



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

5720 Samrick Ave SE LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MAHS Docket No. 17-002394

Plainfield Township,
Respondent.

Presiding Judge
Preeti P. Gadola

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, 5720 Samrick Ave SE LLC, appeals the ad valorem property tax assessment levied by Respondent, Plainfield Township, against Parcel No. 41-10-21-101-042 for the 2017 tax year. Laura Hallahan, Attorney, represented Petitioner, and Eric Brandt, Attorney, represented Respondent.

A hearing on this matter was held on October 3, 2018. Petitioner's witnesses were Mark Floria, co-owner of the property, and Jeffrey Miller, Assessor, Plainfield Township, who was called as a witness under subpoena. Respondent did not call any witnesses.

The property subject to this appeal is a self-storage facility located at 5720 Samrick Ave. It consists of five separate storage buildings, one of which contains a small office space. It consists of approximately 46,000 square feet and is situated on 5.05 acres of land.

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 are as follows:

Parcel No.	Year	TCV	SEV	TV
41-10-21-101-042	2017	\$2,000,000	\$1,000,000	\$1,000,000

PETITIONER’S CONTENTIONS

Petitioner contends that Respondent based its true cash value determination for the subject property on the 2015 purchase price, rather than concluding to value based on the relevant valuation approaches. Petitioner contends when errors in Respondent’s valuation disclosure are corrected, including the utilization of 2018 rental rates for the subject and comparable properties under the income approach, the concluded value confirms the property’s true cash value is less than that purported on the assessment roll. Petitioner contends the property’s 2016 calendar year data, supported by market information, in the alternative, puts forth a correct true cash value for the property for the 2017 tax year, of \$1,880,000.

PETITIONER’S ADMITTED EXHIBITS

- P-1: Subject property 2016 income and expense statement
- P-2: Marshall and Swift Life Expectancy Guidelines
- P-3: CBRE Self-Storage Report
- P-4: Respondent’s income approach for mass appraisal
- P-5: Respondent’s income comparable two
- P-6: Respondent’s income comparable three
- P-7: Respondent’s income comparable six

PETITIONER'S WITNESS

Mark Floria

Mr. Floria is employed by Pagoda Companies as a sales associate. His role is to aid buyers and sellers in acquiring and disposing of self-storage facilities and he has completed over \$250 million in self-storage transactions in the last eight years, and has assisted in the sale of approximately 60 properties. Pagoda also has a self-storage management arm which oversees about forty self-storage properties in Michigan and Ohio. Mr. Floria is a specialized broker who offers his clients, "full knowledge of management," including "how self-storage properties are managed and how they can be better - - better run or where the deficits are, and so I fully know management also."¹ He performs free valuation calculations to help the facilities improve the management of their properties. He generally, legally represents the seller in sales transactions, but he also advises both buyers and sellers, especially if he has a relationship with the buyer.

Mr. Floria has a personal interest in five self-storage facilities including the subject property, and "[w]e have another one just south, about a mile or two on West River Drive."² He has another in Rockford, two in the Detroit area, in Shelby Township and Warren. Mr. Floria testified that he reviews income and expense statements for self-storage facilities on a daily basis, and "its his primary job," "[t]o provide value."³ He reviews financials "to determine where a property is compared to market. And that will affect the cap rate, which would affect the value."⁴

¹ Transcript ("Tr.") at 10-11.

² Tr. at 13.

³ Tr. at 14-15.

⁴ Tr. at 15.

Mr. Floria testified that about once per week he receives a call from an appraiser related to self-storage facility valuation because it's such a niche market. He provides the appraisers with current cap rates, price per square foot and rental rates. The Tribunal qualified Mr. Floria as an expert in the acquisition, management and evaluation of self-storage units.

Mr. Floria and his partner acquired the subject property in 2015 and hired Pagoda to manage it. It consists of roughly 46,000 square feet of self-storage facility with all drive-up units. None of the units are climate controlled and the facility is smaller than many, so its expense ratio is higher. Mr. Floria testified that climate-controlled units are much more expensive to construct as there are HVAC costs and climate-controlled facilities must have sprinklers. He testified "[c]limate control would usually get a 50% premium"⁵ He further testified, some climate-controlled facilities have canopies and in some you can drive right into the unit.

Mr. Floria viewed the year end profit and loss statement for the subject property, which is entitled "NSC Belmont's year end 2016 profit and loss statement," because that is the management company's brand name, which is "National Storage Center."⁶ The property's profit in 2016 was \$307,168, which Mr. Floria determined was at market.

Mr. Floria testified that storage facilities often have \$1.00 move-ins or three-months half-off rent just to get people in the door and that the average renter stays around 14 months. He testified that there may be a gap in collected rent of between 20-40 percent of the actual rate. He noted that Respondent took its rental rates for the

⁵ Tr. at 23.

⁶ Tr. at 26.

subject property from its website, which were inaccurate because the actual rental rates were less, in part, due to rates after incentives. He also testified that when evaluating whether the property was a good investment, it was alleged by the assessor's office that the property taxes were in the \$25,000 range, they would not increase by much, maybe 10-15 percent, and certainly not relative to half the purchase price in assessed value. The property taxes, however, were in fact increased to around \$52,000, or an increase of approximately 113 percent. As such, the property cannot afford the expense. Mr. Floria testified he talks to the assessors in every municipality in which he is purchasing, or advising a buyer to purchase a property. He testified he would have paid about \$1,800,000 for the property had he known about the additional property tax expense. He testified the tax bill for his storage facility down the road on West River Drive, is about half.⁷

On cross-examination, Mr. Floria testified that he and his partner purchased the property in December 2015 for \$2,500,000, as a stand-alone purchase. He and his partner liked the property, it had stable occupancy and they also purchased the storage unit on West River Drive, so as to not allow for undercutting of prices.

Jeffrey Miller

Mr. Miller is the Assessor for Plainfield Township and was subpoenaed by Petitioner to appear at the hearing of this matter as a witness. Mr. Miller is an MMAO, or master assessor and certified residential appraiser. Mr. Miller testified that he has never appraised a self-storage facility and that he submitted a valuation disclosure to

⁷ Tr. at 62-63.

the Tribunal to determine the true cash value of the subject property for the 2017 tax year, not a full blown appraisal conforming to USPAP.⁸

Mr. Miller testified that he assessed the five or six self-storage units in Plainfield Township, under the income approach to value. He testified he is familiar with how they operate because he's "rented them, reviewed them, I see the - - on just a personal level with them changing hands, I understand the concept, how they're constructed, what their purpose is, what they do. Very familiar with them."⁹ He testified to his recollection none of the units at the subject property are climate-controlled. Mr. Miller testified he inspected the property in mid-2017 and 2018, but only on the exterior. He did not notice any deferred maintenance and concluded in an effective age of 10 years. He utilized a straight line 10% depreciation in his cost approach.

In his income approach to value, Mr. Miller obtained advertised rental rates for the property from its website viewed in 2018, not in 2016, relative to the 2017 tax year. However, he also utilized 2018 rates for his rental comparables, thereby comparing "apples to apples."¹⁰ He utilized seven rental comparables and after examining them determined the subject rental rates were at market, therefore the subject's actual rates were utilized in the analysis. Mr. Miller concluded the property has 20 – 10' x 10' units, 55 – 10' x 15' units, 158 – 10' x 20' units and 14 – 10' x 30' units, for a total of 247 units. He also noted there are 4 – 10' x 25' units that are not available for rental. He concluded the potential gross income for the subject property was \$463,476. To this he applied a 15% vacancy and credit loss, increasing it over the 5% vacancy rate

⁸ USPAP stands for uniform standards of professional appraisal practice. Tr. at 76.

⁹ Tr. at 88.

¹⁰ Tr. at 203.

determined in order to account for move-in incentives. Expenses of 35% were applied,¹¹ for a conclusion of \$256,071 in net operating income. A tax loaded capitalization rate of 10.09% was applied, for a conclusion of true cash value of \$2,500,000, rounded. Mr. Miller also prepared a sales approach to value to which he applied less emphasis, given the subject property is an income-producing property, and most probably purchased by an investor. Further, Mr. Miller provided little weight to the cost approach, again determining an investor would not consider the approach, and further wrote, “the cost approach is more relevant for new construction and therefore has been given less consideration in the final opinion of value.”¹²

Mr. Miller was employed by Plainfield Township in December 2015, and at that time, attempted to clean up the assessment roll. In doing so he noted an error on the valuation record for the subject property. The income from one of the five buildings located on the property was not being annualized. The 10 x 20 units show an annual income of only \$9,690, which is actually the per month income. Annualized, the potential gross income should be \$116,280, and as such, the true cash value of the property increased significantly. Mr. Miller reiterates this is the reason for the large jump in assessed value for the property in 2016, under the mass appraisal approach, not that he “chased the sale,” after viewing the warranty deed and property transfer affidavit. In fact, due to the correction, the value of the property went from \$947,000 to \$1.916 million.¹³

¹¹ Mr. Miller determined that expenses for similar self-storage properties ranged from 25% to 40%, based on “information from class materials put on by national organizations and CBRE.” See R-6 at 17, Tr. at 152.

¹² See R-6 at 7.

¹³ Tr. at 221.

RESPONDENT'S CONTENTIONS

Respondent contends that it properly determined the true cash value of the subject property in its valuation disclosure. Respondent's assessor contends that he utilized all three approaches to value, but relied the most heavily on his income approach. Respondent contends that Petitioner did not put forth a valuation disclosure or income approach to value, but simply provided actual income and expenses for the property for the 2016 tax year. On the other hand, Respondent compared 2018 rental information for the subject property obtained from its website, along with 2018 information for his comparables. As such, Respondent contends that it is comparing "apples to apples," despite having the incorrect year's income and expense information. Respondent also contends that the sale price of the property in 2015 for \$2,500,000 should be considered when determining value.

RESPONDENT'S ADMITTED EXHIBITS

R-1: Documents verifying the most recent sale of the subject property to Petitioner:

Property Transfer Affidavit (PTA) and Warranty Deed (WD)

R-4: Documents verifying improved sales used in the Sales (Market) Approach in the Valuation Disclosure: PTAs/WDs/and Covenant Deeds (CD)

R-6: Respondent's Valuation Disclosure

R-7: 2015 Valuation Report

RESPONDENT'S WITNESS

Respondent cross-examined its assessor, Mr. Jeffrey Miller, who was subpoenaed to appear at the hearing of this matter. Respondent did not call Mr. Miller as a witness.

FINDINGS OF FACT

1. The subject property is a self-storage facility consisting of five buildings. Its square footage is approximately 46,000 and it sits on 5.05 acres of land. Its address is 5720 Samrick Ave, Plainfield Township.
2. The property was purchased by Petitioner on December 15, 2015 for \$2,522,000.
3. Petitioner presented the Tribunal with a Profit and Loss Statement for the subject property. The property gross profit from January to December 2016 was \$307,168.
4. Respondent presented the Tribunal with a valuation disclosure in which all approaches to value were considered, the cost-less-depreciation approach, the sales approach and the income approach. Respondent relied most heavily on its income approach to value.
5. Respondent presented the Tribunal with seven rental comparables of self-storage facilities. Respondent was unaware of all the characteristics of the comparable properties, including whether they were climate-controlled. Respondent did not adjust the comparables to make them consistent with the characteristics of the subject property.
6. Respondent calculated actual income for the subject property from its 2018 rental rates on its website. Respondent compared this 2018 income to the 2018 rental rates of his seven comparables and concluded Petitioner's actual rent was at market. As such, Respondent utilized 2018 actual rent in its income approach to value.

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.¹⁴

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . . .¹⁵

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.¹⁶

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”¹⁷

“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.”¹⁸ The Tribunal is not bound to accept either of the parties' theories of valuation.¹⁹ “It is the Tax Tribunal's duty to determine which approaches are useful in

¹⁴ See MCL 211.27a.

¹⁵ Const 1963, art 9, sec 3.

¹⁶ MCL 211.27(1).

¹⁷ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

¹⁸ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

¹⁹ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

providing the most accurate valuation under the individual circumstances of each case.”²⁰ 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.”²¹

A proceeding before the Tax Tribunal is original, independent, and de novo.²² The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”²³ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”²⁴

“The petitioner has the burden of proof in establishing the true cash value of the property.”²⁵ “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.”²⁶ 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.”²⁷

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation

²⁰ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

²¹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

²² MCL 205.735a(2).

²³ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

²⁴ *Jones & Laughlin Steel Corp*, *supra* at 352-353.

²⁵ MCL 205.737(3).

²⁶ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

²⁷ MCL 205.737(3).

approach.²⁸ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”²⁹ The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.³⁰ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.³¹

Petitioner presented the subject property 2016 actual income and expense statement, relevant to the 2017 tax year true cash value determination the Tribunal is tasked with calculating. Petitioner did not provide an appraisal, but instead the testimony of the co-owner of the property, Mr. Floria, who also happens to be a sales associate for its managing company. Mr. Floria has extensive experience and knowledge with regard to valuing self-storage centers, often acting as the agent for both the buyer and seller. He reviews self-storage financials daily, and in fact, supplies appraisers and valuation experts with information about the rental rates, cap rates, and other relevant information about self-storage facilities because it is such a niche market that he is a good source of information. Mr. Floria testified that he and his partner desired to purchase the subject property, and while doing their due diligence, chatted with the Plainfield Township Assessor to determine how much the taxable value of the property would increase after purchase and uncapping? Mr. Floria was not led to

²⁸ *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).

²⁹ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

³⁰ *Antisdale*, *supra* at 277.

³¹ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

believe that the taxes for the property would go up by over 100%. He testified he would have paid a lesser price for the property had he known about the tax increase.

Mr. Miller prepared a valuation disclosure to determine the true cash value of the subject property for the 2017 tax year. He considered all three approaches to value, but placed the most emphasis on the income approach. Mr. Miller considered the sales approach, but the Tribunal is not convinced by such approach because it is unknown if improvements were made to the properties. Further, the gross adjustments were from 40% to 45%, which the Tribunal finds to be on the high side and demonstrative that the sales comparables were not truly comparable to the subject property. Further, Mr. Miller writes in his valuation disclosure, [t]he sales approach, while considered relevant, can have varying results as often it is seen that this type of property can sell above or below market value. This occurs because an investor is looking into the future and anticipating the income potential of the property, not necessarily the immediate value.”³² Mr. Miller also considered the cost approach to value, but placed little emphasis on it and the Tribunal does the same as an investor would not be looking at the cost to replace the property, but its potential income. Mr. Miller writes in his valuation disclosure, “It is the most probable that the subject property would sell based on its income producing potential which would attract a buyer/investor that would utilize the property for investment opportunity.”³³

The Tribunal finds the income approach is the appropriate technique to utilize in determining the true cash value of the subject property for the 2017 tax year. The

³² See R-6 at 22.

³³ R-6 at 22.

income approach is generally considered the most accurate method for valuing income-producing property.³⁴ In fact, “[w]hen more than one approach to value is used to develop an opinion of value for an income-producing property, the value indication produced by the income capitalization approach might be given greater weight than that of the other approaches in the final reconciliation of value indications.”³⁵

Income-producing real estate is typically purchased as an investment, and from an investor’s point of view earning power is the critical element affecting property value. One basic investment premise holds that the higher the earnings, the higher the value, provided the amount of risk remains constant. An investor who purchases income-producing real estate is essentially trading present dollars for the expectation of receiving future dollars.³⁶

The largest component of the income approach is the analysis of income and expenses. Mr. Miller calculated potential gross income for the property by utilizing seven self-storage rental comparables, however he utilized 2018 rental rates for the subject property, obtained from its website, and 2018 rental information for the comparables.³⁷ Tax Day for determining the true cash value of the subject property for the 2017 tax year is December 31, 2016,³⁸ and the Tribunal is troubled by the use of 2018 income when actual income, for the 2016 tax year, is available for the subject property.³⁹ *The Appraisal of Real Estate* states that even though capitalization procedures “must eventually include a projection of future income,” some are “based on the actual level of

³⁴ See *CAF Investment Co v Michigan State Tax Commission*, 392 Mich 442 (1974) and *CAF Investment Co v Twp of Saginaw*, 410 Mich 428 (1981).

³⁵ *The Appraisal of Real Estate* (Chicago: Appraisal Institute, 14th ed, 2013), p 441.

³⁶ *Id.* at 438.

³⁷ Tr. at 143.

³⁸ MCL 211.2(2) states: “The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day, any provisions in the charter of any city or village to the contrary notwithstanding.

³⁹ Mr. Miller wrote in his valuation disclosure, “[t]he rental rates have continued to increase over the last several years as the general real estate market has continued to increase.” See R-6 at 14.

income at the time of the appraisal”⁴⁰ Further, when investigating market rent, the appraiser should begin by looking to the subject property “[b]y examining financial statements”⁴¹ The Tribunal finds the best indication of the subject property’s gross income is the property’s 2016 actual income, rather than 2018 website rental rates.⁴²

Further discrediting Mr. Miller’s “market” rental rates, he testified that he did not adjust his rental comparables to make them consistent with the characteristics of the subject property, not even for market conditions to reflect the use of 2018 rent.⁴³ For example, some of the comparables had climate-controlled units and the subject did not, and some were national storage centers and some local, yet no adjustment was explored. *The Appraisal of Real Estate* states, “[w]hen a market rent estimate for the subject property is required, the appraiser gathers, compares, and adjusts comparable rental data.”⁴⁴ Also, “[c]omparable rents may be adjusted just as the transaction prices of comparable properties are adjusted in the sales comparison approach.”⁴⁵ Finally, “The elements of comparison considered in a rental analysis are, real property rights being leased and conditions of rental, market conditions, location, physical characteristics, division of expenses stipulated in the lease and other leases terms, use of the property, non-realty components.”⁴⁶

⁴⁰ *The Appraisal of Real Estate*, supra at 463.

⁴¹ *Id.* at 465.

⁴² See P-1.

⁴³ Tr. at 129-130.

⁴⁴ *The Appraisal of Real Estate*, supra at 466.

⁴⁵ *Id.*

⁴⁶ *Id.* Mr. Miller further wrote in his valuation disclosure, “it can be seen that there is range of rates for the various size of units. The reason for this range can be due to several factors such as age of the facilities, the extent of security features, accessibility to the units and location.” However, Mr. Miller made no adjustments for age, security features, accessibility or location. See R-6 at 15.

In its independent determination of the value of the property, the Tribunal starts with the property's effective gross income of \$307,168. From effective gross income, Mr. Miller successfully testified to the Tribunal's satisfaction, based on his consultation of the CBRE Self-Storage Expense Report,⁴⁷ and other various sources, that expenses of 35% puts forth an accurate expense representation. As such the Tribunal calculates expenses of (\$107,509), for a net operating income of \$199,659. Utilizing Mr. Miller's tax loaded cap rate of 10.90%,⁴⁸ it finds the true cash value of the subject property for the 2017 tax year to be \$1,978,781, or \$2,000,000, rounded.

With regard to the allegation that Respondent chased the sale price of the property, in violation of MCL 211.27(6), in concluding in its true cash value in its valuation disclosure, the Tribunal finds the allegation irrelevant to its conclusion of value.⁴⁹ Again, the Tribunal finds the correct valuation technique to be the income approach to value, and its value conclusion is not the sale price of the property.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property was over-assessed in the 2017 tax year. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

⁴⁷ See P-3.

⁴⁸ The Tribunal is satisfied with Mr. Miller's analysis in determining his capitalization rate, including consultation of local and national market reports, extracted rates from local sales under direct capitalization and band of investment analysis. See R-6 at 17-19.

⁴⁹ MCL 211.27(6) states, "[e]xcept as otherwise provided in subsection (7), the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred."

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 years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009,

at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (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%, and (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%.

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.⁵⁰ 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

⁵⁰ See TTR 261 and 257.

relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.⁵¹ 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.⁵² Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁵³

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an “appeal by right.” If the claim is filed more than 21 days after the entry of the final decision, it is an “appeal by leave.”⁵⁴ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁵⁵ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁵⁶

By Preeti P. Gadola

Entered: December 17, 2018

⁵¹ See TTR 217 and 267.

⁵² See TTR 261 and 225.

⁵³ See TTR 261 and 257.

⁵⁴ See MCL 205.753 and MCR 7.204.

⁵⁵ See TTR 213.

⁵⁶ See TTR 217 and 267.