroit Diesel 2017-2023 planned facility improvements.

P-7: Additional materials concerning Larry Allen's sales comparables 1-4.

P-8: Miscellaneous materials concerning Larry Allen's additional sales comparables 1-7.

P-9: RACER Trust website excerpts and case studies.

P-10: Additional information on John Widmer lease comparables 1, 3, 4, and 5.

P-11: Additional information for sales comparables from John Widmer work file.

P-12: Marshall Valuation Service Floor Perimeter Data.

PETITIONER'S WITNESSES

Keith Vaughn

Mr. Vaughn is the Technical Services Manager for Detroit Diesel. He is responsible for plant engineering, waste management and cleaning services. He testified the plant engineering group is an assembly of engineers, including himself, responsible for taking care of the building and conducting new projects to update it. Mr. Vaughn has been employed by Petitioner since 1989.

Mr. Vaughn testified his department has maintained information about the property's square footage, clear truss height and year of construction completion for all the different manufacturing buildings. He examined pages 30-31 from Mr. Allen's appraisal, which include a sketch and list of building designation and description, maintained by his office. He noted that designations for M-1, M-2, and so on, are for the first through additional manufacturing buildings, in chronological order by year of completion.

Mr. Vaughn noted 1.1 million square feet of the subject building was constructed in the 1940s, and at that time, the average clear truss height was 16 to 17 feet.² In fact, Mr. Vaughn testified that 40% of the subject building has clear heights of 16 feet or

² Tr. Vol 1 at 67.

lower. The lower ceilings are an issue with regard to the 24 to 26 foot clear heights required for modern Computer Numerically Controlled (CNC) production lines.³

The M-2 building was originally constructed as a stand-alone building and it has no loading docks, but did have woodblock floors in 2016. Mr. Vaughn testified that cement floors are preferable for modern manufacturing because they are stable and can be sealed. The M-4 building also has a partial woodblock floor which should be replaced, and there is additionally a plan to raise 20,000 square feet of the roof in that building, at a cost of \$5.3 million, to accommodate new CNC machining centers

The second largest section of the building is the M-6 building which was constructed in 1957 and has a clear truss height of 16 feet. 120,000 square feet of the roofs in M-7 and part of M-8 were raised by twelve feet to give more clear height for gantry and CNC machining, at a cost of \$6,000,000; however, the designation and description of the building shows clear heights of 27 feet for M-7 and 26 feet for M-8. This is due to the fact that the floor elevation is different in the two buildings which is not ideal as “you have to work around the different elevations when you’re installing machining lines or transporting material.”⁴

The M-9 building has two designated clear heights because a mezzanine was constructed to support a new assembly line that was hung from overhead. However, during Mr. Vaughn’s tenure at Detroit Diesel, that space has only been used for storage of “things that aren’t used very often, so I would say it’s about a third full of materials.”⁵

³ CNC machines come with a “gantry” load which replaces a conveyor. The “gantry picks a part up and then places it in the machine and then pulls it when it’s finished and puts it back on the conveyer line.” See Tr. Vol 1 at 61-62.

⁴ Tr. Vol 1 at 69-70.

⁵ Tr. Vol 1 at 71.

In the 1970s, approximately 200,000 to 250,000 square feet of manufacturing space was added. On the west side of the M-16 building, depicted in Mr. Allen's appraisal on page 41, a façade was added in 2006, that consists of 2% of the entire plant's perimeter. The M-16 office space is utilized by Mercedes-Benz Research and Development North America, which is a subsidiary of Daimler and was never utilized by any other entity. The majority of the building, however, is used for manufacturing assembly operations.⁶ Additionally, there are special purpose buildings constructed with steel frame, metal sided construction, and mostly no windows. There is also a daycare/health clinic space, used by Detroit Diesel employees, that is commercially constructed with brick and drywall.

Mr. Vaughn prepared Petitioner's Exhibit 4, in the ordinary course of his business, and testified that it shows where masonry walls exist today, dock locations, and automatically guided vehicle (AGV) paths for engine, axle and transmission assembly.⁷ The Exhibit shows which parts of the plant are air conditioned, the layout of piping and whether there is asbestos-containing material upon them (some abated). There are also 7 or 8 plumes of contaminated soil underground.

The walled off industrial building sections that do not have dock doors are M-2, M-3, M-4, M-12 and M-14, which consist of about one million square feet. The walls are kept in place for historical reasons, not to rent to tenants. The largest area of the plant that is not closed off consists of, M-6, M-8, M-9, M-10 and M-17, which cut diagonally across the building. Mr. Vaughn testified that no sections of the plant are closed off or

⁶ Tr. Vol 1 at 72-73.

⁷ An automatically guided vehicle "takes the product through an assembly line as it's built, and it uses wires in the ground to not only tell it where to go but to derive its power." See Tr. Vol 1 at 82.

isolated from other portions, there are no separately metered electric service or heating, ventilating, air conditioning, or air chilling systems, for any individual parts of the plant. There are generally no separate sprinkling or fire suppression systems; however, for machining centers that use oil, a Co2 system is utilized.⁸

Mr. Vaughn testified the subject property was not designed to be sold on the open market. It was, instead, built for the purpose of building diesel engines. It's almost annual renovations are designed to improve the production of Detroit Diesel's engines, transmissions and axles, by accommodating new production equipment, and not to configure the property for resale. The AGV system operates in about 5% of the property, and if a new product came in, the system would likely be abandoned and new one installed including concrete repair because the systems have a flatness criteria that's difficult to achieve. The insulation and the piping containing asbestos is an issue with regard to renovation because a special contractor is required for abatement. The plant also has lead paint from the steel that requires abatement.

Mr. Vaughn testified that the underground contaminated soil plumes and groundwater require well monitoring. There are 20 wells on the property that require monitoring at a cost of \$30,000 per year.⁹ Mr. Vaughn explained for example, that during renovations, if the floor is dug up to put in new lines, the soil contamination must be addressed. Mr. Vaughn contends that General Motors does not assist Petitioner in monitoring or remediating the site because it was released of its responsibility during its bankruptcy.¹⁰

⁸ Tr. Vol 1 at 80.

⁹ Tr. Vol 1 at 91. The invoices for well monitoring come through Mr. Vaughn's department.

¹⁰ Tr. Vol 1 at 92.

In terms of plant modifications, truck docks are being added and improved, because “trailer lengths have changed over the years, and basically you couldn’t put the trailer in the dock and not block the north roadway of our plant. And then also for capacity reasons we had added the three docks.”¹¹ He testified that if the trailer lengths are too long, then doors can’t be closed causing energy inefficiency, congestion, and building damage. Mr. Vaughn testified \$4,000,000 was spent on adding “[e]ight new docks with levelers and one overhead ramp door.”¹² In 2017 and 2018, renovation on the north docks was completed. The engine shipping dock project was budgeted at 2-3 million dollars.

The plant roof requires yearly maintenance at a cost of about \$100,000 per year. Because the roof is so big, it’s hard to access, so Petitioner builds a plywood path for the contractors to haul materials back and forth, in order to safeguard the portions of the roof already repaired. Mr. Vaughn testified that as of year-end 2016, Detroit Diesel had plans to complete roof repair over another phase of the M-6 building, M-2, M-9 and M-12 buildings at a cost of about \$28 per square foot. Another contributing factor to the cost of repair was the cost of the replacement of the metal decking under the roof material which had rusted. HVAC repair was completed and concrete floors needed to be installed in the tool room in the M-2 building, which was previously woodblock. Mr. Vaughn testified there is a plan to spend \$1.7 million on parking lot repair and replacement in 2019. In 2018, about \$1.5 million was spent on the parking lot.

¹¹ Tr. Vol 1 at 105.

¹² Tr. Vol 1 at 106.

Mr. Vaughn was questioned about the cost to uninstall and relocate the equipment in the plant, which he answered would be a major project and require one to two years to complete.¹³ Further, the plant would not be able to manufacture its diesel engine products while relocating.

On cross examination, Mr. Vaughn was asked if certain non-load bearing walls in the property could be moved around, for example the walls dividing M-1 and M-4. Mr. Vaughn answered in the affirmative and noted that Detroit Diesel has moved walls around as it put in new manufacturing lines.¹⁴ He also testified that asbestos pipes do not affect the operations at Detroit Diesel, but must be addressed during renovation or reconfiguration into areas where the pipes exist. Mr. Vaughn testified that other types of manufacturing businesses could come into the building and not require higher clear heights than what's already available in the building. He also testified that just running the facility requires \$10 to \$14 million a year in improvements, but some of those improvements are specific to Detroit Diesel, like raising the roof to accommodate its own equipment, but others are general maintenance like repairing and replacing the parking lot.

Laurence Allen

Mr. Allen was qualified as an expert in real estate appraisal, including industrial property, by the Tribunal. He has a MAI designation,¹⁵ a Chartered Financial Analyst designation and is also a licensed real estate broker. He estimated he has been qualified as an expert in real estate appraisal by the Tribunal, at least 50 times.

¹³ Tr. Vol 1 at 118.

¹⁴ Tr. Vol 1 at 140.

¹⁵ Member, Appraisal Institute, the highest designation for an appraisal professional.

Mr. Allen appraises 15-20 industrial buildings in a year. He has inspected the subject property on three different occasions and completed an appraisal concluding in the market value or true cash value of the subject property.

Mr. Allen appraised the fee simple interest of the property. He testified that what the buyer of a fee simple interest in property is receiving, is the full bundle of rights, unleased and vacant. He testified, “[t]hey’re acquiring the right to possess the property or to lease it.”¹⁶ With regard to the subject property, Mr. Allen concluded after consulting his contacts in the industry that, “[t]here’s very few users for a 3 million square foot building, and as a result most of the purchases of buildings, even buildings one million square feet or larger, are to convert to multi-tenant use. So, there are very few users, very small market for this size building.”¹⁷

Mr. Allen testified the building is cut up into different sections because the 11 buildings were built at different times. The issue with this is there are different ceiling heights, floor heights, and it’s shape is not “adaptable to multiple uses without having to tear down walls and raise ceilings.”¹⁸ “The space that is open without walls like M-3, M-6 and M-17 is of a shape that kind of meanders through the building and is not straight space that could be readily utilized.”¹⁹ Mr. Allen testified that to convert to warehouse/distribution, for example, one would need one truck door per 5,000 square feet and the subject has one truck door for every 80,000 square feet. He testified, one would have to put up demising walls and if the average lease is 300,000 square feet, that would mean 10 walls. He testified, one would have to set up separate utility systems, a separate office for each

¹⁶ Tr. Vol 1 at 166.

¹⁷ Tr. Vol 1 at 172.

¹⁸ Tr. Vol 1 at 171.

¹⁹ Tr. Vol 1 at 171-172.

tenant and access to parking for each user. He testified that often, especially in older plants, you might have to demolish some portions for accessibility, and you would have lease-up and absorption costs.

He testified the AGV tracks have little effect on the marketability of the subject property because they are specific to the user and a new user would have to move them to accommodate its specific product line. Mr. Allen testified that about one-third of the M-16 building, which has a new façade, is used for research and development and two-thirds is old industrial space. Further, a small portion of the land is leased out for car storage, but it does not add to the TCV of the property because the excess land is much too small for most users. In fact, the land to building ratio of the subject property is too small. Mr. Allen determined the effective age of the property to be 60 years, which “is just a weighted average of the year built of the various sections of the building.”²⁰

Mr. Allen determined the subject property’s condition and functional utility as of December 31, 2016. He determined it was in average condition, but it needed repairs:

The parking lots in front were in poor condition. It needed about -- roof replacement on about 700,000 square feet. And the -- a lot of the administrative office space was older and obsolete. The plant itself in terms of functional utility is representative of a lot of manufacturing plants that were built over many years and they suffer because of low ceiling heights, lack of adequate truck doors. In this case they had some of the old woodblock flooring, which is obsolete, in addition to having plant walls that interfere with the flow of the buildings. It, again, is typical of an old manufacturing plant that's generally been well maintained but was in need of major maintenance items or major replacements, including the roof and parking lot, as well as the office space as of the date of value.²¹

²⁰ Tr. Vol 1 at 174.

²¹ Tr. Vol 1 at 175.

Mr. Allen's observations regarding the plant were almost identical to Mr. Vaughn's, however, he noted most modern manufacturing facilities would have larger windows than the subject and the M-9 space of about 130,000 square feet, with the mezzanine, would be obsolete, because "they were considering making it office space. But it's unheated, uncooled and has access only with a freight elevator, so its - - it's not functional space."²²

Mr. Allen's determination of the highest and best use of the property is industrial, meaning it could be used by a wide variety of industrial users. Additionally, as noted above relative to Mr. Allen's research, he testified, "I found that most of the larger plants over a million square feet are sold for redevelopment as multi-tenant industrial plants, so they end up getting used by multiple users."²³

Mr. Allen testified about the status of automobile manufacturing jobs in the Detroit Metropolitan area and found they were declining. He testified, "in 2016 the biggest growth and the location for auto production was moving to Mexico and it was also moving to the southeast United States with plants in Georgia and Tennessee and Alabama. But because of NAFTA and the era – era before President Trump the movement was to Mexico for auto production."²⁴ In his appraisal, on pages 63-64, Mr. Allen has a long list of repurposed and closed plants in the United States from the Center for Automotive Research. He testified that the older plants are closing, and in theory, the big three could purchase the subject property, but during this time period they were closing plants, and if building new ones, they were not in Michigan.

²² Tr. Vol 1 at 178.

²³ Tr. Vol 1 at 181.

²⁴ Tr. Vol 1 at 182.

Mr. Allen prepared a sales approach to value the subject property by researching sales over one million square feet. He chose four sales of large industrial plants, all in the Midwest, and all that sold within five years of the subject date of value.

Sale one is the former General Motors Livonia Powertrain Plant in Livonia, Michigan. It is located only one to two miles from the subject property (the same highway exit). It was an engine production plant, such as the subject property, however, it made gas engines and the subject, diesel. The property also had a DTE substation, such as the subject property. Ashley Capital, a national industrial developer, purchased the property, divided it, created demising walls, and leased it out eventually for multi-tenant industrial use. It was leased mostly for warehouse/distribution, because “that’s - - the strongest demand in the market at that time.”²⁵ It had limited ceiling heights, like the subject property, in some areas, “16 feet, some areas were, let’s see 23 feet.”²⁶ Mr. Allen inspected the property after the conversion by Ashley. He testified that the normal market for large tenants is about 250,000 square feet and Ashley, as a large developer in this market, builds from scratch and converts buildings to this size for marketability. Mr. Allen has done work for Ashley Capital for 10 years and he estimates that it owns about 20 million square feet of industrial space in the state of Michigan.

The seller of the comparable was Schostak, a real estate and development company that’s based in Michigan. Mr. Allen confirmed all the conditions of the sale from his relationships with Ashley Capital and Schostak. He testified that he did not use

²⁵ Tr. Vol 1 at 188.

²⁶ Tr. Vol 1 at 188.

the previous sale of the property from the RACER trust to Schostak, but from Schostak to Ashely Capital. Mr. Allen explained what the RACER trust is:

An organization that was set up when GM was in bankruptcy, and as a result of the bankruptcy GM had to close a number of plants. And RACER was set up to manage the disposition and sell and redevelop the plants, if necessary. They also were tasked with dealing and paying for any environmental conditions that the plant may have so that GM, as far as bankruptcy, got relieved of their environmental obligations and RACER took them on. And they were funded as part of the bailout to clean up, if necessary, and market and redevelop and close GM properties.²⁷

Mr. Allen testified that RACER, a \$500 million trust fund, spent about \$1.8 million cleaning up the property before selling it to Schostak, so Ashley received the benefit of the RACER trust protection. After sale, RACER was still “responsible for monitoring and taking care of any environmental issues.”²⁸ RACER has an ongoing obligation to monitor wells which is an advantage to the property because of the guaranteed environmental protection and lack of financial obligation if there are any environmental issues.²⁹

At the time of sale, there was a tenant in the property, Bay Logistics, with a short remaining term. However, “[t]he buyer’s objective was to get that tenant out as soon as possible to – so that they could redevelop the property as a multi-tenant warehouse property.”³⁰ As such, on cross examination, Mr. Allen testified the sale was technically a leased-fee sale, but the buyer was buying it for fee simple.³¹ Respondent objected to Mr. Allen’s use of supplemental documents to support his contentions regarding sale one,

²⁷ Tr. Vol 1 at 189-190.

²⁸ Tr. Vol at 191.

²⁹ See P-1 at 71, Tr. Vol 1 at 192.

³⁰ Tr. Vol 1 at 201.

³¹ See Tr. Vol 3 at 25.

because they weren't in his appraisal or work file at the time of writing his appraisal, a violation of USPAP.³² The Tribunal overruled the objection, finding it required the most information it could find in order to evaluate the reliability of Mr. Allen's comparables when making its independent determination of the true cash value of the subject property for the 2017 tax year. Further, Mr. Allen testified, that sometimes, for example, he has information about a comparable in a different work file because the comparable was initially developed for a different industrial appraisal. As such, the bulk of the comparable information might not be in the subject work file. Further, he testified, handwritten inspection or interview notes, used while writing the appraisal, often don't make it into the work file, but get lost or thrown away after a report is written.³³

The sale price of the property from Schostak to Ashley was \$3,710,000 or \$3.65 per square foot. However, at the time of sale, Ashley anticipated the replacement of close to one-half of the roof, and the cost of repair was added to the purchase price. Comparable one, which sold in November 2015, was additionally adjusted upward by Mr. Allen by 11% for market conditions, downwards, 50% for size, and upwards 10% for finished area and 5% for functional utility.

Sale two was of the former Delphi plant in Flint, Michigan, which was a heavy manufacturing plant, similar in age, with similar ceiling heights and add-on construction, such as the subject. It consisted of approximately 1.5 million square feet and sold in 2013 for \$3,800,000 or \$2.51 per square foot. It was also purchased for multi-tenant

³² USPAP is an acronym for "Uniform Standards of Professional Appraisal Practice." Respondent contends that pursuant to USPAP, Mr. Allen must have relied on the additional information presented at the hearing to support his comparables, at the time of writing his appraisal. The Tribunal, however, is not bound by USPAP and finds the additional information necessary to its valuation task.

³³ Tr. Vol 2 at 106-107.

conversion, however, Mr. Allen testified the existing shape was not conducive to multi-tenant so the purchasers tore down approximately 900,000 square feet of space and sold it for scrap, created a long rectangle and sold the 550,000 square foot remaining building for \$5.73 per square foot to Phoenix Investors, who are in the process of converting the space to multi-tenant. Mr. Allen was able to view the property after purchase to determine what changes Phoenix Investors is making to the property, which include putting in truck doors, office space and partition walls.³⁴ Delphi remained in the plant at the time of sale to complete its shut-down procedure and vacate the plant, however there was also a portion of the plant that was vacant for some time.

Sale two, which occurred in May 2013, was adjusted up by 31% for market conditions, 20% for location, 3% for clear height, 10% for finished space, 5% for age and condition, and 5% for functional utility. Comparable two was adjusted down 60% for size. Mr. Allen testified he gathered information about the comparable from an American Appraisal write-up, a CoStar write-up,³⁵ a Signature write-up, and the Phoenix Investors Brochure.³⁶

Sale three was of the former Ford parts plant in Sandusky, Ohio, consists of 1.2 million square feet, was built in 1956 with various expansions, and has a little better ceiling heights than the subject. The purchaser, Flex-N-Gate, a Ford automotive supplier, acquired all of the space and is using it all in the auto industry. Flex-N-Gate manufactures headlights and taillights for Ford vehicles and Ford, in order to entice it to

³⁴ Tr. Vol 1 at 212-216.

³⁵ CoStar is a service utilized by appraisers, and other real estate professionals, which surveys and distributes information about industrial and commercial real estate. See: <https://www.costar.com/products>, viewed July 26, 2019.

³⁶ Tr. Vol 3 at 64.

purchase, “gave them a contract to produce those items for a number of years.”³⁷ Mr. Allen testified, that in his opinion, the buyer would have paid less without the Ford contract, but it sold for \$2.95 per square foot. He testified, he ascertained the terms and conditions of the sale from “various sources, including American Appraisal data, CoStar data and attempted to get verification from the purchaser.”³⁸ Sale three, which sold in July 2012, was adjusted upwards by 30% for market conditions, 30% for location, 5% for finished space and 5% for functional utility. The comparable was adjusted down by 55% for size.

Sale four was of the General Motors Pontiac Truck Plant and it is the only adjusted comparable that is larger than the subject property. It consists of 3,425,000 square feet, is the closest in size to the subject and sold for \$1.28 per square foot. The property was under contract for sale at the time of the GM bankruptcy, but RACER trust came in before the sale was finalized, and honored the sale. On cross examination, Mr. Allen answered that he believed the property sold pursuant to a consent judgment in the former General Motors Chapter 11 proceeding.³⁹

The property was sold to a group of investors to utilize for motion picture production when film tax credits were advantageous in Michigan. The tax credits were discontinued, so the buyers tore the building down and are redeveloping it into an industrial park with new manufacturing. In fact, a 400,000 foot manufacturing plant was built on the property with plans to redevelop the remainder of the site. Mr. Allen reiterated, “there’s very little demand for that size plant. It’s difficult enough to find users

³⁷ Tr, Vol 1 at 217.

³⁸ Tr. Vol 3 at 90.

³⁹ Tr. Vol 3 at 110.

for a million square feet, but when you get up to 3 million square feet, there isn't much of a market for manufacturers. So, most properties are either divided up into multi-tenant or torn down and redeveloped and they're redeveloping this site."⁴⁰ The property is newer than the subject, built in the 1970 and was expanded a few times. Mr. Allen testified it is located in a redeveloping area of Michigan with hotels, retail and industrial. Mr. Allen inspected the property before it was sold in 2011. The comparable, which sold in September 2011, and was adjusted upward by 40% for market conditions, 20% for size, 10% for finished area and 5% for functional utility.

With regard to his adjustments, Mr. Allen determined the market was improving in general for industrial properties, in particular, for warehouse/distribution. He testified that warehouse/distribution is increasing in demand rapidly, due to e-commerce and the growth of logistics centers for shipping. He testified, however, that there is a more limited market for manufacturing. As such, a source like CoStar or CBRE which lump all types of industrial together, and concentrate on smaller properties, would overstate the market for large manufacturing buildings like the subject.⁴¹

With regard to his size adjustment, Mr. Allen concluded that smaller buildings sell for more dollars per square foot than larger buildings. This is demonstrated by the sale of the Delphi Plant at 550,000 square feet and the sale of the plant in Moraine, Ohio, Mr. Allen's additional comparable one, which was purchased at 4.5 million square feet, then sold at a much higher price at 1.4 million square feet. This conclusion is also put forth in

⁴⁰ Tr. Vol 1 at 229.

⁴¹ Tr. Vol 2 at 26. Tr. Vol 4 at 43.

Mr. Allen's regression chart on page 82 of his appraisal and his consideration of 371 industrial sales between 2011-2017.

Mr. Allen also presented the Tribunal with seven additional, unadjusted sales which ranged in sale price from \$1.04 to \$5.57 per square foot. The average sale price is \$2.26 per square foot and the average size is 2,600,000 square feet. Four of the comparables are in the Midwest and their average size is 3.2 million and average sale price per square foot, \$1.55.⁴² The comparables were considered by Mr. Allen in preparing his appraisal, but not relied upon in his final conclusion of value.

Additional comparable one was a former General Motors plant, located in Moraine, Ohio, consisting of about 4,500,000 square feet. It sold in 2011 for \$6,000,000 or about \$1.33 per square foot. RACER trust was the seller of the property and, after a \$25,000,000 clean-up, it was purchased by IRG, "a major purchaser/redeveloper of major industrial properties throughout the country. And it was purchased for multi-tenant use."⁴³ After purchase, 1.4 million square feet was purchased by Fuyao Glass for auto glass manufacturing, at \$10 per square foot, and the remainder was leased out to multiple tenants.

Additional comparable two was a former Delphi Plant in Athens, Alabama. It had approximately 1.3 million square feet and sold in 2012 for about \$5.57 per square foot for multi-tenant conversion. The property consisted of two plants of 650,000 square feet, each, which made it more marketable than the subject. The plant was built in 1975, had 20 to 47 foot clear heights, air conditioning and bridge cranes.

⁴² See Tr. Vol 2 at 42-43.

⁴³ Tr. Vol 2 at 47.

Additional comparable three was a former GM plant in Shreveport, Louisiana. It was a 3.4 million square foot assembly plant and sold in 2016 for \$2.21 per square foot for conversion into a multi-tenant industrial complex. It was owned by RACER and sold by RACER which indicated that “the demand by a single employer to buy and operate the Shreveport plant and backfill the jobs lost was virtually nonexistent.”⁴⁴

Additional comparable four was a former Mitsubishi assembly and stamping plant in Normal, IL. It had 2.4 million square feet and sold in June 2016 for 2.5 million dollars or \$1.04 per square foot. The CoStar report indicated it sold mostly for personal property to Maynards who intended to sell off the equipment. However, a subsequent sale, with all the equipment in place, was made to Rivian Automotive, a Michigan-based future manufacturer of electric SUVs and light trucks, for \$16,000,000 or \$6.67 per square foot. Mr. Allen, however, determined the sale price of the building and land was only \$2,000,000 based on a CoStar allocation. The plant had higher clear heights than the subject property, 4% office, 45 truck docks, and was air conditioned.⁴⁵

Additional comparable five was a former GM Assembly Plant in Janesville, WI. It consisted of 3,867,000 square feet and sold for \$9,600,000 or \$2.48 per square foot for conversion to multi-tenant. The purchaser ending up tearing down most of the plant for redevelopment, per Mr. Allen’s recollection.⁴⁶

Additional comparable six was the former Magna Corporation manufacturing and assembly plant in East Syracuse, NY. The plant consists of 1.3 million square feet and sold for \$2,450,000 or \$1.88 per square foot, for multi-tenant conversion. Mr. Allen read

⁴⁴ Tr. Vol 2 at 52

⁴⁵ Tr. Vol 2 at 56.

⁴⁶ See Tr. Vol 2 at 61-62, P-1 at 85.

from a news article that indicated the purchaser had six tenants to put in, because it found little chance of bringing in a single tenant.⁴⁷ In the end, the purchaser demolished 500,000 square feet, after one lease fell through, and rented the remainder of the property to five tenants.

Additional comparable seven is the former Visteon manufacturing plant in Shelby Township, Michigan. It consisted of 1,870,000 square feet and sold in September of 2010 for \$2,500,000 or \$1.34 per square foot. The property sold for demolition and remarketed as an industrial site. It was announced that Amazon would be building a fulfillment center on the site, after demolition.⁴⁸ Mr. Allen testified the additional comparables put forth a sale price for an over 1,000,000 square foot manufacturing facility, of between \$1.00 to \$5.50 per square foot.

Mr. Allen's final conclusion of value was determined with the greatest emphasis on comparables one and four, as comparable one is geographically the closest and comparable four, the closest in size. Further consideration was given to comparables two and three and the additional comparables that sold for between \$1.00 to \$5.50 per square foot. After consideration of all of the sales comparables, Mr. Allen's concluded adjusted dollar per square foot value of the subject property was \$3.15.⁴⁹ On cross examination, Mr. Allen admitted that he did not inspect any of the additional comparables.⁵⁰

Mr. Allen testified he did not utilize any leased-fee sales, though two of his comparable sales had occupants at the time of sale. Comparable one had a very short

⁴⁷ See Tr. Vol 2 at 64.

⁴⁸ Tr. Vol 2 at 65-67, P-1 at 85-86.

⁴⁹ See Tr. Vol 2 at 67-68.

⁵⁰ Tr. Vol 4 at 18.

term tenant that the buyer knew was going to vacate, and Delphi, comparable two, remained in the plant until it could cease operations and vacate the plant. As such, the buyers were not anticipating any income from the tenant, former occupant.

Mr. Allen did not complete a cost approach to value the subject property, because he determined it would not be reliable given the average age of the building, of 60 years, the layout and design is add-on construction which presents different ceiling heights and multiple level floors. He testified there is also a significant amount of obsolescence due to its large size.

Mr. Allen did not complete an income approach to value the subject property because there are no lease comparables of buildings the subject's size. He testified the typical large tenant in the marketplace, is two to three hundred thousand square feet. Mr. Allen presented the Tribunal on page 89 of his appraisal, with a list of the largest industrial leases as surveyed by CoStar for 2013-2016. The average lease size of the four largest leases was 314,000 square feet in 2013, 293,000 square feet in 2014, 449,000 square feet in 2015 and 456,000 square feet in 2016. Of the 16 largest industrial leases from 2013 to 2016, only two were manufacturing, and the remainder, warehouse/distribution.

RESPONDENT'S CONTENTIONS

Respondent contends that the industrial market in southeast Michigan, including Redford Township, is booming. The subject property is located in an area with a great amount of industrial use. The subject property is a modern manufacturing facility with research and development capabilities, as well as office areas to support administrative functions, multiple manufacturing areas allowing for multiple items to be manufactured at

the same time, and has a suitable amount of land to allow for manufacturing activities to take place. It is located in an area with sufficient demographics to provide a skilled workforce to support an industrial manufacturing use of the property, was fully occupied on tax day, has good highway access, and as a result, has “good utility, as a facility that provides all facets of the manufacturing process.”⁵¹ On tax day, the facility does not require renovation into multi-tenant, but it’s highest and best use is continued single-user manufacturing use.⁵²

RESPONDENT’S ADMITTED EXHIBITS

R-1: Respondent’s Valuation Disclosure.

R-2: Petitioner’s Appraiser’s work file.

R-5: Petitioner’s Discovery Answers.

R-6: Petitioner’s Supplementary Discovery Answers.

R-7 Ashley Capital Listing of Petitioner’s Comparable One.

R-8: Article about Delphi Plant, Petitioner’s comparable two.

R-9: Environmental Response Trust Consent Decree and Settlement Agreement.

RESPONDENT’S WITNESS

John Widmer

Mr. Widmer has been a Member of the Appraisal Institute for 27-28 years. He testified that the Appraisal Institute is “the preeminent appraisal group in the world.”⁵³ In

⁵¹ Tr. Vol 5 at 121-122.

⁵² R-1 at 100.

⁵³ Tr. Vol 4 at 75.

the last two years, he has prepared 5-10 appraisals of industrial properties. Mr. Widmer was qualified as an expert appraiser by the Tribunal.

Mr. Widmer inspected the subject property on June 6, 2018. He noted that the property had R & D, light, and heavy manufacturing within it, as well warehousing and distribution capacity. He examined the area the subject property was situated in to understand that both small and larger industrial uses are viable.⁵⁴ He examined SEMCOG data for Wayne, Macomb, Oakland, Washtenaw, Livingston, Macomb and St. Clair counties, concluding that in 2016, 509 non-residential construction projects were completed or underway. He also noted that “industrial/research/high tech represented 25% of the total development while warehouse/distribution totaled 15%, which produces a fact that industrial in general contributed 40% of all space delivered or under construction during 2016.”⁵⁵ He read from several Detroit Industrial Publications, which confirmed that millions of square feet of industrial property has been added to the area in “the past three years,” (35 properties, prior to 2016), and by the end of 2017, an additional 5.8 million square feet will be added, comprising 33 industrial facilities.⁵⁶ He also read, “[t]he acquisition and expansion of buildings has not been limited to automotive companies: the e-commerce sector, led by Amazon, has been critical to Metro Detroit’s diversified industrial expansion.”⁵⁷

⁵⁴ Tr. Vol 4 at 85.

⁵⁵ Tr. Vol 4 at 89.

⁵⁶ See CBRE Detroit industrial publication, Newman Knight Frank, 4th quarter 2016 report, Tr. Vol 4 at 93, R-1 at 81, Tr. Vol 4 at 93. The size of the 33 and 35 industrial properties was not provided. However, if one divides the 5.8 million square feet by the 33 industrial properties to be added by the end of 2017, the average size of each property is approximately 175,000 square feet, much smaller than the subject property.

⁵⁷ Tr. Vol 4 at 95. R-1 at 84.

Mr. Widmer testified regarding existing properties in the subject property area, the I-96 corridor, including the GM Spring Plant, which is newly developed by Amazon, the plus or minus, 1,000,000 square foot Amazon fulfillment center in Livonia and the Ford, Livonia Transmission Plant, that is currently operating and contains 2.9 million square feet. On the corner of Plymouth and Middlebelt is an old powertrain engineering facility of 1.5 million square feet which now accommodates customer service. The former Perregrine Plant in Livonia, which is an Ashley Capital development, of 1.2 million square feet. Gateway Industrial Center, which was formerly the Massey Tractor Plant, which is a multi-tenant warehouse and manufacturing facility, is also in the corridor.⁵⁸ In essence, Mr. Widmer testified that industrial property is operating, selling and being constructed with great frequency in Southeast Michigan and reflects the market value of the subject property.

Mr. Widmer testified regarding his inspection of the property and a spreadsheet provided by Detroit Diesel. He testified that he recalled from Mr. Vaughn that there are only a couple of load bearing walls in the plant, in the engineering lab and M-6 area, and that the plant itself was supported by columns. As such, he answered in the affirmative when asked if almost every single interior wall in the plant could be demolished or moved, making way for multiple tenants.⁵⁹

Mr. Widmer testified regarding the space occupied by Mercedes-Benz, of about 63,000 square feet. He testified there is a lease in place with monthly rent for an offices, R&D lab and classroom space of \$36,941 per month, or \$7 per square foot.⁶⁰ He also

⁵⁸ Tr. Vol 4 at 100-101.

⁵⁹ Tr. Vol 4 at 120.

⁶⁰ Tr. Vol 4 at 126.

testified that 3.7 acres of vacant land is leased to Snethcamp Chrysler Plymouth for \$2,700 per month for automobile storage.⁶¹ He testified that in the “engineering lab,” there are approximately 66 dynamometer labs and that all areas of the plant were in use, and “there were basically three divisions, all powertrain, axles, transmission, engine.”⁶² He testified the property, “accommodates not only on-site research and development and testing, but it accommodates manufacturing of those, of those specific components plus testing and then distribution.”⁶³

Mr. Widmer testified that there are dock doors “on the north elevation, there’s dock doors on the west elevation near Telegraph. Also, the M-16 building, which we’ve talked before, has their own docks servicing the Detroit Axle space and then there’s docks along the south elevation.”⁶⁴ He testified that there are sufficient dock doors throughout the plant and “there’s not a reduction in utility.”⁶⁵

Mr. Widmer’s conclusion of the highest and best use of the subject property is, continued use as a single-user manufacturing facility.⁶⁶ He determined conversion to multi-tenant was not maximally productive, because “that went beyond what I determined would be feasible considering the utility of the plant on the valuation date.”⁶⁷ He found the plant to be in very good condition, and with renovations completed over the past few years, determined it was “a modern and efficient manufacturing facility that does not need to be converted or renovated.”⁶⁸

⁶¹ Tr. Vol 4 at 113, Tr. Vol 5 at 5, R-1 at 23.

⁶² Tr. Vol 4 at 127.

⁶³ Tr. Vol 4 at 128.

⁶⁴ Tr. Vol 5 at 6.

⁶⁵ *Id.*

⁶⁶ Tr. Vol 5 at 8.

⁶⁷ Tr. Vol 5 at 10.

⁶⁸ See R-1 at 100.

Mr. Widmer considered a cost approach to value, but found it irrelevant given the effective age of the property of 68 years. He did, however, complete sales and income approaches to value. Mr. Widmer completed a sales comparison approach because “[i]t’s the primary approach that should be applied, considered and applied in the valuation of any owner/user property.”⁶⁹ He prepared an income approach as a corroborative measure, but discarded it.

Mr. Widmer’s sales comparable one is located in Sterling Heights and consists of 532,489 square feet. It was built in 1978, has clear heights of 24 to 28 feet and has 28 docks and 6 doors. It sold on June 6, 2014 for \$11,400,000. It was purchased by MCE Properties (Mayco) for industrial use in manufacturing automotive interior products such as instrument panels, door panels, and overhead and center consoles.⁷⁰ This was a sale between the lessor and the lessee, but there was an appraisal done to determine the sale price and this was reported to Mr. Widmer by the brokers.⁷¹ As such, he determined the sale was at market rates and his concluded adjusted sale price per square foot was \$18 versus the actual sale price of \$21.41 per square foot. The sale was adjusted for market conditions by 12.9%, location by 7.5%, land to building ratio by (7.7%), building size by (27.6%), age/condition by (5.5%), finished area by .3%, and industrial utility by 7.5%.

Sales comparable two is located at 38481 W. Huron River Drive in Romulus. It consist of 1,249,073 square feet and sold on September 16, 2015 for \$23,250,000 or \$18.61 per square foot. The ceiling clearance height ranged from 19 to 44 feet, it was

⁶⁹ Tr. Vol 5 at 10.

⁷⁰ R-1 at 182.

⁷¹ Tr. Vol 5 at 26- 30.

originally built in 1956 and it has 16 docks and 27 doors. It “was built originally for manufacturing a military jet aircraft, and then became Hayes Wheel facility, so it was heavy manufacturing when it was originally utilized.”⁷² At the time of sale, however, the property, the Northline Industrial Center, had been converted to multi-tenancy, which included distribution/warehouse space, so the manufacturing capability of the building really isn’t utilized as it was originally.⁷³ This was a leased-fee transfer and 100% leased at sale, but Mr. Widmer testified it was reported in the confirmation process that the leases were at market. The purchaser indicated upgrades would be made, which is typical for an investor buying this type of property, so not considered deferred maintenance and no adjustment needed.⁷⁴ It’s adjusted sale price per square foot was \$17. The comparable was adjusted for market conditions by 6.5%, location by 7.5%, land to building ratio by (24%), building size by (11.8%), age/condition by 6%, finished area by .5%, and industrial utility by 7.5%.

Comparable three is located at 32500 Van Born Road in Wayne, Michigan. It consists of 449,623 square feet, was built in 1968, and sold for \$6,155,000, or \$13.69 per square foot, on December 21, 2015. It’s ceiling clearance height is 24 feet and it has 44 loading docks and 14 doors. It was originally constructed as a manufacturing building, converted to multi-tenant before the sale,⁷⁵ and acquired from a holding entity of the Farbman group and was 36% occupied at the time of sale. It has since been converted into a distribution center. It was sold again in September 2017 to a major tenant, Wooshin Properties, LLC who had entered into a lease for 170,000 square feet in

⁷² Tr. Vol 5 at 37

⁷³ Tr. Vol 5 at 38, Tr. Vol 6 at 76.

⁷⁴ Tr. Vol 5 at 39.

⁷⁵ Tr. Vol 6 at 76-77.

April 2017. The sale to Wooshin was for \$12,200,000 or \$27.13 per square foot. The purchaser expects to occupy more space in the building as the other leases expire which demonstrates the need for industrial space and the tenant may have overpaid.⁷⁶

Comparable three was a leased-fee sale, but Mr. Widmer testified a property rights conveyed adjustment was not needed because the leases were at market rates.⁷⁷ There was an economic adjustment because the property wasn't fully leased so "it's going to achieve less in pricing because you absorb the risk for absorbing the remainder of the space."⁷⁸ Mr. Widmer was asked, "Q: And that was based on the fact that the subject property was occupied by a generic tenant for the purposes of your appraisal report?" "A: A hundred percent occupied, yes."⁷⁹

The adjusted sale price per square foot of comparable three was \$15.89 per square foot. The sale was adjusted for market conditions by 5.2%, location by 15%, land to building ratio by (7.4%), building size by (32.7%), finished area by 3%, and industrial utility by 7.5%. There was also an economic adjustment of 25%.

Comparable four is located at 909 N. Sheldon Road in Plymouth Township. It consisted of 526,540 square feet and was built in 1957. It has 20-26 foot clear heights, 49 docks with two doors and it has some R & D-type lab space. It sold for \$9,500,000 on August 9, 2016, or \$18.04 per square foot. It had some manufacturing component when it was first built, but it's become warehouse/distribution over the years, and it is going back to some manufacturing, some warehouse/distribution. It originally sold on July 12, 2012 to the seller from a prior lender who took ownership via the foreclosure

⁷⁶ Tr. Vol 5 at 49, R-1 at 186.

⁷⁷ Tr. Vol 5 at 43.

⁷⁸ Tr. Vol 5 at 47.

⁷⁹ Tr. Vol 5 at 47.

process for \$6.65 per square foot.⁸⁰ In 2016, it sold to Fuyao Asset Management LLC, an automotive supplier of auto glass, trim and clips, for its own manufacturing use. There was deferred maintenance from being vacant and the entire roof had to be replaced, as such Mr. Widmer made an expenditures after the sale adjustment using Marshall Valuation Service at \$5.50 per square foot. As a result, his concluded adjusted price per square foot was \$17.49. The sales was adjusted for expenditures after the sale by 30.5%, market conditions by 2%, location by (5%), land to building ratio by (2.8%), building size by (27.9%), age and condition by 5.5%, finished area by (4.4%), and industrial utility by 7.5%.

Mr. Widmer considered four supplemental sales transactions in his appraisal, but did not adjust them to be consistent with the characteristics of the subject property. Supplemental Transaction one was an earlier sale of the subject property. Mr. Widmer testified that in 2009, the subject property was acquired by Detroit Diesel from W.P. Carey, LLC, which was then the lessor. Detroit Diesel did not own the property, but was occupying it as a tenant.⁸¹ It was the unwinding of a lease, a possible sale-leaseback prior to 2009, and the sale price was \$36,500,000.⁸²

Supplemental transaction two is the former Perregrine plant on the north side of Plymouth. Ashley Capital acquired it and repurposed it as a warehouse/distribution, multi-tenant facility. The sale occurred in June 1999 for \$8.91 per square foot, consisted of 1.15 million square feet, was vacated several years previously, and had clear heights of 15 to 40 feet and 27 dock doors. 60 truck docks were added and the

⁸⁰ R-1 at 188, Tr. Vol 5 at 51.

⁸¹ Tr. Vol 5 at 63.

⁸² Tr. Vol 5 at 67.

roof was raised from 15 feet to 30 feet in 300,000 square feet of space. Ashley installed a new heating system, lights, water mains, pumps and added a specialized fire protection system. The adjusted sale price was \$21.03 per square foot. (R-1 at 111)

Supplemental transaction three, was the Fiat Chrysler Facility in Warren and is a sale-leaseback transaction. It includes 1.2 million square feet and a 660,000 square foot facility on a separate parcel. The sale price was \$30,506,573 in August 2013, or \$25.82 per square foot. Mr. Widmer testified he researched the property sales and lease criteria and determined it was a market transaction.⁸³ However, he testified, in the sales comparison approach, "I would consider it to a much lower degree, only given the influences of the sale leaseback - -"⁸⁴

Supplemental Transaction four, Hollingsworth Logistics Group, is located at 7111 Crabb Road in Monroe County. It is included as a broader geographic sale because it has 750,000 square feet. It was a multi-tenant building, sold in 2017, was acquired by a tenant, and was a warehouse/distribution building.⁸⁵ It was constructed in 1978, has 28 foot clear heights and 88 dock doors. It sold for \$25.10 per square foot. Hollingsworth occupied 52% of the property and the remaining square footage was for lease. FCA US took on the entirety of the remaining space. It was a sale from a Real Estate Investment Trust so the SEC filings were considered to determine this was market price sale. (R-1 at 111, Tr. Vol 5 at 73-74).

⁸³ Tr. Vol 5 at 71.

⁸⁴ Tr. vol 5 at 72.

⁸⁵Tr. Vol 6 and 74.

After considering his adjusted sales and unadjusted supplemental transactions, Mr. Widmer's final conclusion of value of the subject property for the 2017 tax year, pursuant to the sales approach, is \$50,000,000.

Mr. Widmer completed an income approach to value the property because, "I think it's important to at least depict an additional valuation approach just to test the - - the sales comparison approach."⁸⁶ "Q: Now, are there instances of larger industrial properties being leased in the market?" "A: Larger is - - yes, there are some larger. Not as large as the subject, though."⁸⁷ Mr. Widmer testified, the subject property has one rental space, 63,000 square feet rented to Mercedes – Benz. He testified that even this small area of rental provides credibility to the income approach. He also noted the property operates in multiple divisions. "We have the health clinic/childcare building. We have M-16, which is a separate research, testing and manufacturing plant, and then you have different sections of the main plant that accommodate various divisions of Detroit Diesel."⁸⁸

Rental comparable one is on Matthew Drive, which is an industrial park just to the west of Bishop Airport, in Flint. This is one of three buildings, consists of 407,500 square feet of warehouse/distribution space and is a single-user space. It has 28 foot clear heights, 27 loading positions and was built in 2001. The property was leased by AI Genesee, which is holding name for Android Industries. Mr. Widmer's firm did an appraisal of this property, and as such, had an actual copy of the lease.⁸⁹ It was an

⁸⁶ Tr. Vol 5 at 76.

⁸⁷ Tr. Vol 5 at 76.

⁸⁸ Tr. Vol 5 at 78.

⁸⁹ Tr. Vol 5 at 86, 89, R-1 at 118, 124.

eight-year triple net lease signed in May 2011, and leased for \$3.85 per square foot. Mr. Widmer made qualitative adjustments of plus or minus, as well as quantitative adjustments, and his adjusted rental rate per square foot, after quantitative adjustments, was \$2.13, and after qualitative adjustments, \$2.10.

Rental comparable two is the same property as sales comparable two. It is the Northline Industrial Center in Romulus, Michigan. It has a gross building area of over 1.249 million square feet. The leased space consists of 300,870 square feet, with 24 foot clear heights, and 16 loading positions. The lease was signed in February 2012, on a triple net basis and the quantitative adjusted per square foot rental rate was \$1.66. After qualitative adjustments, the rental rate was determined to be \$1.65 per square foot.

Rental comparable three is in the Gateway Industrial Center in Detroit and commenced in September 2012. It has 1.2 million square feet and was originally the Massey Ferguson Tractor Factory that closed in the early 1980s and is now a multi-tenant combination of manufacturing and warehouse/distribution. The leased space consists of 480,000 square feet, has 20-40 feet clear heights and 38 loading positions. The lease is a gross lease, but is analyzed on a triple net basis, and its quantitative adjusted dollar per square foot rental rate was \$2.16 per square foot. After qualitative adjustments, its rental rate per square foot was determined to be \$2.15 per square foot.

Rental comparable four is the Brownstown Distribution Center located in Brownstown Township. It consists of five buildings, built between 1968 and 1974, with a total of 1.8 million square feet and the leased space consists of 578,000 square feet. The property has 24 foot clear heights and 38 loading positions. This was a two-year,

new triple net lease, signed in December 2012. Its adjusted sale price per square foot was \$2.00 per square foot after both quantitative and qualitative adjustments.

Rental comparable five is in the southeast section of Saginaw and is the former TRW plant. The property was constructed in stages between 1935 and 1992, with recent upgrades. The property consists of 682,829 square feet, after its west portion was demolished, its clear height is estimated at 40 feet and has 24 docks and 13 grade doors. The triple net lease renewal was signed, by a single user, in January 2014 and its adjusted rental rate after quantitative adjustments was \$1.82 per square foot, and after qualitative adjustments, \$1.85 per square foot. The building was on the market as of tax day and sold in July 2018 for \$4.91 per square foot.

After completing extensive testimony about his income approach to value, Mr. Widmer testified, "I - - I didn't really conclude to any weight on the income approach. I initially set forth applying an income approach via corroborative measure, so I didn't really place any weight on it. I used it in an attempt to further support the sales comparison valuation."⁹⁰

"Q: So then did you rely on the sales comparison approach when concluding to value?"

"A: Yes."⁹¹

FINDINGS OF FACT

1. The subject property consists of an approximately 3,000,000 square foot industrial facility. It has an effective age of 1960 per Mr. Allen and 1968 per Mr. Widmer.

⁹⁰ Tr. Vol 5 at 123.

⁹¹ *Id.*

2. Both parties provided appraisals by expert appraisers and both appraisers relied on the sales approach to value.
3. Mr. Allen's highest and best conclusion for the subject property was industrial. Mr. Widmer's highest and best conclusion is single-user manufacturing.
4. Mr. Allen put forth four sales comparables, each over 1,000,000 square feet. They were adjusted to be consistent with the characteristics of the subject property. Mr. Allen also put forth 7 unadjusted sales to support his contention of value for the subject property.
5. Three of Mr. Allen's adjusted sales were in Michigan and one of his additional sales was in Michigan. His sales comparable one, was one to two miles from the subject property and the facility also manufactured engines.
6. Mr. Widmer put forth 4 sales comparables, adjusted to be consistent with the subject property. He also presented 4 unadjusted sales. All of his sales comparables were located in Michigan. Three of his adjusted sales consisted of approximately 450,000 to 530,000 square feet.
7. Mr. Widmer put forth an income approach to value presenting five rental comparables. The most recent comparable lease commenced in 2014. All five rental comparables were smaller than the subject property. Mr. Widmer did not rely on his income approach to value.
8. Mr. Allen completed his appraisal with the aid of his assistant, Mr. Wiley. He also utilized sales comparison sheets from American Appraisal Company, a company with whom he had a long relationship.

9. Both appraisers agree that the market for industrial properties is strong. However, Mr. Allen testified that market for industrial manufacturing is not quite as strong as other types of industrial properties.
10. Mr. Allen testified the normal market for large tenants is 250,000 square feet. He testified most industrial properties are being converted to that size per tenant, or constructed for tenants of that size.
11. Mr. Widmer utilized leased-fee sales as comparables, testifying that a property that is fully occupied with one or multiple leases, is comparable to the subject, single-user occupied property, with adjustments if necessary.
12. Mr. Allen's comparable one had a short-term tenant at the time of sale; however, it was understood by the buyer and seller that the tenant would not remain. Mr. Allen's comparable two was occupied by the seller until such time so it could wrap up operations, however, income from the occupancy wasn't contemplated at the time of sale.
13. The majority of the sales presented by the appraisers were converted to multi-tenant, or for Mr. Widmer, already multi-tenant at the time of sale.

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.⁹²

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

⁹² See MCL 211.27a.

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. . . .⁹³

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.⁹⁴

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”⁹⁵

“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.”⁹⁶ The Tribunal is not bound to accept either of the parties' theories of valuation.⁹⁷ “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.”⁹⁸ 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.”⁹⁹

⁹³ Const 1963, art 9, sec 3.

⁹⁴ MCL 211.27(1).

⁹⁵ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁹⁶ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁹⁷ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

⁹⁸ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

⁹⁹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

A proceeding before the Tax Tribunal is original, independent, and de novo.¹⁰⁰

The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”¹⁰¹ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”¹⁰²

“The petitioner has the burden of proof in establishing the true cash value of the property.”¹⁰³ “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.”¹⁰⁴ 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.”¹⁰⁵

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.¹⁰⁶ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”¹⁰⁷ The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the

¹⁰⁰ MCL 205.735a(2).

¹⁰¹ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

¹⁰² *Jones & Laughlin Steel Corp*, *supra* at 352-353.

¹⁰³ MCL 205.737(3).

¹⁰⁴ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

¹⁰⁵ MCL 205.737(3).

¹⁰⁶ *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).

¹⁰⁷ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.¹⁰⁸

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.¹⁰⁹

The Tribunal will first discuss the two approaches to value discarded by the expert appraisers:

Cost Approach

Mr. Allen, considered, but did not complete a cost approach to value the subject property, because he determined it would not be reliable given the average age of the building, of 60 years, “which is beyond the normal life for these types of buildings.”¹¹⁰ He found the layout and design of the property to be add-on construction which presents different ceiling heights and multiple level floors. He also found that there is a significant amount of obsolescence due to its large size.

Mr. Widmer also considered, but did not complete, a cost approach to value, finding it irrelevant. “The biggest problem with that is the establishing of depreciation. A 100 percent cost approach, the most troubling aspect would be quantifying all forms of depreciation.”¹¹¹

The Tribunal agrees with the analyses of Mr. Allen and Mr. Widmer and finds the cost approach to be an unpersuasive method of valuing the property, given its age, add-on construction and size.

¹⁰⁸ *Antisdale, supra* at 277.

¹⁰⁹ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

¹¹⁰ Tr. Vol 2 at 85. On cross-examination, Mr. Allen admitted he did not account for conversion costs in his final conclusion of value, nor were there discussions of specific conversion costs in his approaches to value. See Tr. Vol 2 at 127.

¹¹¹ Tr. Vol 5 at 161.

Income approach

Mr. Allen considered, but did not complete an income approach to value the subject property because there are no leases of properties as big as the subject. As such, any income approach would be too speculative. Mr. Widmer completed an extensive income approach to value, as a corroborative measure to his sales approach, however, put it aside, because the sales approach is the appropriate method of valuing the property.¹¹²

The Tribunal finds the leased space in Mr. Widmer's rental comparables to be too small to be truly comparable to the subject property. The leases are also too old, the oldest lease commencing in May 2011, and the latest in January 2014, three years before the relevant tax date of December 31, 2016. The January 2014 lease was also a re-lease which puts forth uncertainty about its market terms, which were not persuasively explained. Was the property re-leased above market because the tenant did not want to incur moving costs, for example? Mr. Widmer also fails to consider any costs to convert his comparables to multi-tenant, and cash flow is presumed to come in to the lessor, immediately, with no consideration of absorption costs. The Tribunal is not persuaded that the income approach is applicable in valuing the subject property, due to lack of leases comparable to the subject size.

Highest and Best Use

Highest and best use is the crux to determining the market value of a property. As noted in the *Appraisal of Real Estate*,¹¹³ "[t]he essential components of the analysis of

¹¹² Tr. Vol 5 at 161.

¹¹³ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p 332.

highest and best use are contained in the following definition of the term: The reasonably probable use of the property that results in the highest value.”¹¹⁴ In other words, in determining the true cash or fair market value of a property, it is the use that results in maximum productivity that is aimed for. Highest and best use “recognizes that the use to which a prospective buyer would put the property will influence the price which the buyer would be willing to pay.”¹¹⁵ In determining highest and best use, the appraiser must consider whether the use is legally permissible, physically possible, financially feasible and the maximally productive use of the property.

As noted above, Mr. Allen’s determination of the highest and best use of the property is for industrial use,¹¹⁶ which encompasses single-user manufacturing, as well as warehouse/distribution. He testified, “I found that most of the larger plants over a million square feet are sold for redevelopment as multi-tenant industrial plants, so they end up getting used by multiple users.”¹¹⁷ Mr. Widmer’s determination of the highest and best of the subject property is continued, single-user, manufacturing.¹¹⁸ This conclusion is made because “the subject is in very good condition. Likewise, with the renovations completed over the past several years, it is considered to represent a modern and efficient manufacturing facility, that does not need to be converted or renovated.”¹¹⁹

The Appraisal of Real Estate is the appraisal profession’s “flagship text, reflects this recommitment to the essential principles of appraisal and the sound applications of recognized valuation methodology.” Further, “both appraisers and users of their services can be assured that this volume builds on time-tested foundational knowledge and contains the most up-to-date information and learning on valuation available anywhere.” *Appraisal of Real Estate*, Forward, written by Richard L. Borges II, MAI, SRA, 2013 President, Appraisal Institute.

¹¹⁴ *Id.* at 332.

¹¹⁵ *Edward Rose*, 436 Mich at 633.

¹¹⁶ P-1 at 66.

¹¹⁷ Tr. Vol 1 at 181.

¹¹⁸ R-1 at 105.

¹¹⁹ *Id.*

Based on its analysis below for the 2017 tax year, the Tribunal finds Mr. Allen is correct, the highest and best use of the subject property, or the use that results in the highest value, is for industrial use, not for single-user manufacturing.

Sales Approach

The Tribunal finds the sales approach to be the proper technique to utilize in valuing the subject property for the 2017 tax year as do the two expert appraisers in this matter. Two MAI appraisers, members of “the preeminent appraisal group in the world,” per Mr. Widmer,¹²⁰ agree that the sales approach is the correct method to value the subject property. However, the Tribunal queries, how can two MAI appraisers conclude to such different values for the property utilizing the same approach to value? Mr. Widmer’s conclusion of value for the subject property is \$50,000,000 and Mr. Allen’s \$9,410,000, a difference of \$40,590,000 in true cash value. Further, there is not a single shared comparable between the appraisers, leaving the Tribunal with an extremely complicated and almost incomprehensible, valuation task. However, pursuant to its expertise, the Tribunal will evaluate each witness’ testimony, the evidence presented and the case file, to determine the true cash value of the subject, almost 3,000,000 square foot industrial facility.

Proper application of the sales comparison approach involves “comparing similar properties that have recently sold . . . identifying appropriate units of comparison, and making adjustments to the sale prices . . . of the comparable properties based on relevant, market-derived elements of comparison.”¹²¹

¹²⁰ Tr. Vol 4 at 75.

¹²¹ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p 377.

Mr. Allen presented the Tribunal with four, adjusted sales of industrial properties and seven additional sales, all consisting of over 1,000,000 square feet. Mr. Widmer presented the Tribunal with four adjusted sales of industrial properties, one over 1,000,000 square feet and the other three, between approximately 450,000 to 530,000 square feet. Mr. Widmer also presented the Tribunal with four supplementary, unadjusted sales.

The majority of Mr. Allen's manufacturing plant sales, both adjusted and unadjusted additional sales, were converted to multi-tenant use after their sale. Mr. Allen's adjusted sale one, the former General Motors Livonia Powertrain Plant, was converted by the buyer, Ashley Capital, and in the end was leased primarily for warehouse/distribution, which Mr. Allen testified was in the strongest demand in the market at that time.¹²²

Mr. Allen's adjusted sale two, the former Delphi plant in Flint, was purchased for scrap metal and conversion to multi-tenant. The property was eventually purchased by Phoenix Investors, who are presently converting it to multi-tenant. Mr. Allen's adjusted sale three, the former Ford parts plant in Sandusky, Ohio, was purchased by Flex-N-Gate, a Ford automotive supplier who maintained a parts contract with Ford, as an incentive to purchase the space. Mr. Allen's adjusted sale four was the former General Motors Pontiac Truck Plant, which sold for utilization as a motion picture studio. However, when Michigan film credits dried up, the property was torn down and is being developed into a multi-tenant industrial park. A 400,000 square foot manufacturing facility has already been built.

¹²² Tr. Vol 1 at 188.

Mr. Allen's unadjusted sale one, the former General Motors Plant in Moraine, Ohio sold for multi-tenant conversion. Mr. Allen's unadjusted sale two, the former Delphi plant in Athens, Alabama sold for multi-tenant conversion, as did the former General Motors plant in Shreveport, Louisiana, the former General Motors Plant in Janesville, Wisconsin, the former Magna Corporation manufacturing and assembly plant in East Syracuse, New York, and the former Visteon Plant in Shelby Township, Michigan which was torn down and remarketed as an industrial site. Mr. Allen's unadjusted additional comparable four, the former Mitsubishi assembly and stamping plant was purchased by Maynard's for personal property liquidation, but before the liquidation, was purchased by Rivian Automotive to commence production of prototype electric SUVs and light trucks. In all, 9 out of 11 of Mr. Allen's sales were converted to multi-tenant, other than the sales to Flex-N-Gate, which had an incentive manufacturing contract and the former Mitsubishi Plant that was purchased by Rivian Automotive.

Mr. Widmer's adjusted sale one was 532,489 square feet and purchased by an owner/user, a previous tenant. His adjusted sale two, the former military jet aircraft facility which became the Hayes Wheel Facility, was purchased, converted to multi-tenant and 100% leased at the time of sale. Adjusted sale three, another leased-fee sale, was originally a manufacturing building that was converted to multi-tenant, and eventually purchased by an existing tenant to expand as other leases expired. Adjusted sale four had some manufacturing component, became warehouse/distribution, and it is going back to some manufacturing, some warehouse/distribution. In 2016, it sold to Fuyao Asset Management LLC which is an automotive supplier of auto glass, trim and clips.

Mr. Widmer's supplemental sale one, was the purchase of the subject property in 2009 by Detroit Diesel which was the unwinding of a lease and a former sale-leaseback. Supplemental sale two was the purchase of the former Perregrine plant converted by Ashley Capital to a warehouse/distribution, multi-tenant facility. Supplemental sale three, Fiat/Chrysler, consisted of two buildings and was a sale-leaseback. Mr. Widmer testified, in the sales comparison approach, "I would consider it to a much lower degree, only given the influences of the sale leaseback - -"¹²³ Supplemental sale four was multi-tenant, partly occupied at sale, purchased by a tenant, and the remainder of the property was leased. In sum, Mr. Widmer's adjusted sales two and three were already multi-tenant at the time of sale, adjusted sale four was multi-tenant for many years, and adjusted sale one was purchased by a tenant. Supplemental sales two and four were leased to multiple tenants, supplemental sale one is the sale of the subject property in 2009, after the unwinding of a lease, and supplemental sale three, Mr. Widmer indicated he would consider only to a much lower degree because it is a sale-leaseback.

The Tribunal finds from the sales comparables presented by both appraisers, that multi-tenant is the most frequent use of large manufacturing facilities, such as the subject. Though the Tribunal has other issues with Mr. Allen's comparables, his comparable two, the former Delphi Plant, sold for \$2.25 per square foot when it was a 1.5 million square foot property, then sold for more than double, when 960,000 square

¹²³ Tr. vol 5 at 72. "Sale leasebacks are a function of financing, not fee simple interest as the owner/occupant of a buildings needs an influx of cash does not - - but does not want to leave the building, the building is sold to an investor and the owner leases the property back from the investor." Tr. Vol 6 at 32, quoting from a Tribunal opinion, not referenced.

feet of the property was demolished. Mr. Allen's comparable four, purchased for movie production, a 3.5 million square foot building, was torn down and a 400,000 square foot building, constructed in its place. Mr. Widmer's comparable two, was a 1.2 million square foot building that was a 100% leased multi-tenant building at the time of sale, providing immediate income to the buyer, however, all of his other comparables were reduced to a smaller size because that's what is demanded in the marketplace. The subject property was a large, single-user manufacturing plant on December 31, 2016. It was not a multi-tenant industrial building and it certainly was not in the 500,000 square foot range, like the majority of Mr. Widmer's adjusted comparables. It has a 63,000 square foot lease with its own subsidiary and rented space to an auto dealership to park its vehicles, but it was certainly not a rental property on December 31, 2016. As such, the Tribunal finds it is not appropriate to utilize sales comparables that were already multi-tenant at the time of sale.

Mr. Allen testified, costs to convert a 3,000,000 square foot facility to multi-tenant were extremely high. Smaller, already divided, properties are simply not comparable to the subject property. If Mr. Widmer finds the highest and best use of the property to be single-user manufacturing, why does he put forth no sales of large manufacturing plants, utilized by single users, as is, after sale?

Mr. Allen was questioned regarding the use of already multi-tenant or leased buildings as comparables to the subject single-user property and the Tribunal agrees with his reply:

They wouldn't represent what the subject is to – to use this property as a multi-tenant industrial would require substantial conversion costs. The space would have to be divided, dock doors would have to be put in, utilities divided, office reconfigured. So, it would be - - after conversion to multi-

tenant would be a completely different property. It would be a redeveloped property as opposed to the existing property.¹²⁴

Mr. Allen contended that in order to convert the subject property to multi-tenant, and specifically for warehouse/distribution, 100s of truck docks need to be added. The subject property has only 47 levelized docks which is inadequate for the most probable future uses. The property should have at least 200 docks to meet modern standards for a manufacturing building and 400 for warehouse/distribution. In fact, Detroit Diesel spent \$4,000,000 adding eight docks. Further, ceiling heights at the subject property are too low. Mr. Vaughn testified Petitioner spent millions of dollars raising ceiling heights in some areas, but the majority of the facility has low ceiling heights that would not be optimal to a purchaser. Also, the property is in need of roof repair and replacement. Mr. Vaughn testified Petitioner spent \$6,000,000 raising its roof and it costs \$10 to \$14 million dollars a year in upgrades to keep Detroit Diesel functioning.

Mr. Widmer gave the subject property a four-star rating pursuant to CoStar attributes. He testified, with regard to structure/systems, a four-star property would typically have greater than 100,000 square feet, "clear height typically greater than 30 feet for distribution, greater than 24 feet warehouse and 28 feet manufacturing, dock ratio of plus or minus 7,500 square feet per dock, which is - - I'm sorry, distribution and warehouse, plus or minus 15,000 square feet per dock, manufacturing and fully sprinkled."¹²⁵ He was questioned, so, how many docks would the subject property need for manufacturing to be a 4 star rating? He replied, 141 docks, taking out all areas that

¹²⁴ Tr. Vol 1 at 181-182.

¹²⁵ Tr. Vol 5 at 171.

include warehouse, admin, engineering, cafeteria, and testing. As noted above, the subject property has 47 docks. The Tribunal finds the subject property did not, as of December 31, 2016, have sufficient dock doors for an incoming single-user manufacturer. Further, the property did not have clear heights of 28 feet. Mr. Vaughn testified that 40% of the subject building has clear heights of 16 feet or lower and millions of dollars are being spent to increase those clear heights.

The Tribunal is unsatisfied and unpersuaded by the majority of both appraisers sales comparables with regard to valuing the property. The Tribunal recognizes the difficulty with the appraisal assignment, where does one find a good comparable for a 3,000,000 square foot industrial plant and because the comparables are smaller, even the majority of Mr. Allen's adjusted sales in the million to million-and-a-half square foot range, how does one accurately adjust for size? Mr. Allen concluded that smaller buildings sell for more dollars per square foot than larger buildings. He testified this is demonstrated by his comparable sales. This conclusion is also put forth in Mr. Allen's regression chart on page 82 of his appraisal and his consideration of 371 industrial sales between 2011-2017. However, on cross examination, Mr. Allen testified he did not review the sales, but "it was a sampling of all industrial properties [over 40,000 square feet] that had sold between 2011 and 2017, as reported by CoStar."¹²⁶ He also testified; CoStar doesn't provide data beyond 1,000,000 square feet, *so it's not reliable over 1,000,000 square feet*, "other than demonstrating that there is a very important size relationship."¹²⁷

¹²⁶ See Tr. Vol 3 at 10.

¹²⁷ See Tr. Vol 3 at 20, emphasis added.

The only explanation of Mr. Widmer's size adjustments, located in his appraisal is on p. 108, "[p]ricing patterns for this type of industrial product indicate adjustments are appropriate if the size difference is significant." In his testimony, however, he explained that he applied a size adjustment per 10,000 square feet, with floor area perimeter multipliers taken from Marshall Valuation Service.¹²⁸ However, he does not use data from million square foot buildings, he uses smaller buildings, which the Tribunal finds to be troubling. Mr. Allen adjusts three of his comparables by (50%) to (60%) for size, which suggest the comparables are not truly comparable to the subject and Mr. Widmer's size adjustments of approximately (28%) to (32%) for buildings from 449,623 square feet to 532,489 square feet, more than five times smaller than the subject, are simply too low.

With specific regard to Mr. Allen's comparable two, Mr. Widmer testified he confirmed with the broker of the sale, that it was not a real estate deal. He testified the property was sold to OMX, which, is an entity of Mr. Robert Trafford and he owns "Marathon Contracting and Demolition. And this sale was 100% a deal that he was looking for scrap metal. He was looking for steel to scrap and was not worried about the real estate asset at all."¹²⁹ Approximately 900,000 square feet were demolished and "he sold the remainder of the property without even renovating the residual that he sold. There was no renovations done. He left the building shell, basically, when he sold it subsequently."¹³⁰ Mr. Allen countered that the property was purchased to make money off the large square footage and position the rest to sell for multi-tenant or warehouse/distribution; however, he was also asked to read from an article which put

¹²⁸ Tr. Vol 5 at 32-33.

¹²⁹ Tr. Vol 5 at 134.

¹³⁰ Tr. Vol 5 at 135. The Tribunal notes the property was missing a wall at the time of sale.

forth a cost of \$12,000,000 to put the property back into useful shape.¹³¹ The Tribunal was also shown a video, and directed toward photos, revealing the property was missing a wall. The Tribunal is unable to reconcile the two versions of the sale, also notes it sold for the second lowest dollar amount per square foot, and as such, places little reliance upon it.

With regard to Mr. Allen's sales comparable three, the Ford parts plant in Sandusky, Ohio, the Tribunal finds it less relevant that comparables located in the state of Michigan. As an out-of-state property, it could require more adjustments which were not explored, and the Tribunal is unable to reconcile an adjustment for of the value of the Ford parts contract¹³² Further, on cross examination, Mr. Allen admitted the property was not sold by Ford, but from an entity created by Ford whose purpose was to sell the former plant. Mr. Allen did not know the terms of the agreement between Ford and the entity so he did not make an adjustment.¹³³

With regard to Mr. Allen's comparable four, the former GM Assembly plant in Pontiac. The property sold for the lowest dollar amount per square foot, is the oldest sale (September 2011), it was demolished, and as such, considered a land sale by Mr. Widmer. In fact, the vacant land is being developed by Marriott hotels, restaurants and for other commercial use. The Tribunal finds sales comparable four is not the best comparable to utilize in determining the true cash value of the subject property for the 2017 tax year.

¹³¹ Tr. Vol 3 at 73.

¹³² Tr. Vol 5 at 134-140.

¹³³ Tr. Vol 3 at 88-89.

The Tribunal also places little emphasis on Mr. Allen's additional comparables, again six out of the seven are from out of state, and no explanation of any considerations for this fact was provided. Additional sales comparable seven is located in Shelby Township, Michigan, however, it was sold for demolition, and could be considered a land sale, only. Further, the sales were not adjusted to be consistent with the characteristics of the subject property.

Respondent alleged at the hearing of this matter that Mr. Allen did not prepare Petitioner's appraisal of the subject property, but his assistant, Mr. Mark Wiley, did. Mr. Allen testified, however, that he prepared the appraisal with the aid of his assistant of 20 years, Mr. Wiley. Mr. Allen testified that Mr. Wiley assisted him "with the research analysis and drafting of the report."¹³⁴ He testified, Mr. Wiley has completed advanced courses in the sales, income and cost approaches to value, but is not a certified general real estate appraiser.¹³⁵

Mr. Allen testified he determined which comparables to utilize, what adjustments to make, and what the final value conclusion is for the property being appraised. Mr. Allen gave Mr. Wiley his comparable parameters: industrial properties over 1 million square feet, sold in 2011 or later, concentrate on sales in Michigan, but don't be restrained by Michigan, but when Mr. Wiley found comparables for Mr. Allen to utilize, it was he who chose the final sales and completed the analysis.¹³⁶

¹³⁴ Tr. Vol 1 at 164.

¹³⁵ Tr. Vol 1 at 164.

¹³⁶ Tr. Vol 1 at 165. Tr. Vol 2 at 116.

The Tribunal does not find the fact that Mr. Wiley aided Mr. Allen in completing Petitioner's appraisal to be fatal to its reliability. Mr. Allen credibly testified that it was he, who prepared the analysis and made the final conclusion of value.

Respondent also took issue with the fact that Mr. Allen retrieved information about his comparables from comparable write-ups supplied by American Appraisal Company. In fact, some items on the comparable sheets were reproduced verbatim in Mr. Allen's report. Mr. Allen, however, admitted that he had input in preparing his appraisal from American Appraisal Company's research, with whom he had a long relationship. Mr. Allen had a long professional relationship with Mr. Phil Cook, now deceased, from the company and he and Mr. Allen shared comparable information as both complete large manufacturing appraisals around the United States.¹³⁷ Mr. Allen testified, "when he has write-ups of Detroit area comparables, he automatically sends them to us, and when he needs information in the Detroit area, he'll call us and we'll help him out."¹³⁸ In fact, Mr. Allen finds that American Appraisal data sheets are more accurate than CoStar and they are more comprehensive.¹³⁹

Mr. Cook's firm appraised Mr. Allen's comparable four. As such, Mr. Allen found it reasonable to request the appraisal data from him. Mr. Allen inspected the comparable on the inside and outside and found the information in the American Appraisal write-up to be accurate.¹⁴⁰ On cross examination, Mr. Allen admitted that information from American Appraisal comparable sheets labeled, "final report," located in his work file were quoted

¹³⁷ Mr. Allen testified that American Appraisal has been appraising GM plants on behalf of the company, in Michigan and throughout the United States, and other large manufacturing companies in Michigan and across the United States. See Tr. Vol 4 at 37.

¹³⁸ Tr. Vol 4 at 9.

¹³⁹ See Tr. Vol 4 at 40.

¹⁴⁰ Tr. Vol 4 at 38-40.

verbatim in his appraisal with regard to comparables two, three and four.¹⁴¹ He was questioned, “[d]id American Appraisal give you any of the backup data that would support the information contained on these sheets?” His reply was that it did not.¹⁴² Mr. Allen did note regarding comparable four on page 77 of his appraisal, that the sale was verified by a third-party appraiser. “that was American Appraisal.” “I believe it was Phil Cook.”¹⁴³

Again, the Tribunal does not find it fatal to Mr. Allen’s report that he obtained information about his comparables from American Appraisal, especially since Mr. Allen testified with regard to comparables two, three and four that he also considered other sources. With regard to comparable two, he testified that he gathered information about the comparable from an American Appraisal write-up, a CoStar write-up, a Signature write-up, and the Phoenix Investors Brochure.¹⁴⁴ With regard to comparable three, he testified that he ascertained the terms and conditions of the sale from “various sources, including American Appraisal data, CoStar data and attempted to get verification from the purchaser.”¹⁴⁵ With regard to comparable four, Mr. Allen testified he was able to verify the accuracy of the write-up while inspecting the property. However, the inspection occurred after the writing of the report. In any event, the Tribunal has placed less emphasis on Mr. Allen’s comparables two through four, for the reasons stated above and with some consideration to the fact that parts of the American Appraisal comparable write-ups were quoted verbatim in his report, without back-up data provided by the firm.

¹⁴¹ Tr. Vol 3 at 138-151.

¹⁴² Tr. Vol 3 at 148.

¹⁴³ Tr. Vol 4 at 12.

¹⁴⁴ Tr. Vol 3 at 64.

¹⁴⁵ Tr. Vol 3 at 90.

Mr. Widmer's comparable one consisted of 532,489 square feet. It was purchased for industrial use; however, was purchased by the lessee and the Tribunal was not persuaded by Mr. Widmer's testimony, that the sale was subject to normal market pressures. He testified he verified the alleged market sales price because there was an appraisal done of the property. However, on cross-examination, he admitted, he never saw the appraisal, did not know who prepared it and did not know the reason for which it was completed. As a result of its small size relative to the subject, and the unconfirmed conditions of sale, the Tribunal is not persuaded by Mr. Widmer's sales comparable one.

Mr. Widmer's sales comparable two consists of 1,249,073 square feet, but at the time of sale was already converted to multi-tenant and 100% occupied. Further, no information was provided about the terms of the leases, just "that they were at market." Since the property was leased at the time of sale, the buyer had a ready-made income stream. Further, the income stream was an even greater asset given there were multiple tenants, because if one vacates, income is still available from the others. The Tribunal does not find a 100% leased property, less than half the size of the subject property, to be comparable to the subject.

Mr. Widmer's sales comparable three consists of 449,623 square feet and was also already converted to multi-tenant at the time of sale. As a result of its size and multi-tenant layout at sale, the Tribunal is not persuaded by comparable three.

Mr. Widmer's sales comparable four consists of 526,540 square feet and was a vacant building that had previously been acquired by the seller in a foreclosure related transaction. Because of its small size and the lack of persuasive

testimony regarding the effect of the former foreclosure transaction, the Tribunal places little emphasis on Mr. Widmer's comparable four. However, like in Mr. Allen's sale one, the comparable needed roof replacement, and as such, Mr. Widmer made an adjustment using data from Marshall Valuation Service at \$5.50 per square foot, which the Tribunal finds to be appropriate.

The Tribunal places no emphasis on Mr. Widmer's supplemental comparables. He testified that he puts less weight on comparables that are sale-leasebacks, and the Tribunal finds they are often a function of financing. The tenant needs money, sells the property to a buyer, who leases it back to the tenant at a rate to recoup its expenditure. A sale/leaseback is a loan and the building is the security. Further, if a lease isn't renewed, the lessee would have to pack up and move, and Mr. Vaughn testified it could take Detroit Diesel up to two years to relocate and reinstall its equipment. All that while, revenue is lost. The Tribunal does acknowledge that the sales and leases can be at market rates, but extensive research of both sides of the transaction is needed, and was not sufficiently provided.

Mr. Widmer's supplemental sale two was a manufacturing plant that was converted to multi-tenant, but Mr. Widmer denies the same would happen to the subject property, because it would be used by a single manufacturer. Additionally, comparable four, already a warehouse/distribution building, was occupied by a tenant at the time of sale. Further, none of the supplemental comparables were adjusted to be consistent with the characteristics of the subject property.

After placing little emphasis on Mr. Allen's sales two, three and four, and additional comparables, as well as Mr. Widmer's adjusted and supplemental sales comparables, the Tribunal is left with Mr. Allen's sales comparable one.

The sale was of the former General Motors Powertrain plant. It is located just less than two miles from the subject property and manufacturing engines, such as the subject.

There is a DTE substation at the subject property, as well as at the comparable.

Respondent contends that the sale was from RACER trust and as such, was for a low price as RACER's mission is to clean up and sell properties. However, the sale from RACER was to Schostak, and the sale utilized by Mr. Allen was from Schostak to Ashley Capital. In fact, he testified that the RACER environmental monitoring remained with the property after sale, which is an asset. Mr. Vaughn testified he pays \$30,000 per year for environmental monitoring at the subject property, which was not supplied to the subject by the RACER trust, as General Motors was relieved of this obligation at the time of its bankruptcy. Mr. Allen testified comparable one has hydrocarbon plumes, similar to those located at the subject property. The comparable does have deferred maintenance as half of the roof required replacement, so Mr. Allen adjusted the purchase price up to \$6.04 cents per square foot which was similar to Mr. Widmer's adjustment for roof replacement with regard to his comparable four, obtained from Marshall Valuation Service. The comparable did have a lease in place at the time of sale, but it was a short-term lease and it was understood that the tenant was leaving, unlike in Mr. Widmer's true, leased-fee sales.

As far as the other adjustments to the comparable, the Tribunal is simply not persuaded by them, especially the size adjustment. As such, it finds the best method of

valuing the property is to use its sale price per square foot with only the commonly confirmed deferred maintenance adjustment for roof repair. As such, the Tribunal finds the true cash value of the subject property for the 2017 tax year to be 3,000,000 square feet (rounded)¹⁴⁶ multiplied by \$6.04 per square foot or \$18,120,000. This amount is allocated between the parcels and the true cash value of the parcel located in Redford Township, which is the subject of this appeal, is \$15,873,120, or \$15,900,000, rounded.¹⁴⁷

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property is over assessed. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year 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 year 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

¹⁴⁶ Mr. Allen's conclusion of the size of the subject property is 2,988,065 square feet and Mr. Widmer's, 2,910,180 square feet.

¹⁴⁷ 87.6% of the parcel is located in Redford Township.

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%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, and (xi) after June 30, 2019 through December 31, 2019, at the rate of 6.39%.

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.¹⁴⁸ 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.¹⁴⁹ 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.¹⁵⁰ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.¹⁵¹ 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

¹⁴⁸ See TTR 261 and 257.

¹⁴⁹ See TTR 217 and 267.

¹⁵⁰ See TTR 261 and 225.

¹⁵¹ See TTR 261 and 257.

more than 21 days after the entry of the final decision, it is an “appeal by leave.”¹⁵² A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.¹⁵³ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.¹⁵⁴

By Preeti Madole

Entered: August 8, 2019

¹⁵² See MCL 205.753 and MCR 7.204.

¹⁵³ See TTR 213.

¹⁵⁴ See TTR 217 and 267.