

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

Venoy Wick Development Associates LLC,  
Petitioner,

MTT Docket No. 346538

v

City of Romulus,  
Respondent.

Tribunal Judge Presiding  
Kimbal R. Smith, III

FINAL OPINION AND JUDGMENT

A hearing was held in the above-captioned case on March 2, 2011. Petitioner was represented by Steven Schneider, Attorney. Respondent was represented by Jason Long, Attorney.

This matter involves one parcel of real property located in the City of Romulus, Wayne County, State of Michigan, identified as parcel no. 80-038-99-0002-701. Petitioner timely invoked the Tribunal's jurisdiction for the 2008 tax year and timely filed motions to include subsequent tax years 2009 and 2010. Prior tax years 2008 and 2009 for the subject parcel, as well as all tax years for the contiguous parcels originally under appeal in the above-captioned case, are subject to a Consent Judgment entered between the parties and were not litigated at this hearing. At issue in this case are the subject property's true cash, assessed and taxable values for the 2010 tax year.

The subject property's true cash, state equalized and taxable values as confirmed by the Board of Review and recorded on the assessment roll are as follows:

Parcel Number	Year	TCV	SEV	TV
80-038-99-0002-701	2010	\$3,259,800	\$1,629,900	\$971,424

**FINAL VALUES**

Parcel Number	Year	TCV	SEV	TV
80-038-99-0002-701	2010	\$1,420,000	\$710,000	\$710,000

## **THE SUBJECT PROPERTY**

The subject property is located within the City of Romulus, Wayne County, Michigan. The nearest intersection is located at Venoy and Smith Roads, just north of I-94, near Detroit Metropolitan Wayne County Airport.

The property is classified as developmental real property. The parties have stipulated that the property consists of 36.44 acres of vacant land.

The subject property is zoned RC, Regional Center, for the 2010 tax year.

## **PETITIONER'S CONTENTIONS**

Petitioner contends that the subject property is assessed in excess of 50% of its true cash value for the 2010 tax year.

Petitioner contends that, based on zoning restrictions, the market for unimproved land during the relevant time period, and the open and extended marketing of the subject property, the subject property's 2010 true cash, state equalized and taxable values as established by Respondent exceeded what the market would bear.

Petitioner's expert considered the income, sales comparison and cost approaches to value and utilized the sales comparable approach to arrive at his concluded true cash value for the tax year in question. Petitioner's expert relied on four properties he deemed comparable to the subject.

In support of its position Petitioner presented one witness, Laurence Allen, MAI, together with three exhibits, which were admitted.

Petitioner's Exhibits are as follows:

P-1 Summary Appraisal Report as of December 31, 2009

P-2 Map showing subject property in relation to comparable sales

P-5 Marketing literature for Midfield Technology Center (Petitioner's comparable listing 3)

Petitioner's Witness:

Laurence Allen, MAI, was qualified as an expert in the valuation of real property and testified in support of the Appraisal he prepared (P-1), which concluded to a true cash value of \$1,050,000 as of December 31, 2009.

Mr. Allen considered all three approaches to value but utilized only the sales comparison approach in arriving at his retrospective value conclusion. The income and cost approaches were not considered relevant because the subject property is unimproved real property.

Mr. Allen testified as to the market conditions in the Detroit MSA, or Metropolitan Statistical Area. Specifically, the appraiser referenced trending population and employment statistics for the Detroit MSA and, more generally, the steepened economic downturn in September of 2008 regionally and nationally. Mr. Allen considered this downturn so significant a factor that he limited the pool of potential comparable properties to sales and listings after September of 2008. (Tr, p. 48). Mr. Allen also testified that he selected properties most similar to the subject property in size and potential use. Mr. Allen concluded that, based on available vacant land near the subject property and with better traffic exposure, access and visibility, consideration for big box retail use was inappropriate. (Tr, p. 49). Based on those criteria, the appraiser selected four properties for comparison, two being sales and two being active listings.

Mr. Allen described comparable one as 18 acres located near the interchange of University Drive and I-75 in Auburn Hills, near the campus of Oakland University and just north of Chrysler's world headquarters. (Tr, p. 53). Mr. Allen testified that the purchaser, U.S. Farathane, acquired the property for research and development after the Michigan Economic Development Corporation provided significant tax incentives to remain in Michigan. (Tr, p. 52). The comparable sale occurred in April of 2010 and indicates an unadjusted sale price of roughly \$110,000 per acre. That rate, based on comparative size, location and functional utility differences, was adjusted downward to a conclusion of approximately \$30,000 per acre.

Petitioner's comparable two is located on M-15, north of I-69 in Davison, which the appraiser identified as a suburb of Flint, in Genesee County. (Tr, pp. 61- 62). Mr. Allen described Petitioner's comparable two as being located in a "developing area" that includes "some . . . retail, some industrial uses, and . . . still a number of

vacant land parcels available.” (Tr, p. 61). The parcel, although including some wetlands, was described as mostly buildable and is listed as 21.26 acres. Petitioner’s comparable two sold in September of 2008 for \$405,000. The unadjusted sales price equates to roughly \$19,000 per acre. The appraiser adjusted downward for market conditions and size and upward based on location and functional utility, to arrive at a value of approximately \$29,000 per acre.

Mr. Allen testified that comparable three, a current listing as of the valuation date, is located west of the subject property on Ecorse Road, “about a mile and a half from the I-275 interchange.” (Tr, p. 63). The comparable property is described in P -1 as consisting of 38.89 acres and is listed for \$1,265,000, or roughly \$32,000 per acre. Mr. Allen testified that the property was first listed in October of 2008 and has been actively marketed for “about eight hundred and fifty days” by broker Colliers International. (Tr, p. 66). Mr. Allen indicated that, during that time period, there was “virtually no activity on the listing” in terms of offers to buy. The listing was adjusted downward for conditions of sale and upward based on size and functional utility to arrive at a value of approximately \$29,000 per acre.

Mr. Allen described comparable four, also a current listing as of the valuation date, as located on Wayne Road near Wick Road and roughly one half mile from I-94. (Tr, pp. 69-70). The property consists of 50.54 acres with the same zoning as the subject property. Mr. Allen found comparable listing four to be superior to the subject property in terms of frontage, access and proximity to existing retail development. (Tr, p. 71).

Listing comparable four has been marketed for “approximately nine hundred and fifty days” by a broker, Friedman Real Estate Group, with the same asking price throughout. (Tr, pp. 72, 75). The marketing efforts include advertisement of the fact that the property is currently bank-owned and that “preferential . . . or advantageous financing” is available. (Tr, p. 76). Like Petitioner’s comparable three, there were no known offers to buy during the relevant time period for comparable four.

The asking price for comparable four, first listed in July of 2008, is roughly \$58,000 per acre. The appraiser adjusted downward for being a listing and downward for location and functional utility. An upward adjustment was made based on size. Mr. Allen arrived at an adjusted value of approximately \$27,500 per acre.

Petitioner's expert testified that, with regard to sale two, there was a downward adjustment based on the date of sale. Likewise, comparable listings three and four were adjusted downward by 30% for the "big discount" from the list price that the sellers would presumably take "in order to get the property sold." (Tr, p. 79). Mr. Allen testified that the resulting total gross adjustments for comparables three and four were 56% and 75%, respectively. The adjusted prices per acre, as converted from the calculated price per square foot, range from approximately \$27,500 to \$30,000. Mr. Allen's ultimate value per acre, again as converted from his per square foot calculation, is \$29,185.

During cross-examination by Respondent's attorney, Mr. Allen testified that in recent years a Hampton Inn and a Spring Hill Suites were built near the subject property, on Smith and Merriman Roads, respectively, and that a parking structure had also been built on property abutting the subject.

#### RESPONDENT'S CONTENTIONS

Respondent contends that the subject property is assessed in excess of 50% of its true cash value for the 2010 tax year. Respondent contends that its revised 2010 true cash, assessed and taxable values are supported by its appraisal report.

Respondent's expert considered the income, sales comparison and, cost approaches to value and utilized the sales comparison approach to arrive at his concluded true cash value for the tax year at issue. Respondent's expert relied on five sales that he deemed comparable to the subject property.

In support of its position Respondent presented one witness, David Burgoyne, ASA, SR/WA, together with 5 exhibits, which were admitted.

Respondent's Exhibits are as follows:

R-1 Summary Real Estate Appraisal Report as of December 31, 2007, December 31, 2008, and December 31, 2009.

R-3 Aerial photograph of the area surrounding the subject property.

R-4 Aerial photograph of Respondent's comparable 1.

R-5 Aerial photograph of Respondent's comparable 2.

R-9 Romulus Zoning Map.

Respondent's Witness:

David Burgoyne, ASA, SR/WA, was qualified as an expert in the valuation of real property and testified in support of the Appraisal he prepared (R-1), which concluded to a true cash value of \$2,750,000 as of December 31, 2009.

Mr. Burgoyne considered all three approaches to value but utilized only the sales comparison approach in reaching his final value conclusion.

Mr. Burgoyne testified that his appraisal included an inspection of the subject property. The appraiser described the subject property as north of I-94 "about a mile . . . from the interchange of I-94 and Vining Road." (Tr, p. 156). Mr. Burgoyne described somewhat recent developments in the area as including "two new hotels, one built in 2008 on Merriman Road and in 2010 the new Hampton Inn . . . one or two . . . parcels due east of the subject property." (Tr, pp. 156-7). Mr. Burgoyne testified that, during the relevant time period, "the economy . . . [was] obviously suffering somewhat" but that "there have been hotels . . . built, there's been the new Wal-Mart that was built on one of my comparables." (Tr, p. 161). The appraiser testified that, in terms of financial feasibility, "[t]here are things going on . . . there's no reason that financially it would be not feasible at some point to develop this property." (Tr, p. 161).

Mr. Burgoyne explained his sales comparison approach methodology and the five comparable sales he utilized. The appraiser searched for sales of "larger parcels with commercial or some sort of similar highest and best use" and attempted to limit the sales to locations "around the metropolitan area." (Tr, p. 164). The five sales selected are located in Washtenaw, Wayne, and Monroe counties. Mr. Burgoyne also noted that, based on the scope of the appeal as originally filed and annually amended by Petitioner, his sales were selected with the intent to cover a wider range of dates and larger amount of acreage than one parcel for one tax year. As a result, all of the sales required downward time and size adjustments.

Mr. Burgoyne described comparable one as a "larger parcel with the same sort of commercial potential . . .," zoning and access as the subject property. (Tr, p. 168). The appraiser testified that the original adjustments for size, given the amount of acreage now at issue, would be revised in the opposite direction, being upward rather than the original downward adjustment. Comparable one was also adjusted

downward for superior freeway frontage and inferior commercial development in the surrounding area. The sale was adjusted upward based on zoning and costs associated with adding water and sewer. The property sold on August 23, 2006, for \$84,300 per acre. After adjustments, Respondent's comparable one reflects a value of \$95,000 per acre.

Mr. Burgoyne testified that comparable two is "located in the vicinity of Cabela's at U.S. 23, at the Dundee intersection . . . along M-50 and Cabela's Boulevard." (Tr, p. 171). The appraiser testified that the property was selected, despite its location further from the subject property than the other sales, because he "viewed the draw of Cabela's as being not unlike that of the airport, in the sense that they're both sort of singular destination locations of which there are really no equals." (Tr, p. 171). A downward adjustment was made for size and a combined downward adjustment was applied for access, exposure and frontage. Comparable two sold on February 2, 2007 at a price per acre of \$130,000. After adjustments, Mr. Burgoyne arrived at a per acre value of \$60,000.

Mr. Burgoyne testified that his comparable sale three is located in Canton Township, "three or four exits to the west of the subject property" and "a little more than a mile north of the freeway." (Tr, p. 173). The sale occurred on August 27, 2007 and reflects an unadjusted price per acre of \$183,800. Thereafter, a Wal-Mart store was built on the site. After adjusting downward for size, location and surrounding commercial development and upward for irregular shape, Mr. Burgoyne arrived at an adjusted price per acre of \$80,000.

Respondent's expert testified that comparable four is located on State Road in Pittsfield Township. Mr. Burgoyne testified that comparable 4 sold on March 5, 2008 and subsequently was developed "for a Fed Ex distribution facility." (Tr, p. 177). The sale price reflects a per acre price of \$90,500. Mr. Burgoyne testified that the property is zoned for light industrial use but was included because of its size and the date of the sale. (Tr, p. 177). The property was adjusted downward based on size and was also given "substantial downward adjustment . . . because . . . there is substantial commercial development down on Michigan Avenue." (Tr, p. 178). The property was adjusted upward for exposure and inferior zoning. The adjusted sales price reflects a value of \$60,000 per acre.

Mr. Burgoyne testified that comparable five is located on Beck Road just north of Michigan Avenue. The appraisal indicates that the property is located in Canton Township. Mr. Burgoyne testified that the property was adjusted downward for

size, access and exposure, and surrounding commercial influence because “the area is more built up” than the subject property’s surrounding area. (Tr, p. 179). Comparable five was adjusted upward for inferior zoning. The property sold on September 2, 2008 and indicates an unadjusted sales price of \$123,300 per acre. As adjusted, Mr. Burgoyne arrived at a value of \$80,000 per acre.

Mr. Burgoyne provided testimony regarding Petitioner’s appraisal as well. Specifically, Mr. Burgoyne noted that listings are less reliable than sales because of the variables associated with listings. Mr. Burgoyne also referenced inconsistencies in asking prices and testified that, without any evidence of offers and subsequent counteroffers or rejections, it is difficult to rely on listings.

Mr. Burgoyne testified that both of Petitioner’s cited listings “are inferior to the subject property.” (Tr, p. 187). Respondent’s expert also testified that Petitioner’s listing comparable three is “improperly analyzed” because “a ten-acre conservation easement” exists which “means that it’s actually ten acres smaller” than the listed acreage. (Tr, p. 187). This change in acreage “would make the unit rate for available land actually be like twenty-five or thirty percent higher than quoted by [Petitioner’s appraiser].” (Tr, p. 187). Mr. Burgoyne also expressed zoning and development limitations for Petitioner’s comparable listing four that were not, in his opinion, properly accounted for.

In response to cross-examination by Petitioner’s counsel, Mr. Burgoyne indicated that his comparable four, purchased and later improved with facilities for Federal Express, includes uses which the subject property’s zoning does not allow.

## **FINDINGS OF FACT**

The Tribunal, having considered all of the documentary evidence and testimony which the Tribunal finds to be credible and believable, and based upon the record before it, finds:

The property at issue, parcel no. 80-038-99-0002-701, is located near the intersection of Smith and Venoy Roads and within the City of Romulus, Wayne County, Michigan. The subject property is directly accessible from a paved boulevard with a landscaped median, has access to water and sewer services at the road and is situated just north of Interstate 94 between the Vining and Merriman Road exits. The predominate market influence is Detroit Metropolitan Wayne

County Airport, which is located just south of Interstate 94, within roughly one mile of the subject property by road.

The subject property is unimproved real property zoned RC, Regional Center, for the tax year at issue. The parties have stipulated that the total acreage is 36.44 acres. At all relevant times and as of the date of the hearing, the subject property's 36.44 acres have been used exclusively for agricultural purposes.

The level of assessment for the tax year under appeal is 50% and the equalization factor is one (1).

The Tribunal finds that Petitioner's comparable sale two is neither proximal to the subject property nor located within the cited Detroit MSA. Petitioner's comparable two is not subject to the same or similar external influences as the subject property, specifically Detroit Metro Airport. Petitioner's comparable one required net adjustments of nearly 75% and is found to be an unpersuasive indicator of value.

The Tribunal finds that Petitioner's two listings have been openly marketed by a broker since at least 2008. The same listing price has been in effect for Petitioner's listings comparables three and four since the original listing dates. As of the date of the hearing, there were no known offers for either listing. Petitioner's comparable listings three and four are offered for \$32,670 and \$58,370 per acre, respectively. Both parties' experts testified that a ten acre conservation easement exists on comparable listing three.

The Tribunal finds that, given the evidence presented in this case, sales occurring prior to 2008 would require significant time adjustments for market conditions. Respondent's comparable one, having sold on August 23, 2006, is too far removed from December 31, 2009 to be considered the most reliable indicator of true cash value. Further, the per acre sale price of Respondent's comparable sale one, as adjusted to \$95,000, falls well outside the \$60,000 - \$80,000 per acre range of the remaining sales.

#### APPLICABLE 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, as equalized, and that beginning in 1995, the taxable value is

limited by statutorily determined general price increases, adjusted for additions and losses.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law...The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%...; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred. When ownership of the parcel of property is transferred as defined by law, the parcel shall be assessed at the applicable proportion of current true cash value. Const 1963, Art IX, Sec 3.

MCL 211.27a (2) provides, in pertinent part:

(2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

- (a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.
- (b) The property's current state equalized valuation.

The Michigan Legislature has defined "true cash value" to mean "the usual selling price."

As used in this act, "cash value" means the usual selling price at the place where the property to which the term is applied is at the time of

assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

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

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735 (1); MSA 7.650 (35)(1). The Tribunal’s factual findings are to be supported by competent, material, and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.” (Citations omitted) *Jones and Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

“The petitioner has the burden of establishing the true cash value of the property....” MCL 205.737 (3); MSA 7.650 (37)(3). “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party.” *Jones and Laughlin* at 354-355, citing: *Kar v Hogan*, 399 Mich 529, 539-540; 251 NW2d 77 (1976); *Holy Spirit Ass’n for the Unification of World Christianity v Dep’t of Treasury*, 131 Mich App 743, 752; 347 NW2d 707 (1984).

“There are three traditional methods of determining true cash value, or fair market value, which have been found acceptable and reliable by the Tax Tribunal and the courts. They are: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the capitalization-of-income approach.” *Meadowlanes Limited Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Antisdale* at 276-277, n 1. The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, at 276, n 1. “Variations of these approaches and entirely new methods may be useful if found to be accurate and reasonably related to the fair market value of the subject property.” *Meadowlanes*, at 485, referencing *Antisdale* at 277, n 1. “It is the duty of the Tribunal to select the approach which provides the most accurate valuation under the circumstances

of the individual case.” *Antisdale* at 277, citing *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968).

Under MCL 205.737(1); MSA 7.650 (37)(1), the Tribunal must find a property’s true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal may not automatically accept a respondent’s assessment but must make its own findings of fact and arrive at a legally supportable true cash value. *Pinelake Housing Cooperative v Ann Arbor*, 159 Mich App 208, 220; 406 NW2d 832 (1987); *Consolidated Aluminum Corp v Richmond Twp*, 88 Mich App 229, 232-233; 276 NW2d 566 (1979).

The Tribunal is not bound to accept either of the parties’ theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). The Tribunal may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination. *Meadowlanes* at 485-486; *Wolverine Tower Associates v City of Ann Arbor*, 96 Mich App 780; 293 NW2d 669 (1980). A similar position is stated in *Tatham v City of Birmingham*, 119 Mich App 583, 597; 326 NW2d 568 (1982): “The Tax Tribunal is not required to accept the valuation figure advanced by the taxpayer, the valuation figure advanced by the assessing unit, or some figure in between these two. It may reject both the taxpayer’s and assessing unit’s approaches.”

### CONCLUSIONS OF LAW

The Tribunal concludes, as did both parties’ experts, that the original assessment for the 2010 tax year overstates the subject property’s true cash value.

The only question remaining before the Tribunal is: what is the true cash value of the subject parcel for the 2010 tax year? In answering this question, the Tribunal must consider the testimony and evidence presented by the parties and determine which evidence, if any, is most reliable.

The Tribunal has reviewed and considered the sales comparison approaches, the comparables utilized and the methodologies employed by the experts. Petitioner’s comparables were set forth in P-1, p. 50 and included four properties, two being sales and two being listings. Petitioner’s comparable one required adjustments of nearly 75%, primarily based on location and functional utility. There were also references to tax incentives to the purchaser that may have played a factor, albeit

indirectly, in the transaction. This was largely undeveloped. Regardless, the expert's value conclusion is based on a reduction in the per acre sale price from roughly \$110,000 to \$30,000. This is substantial and the result is unreliable.

Petitioner's comparable two is not located near the subject property and does not share common market influences. Specifically, there was no indication that rural acreage in Genesee County has any surrounding influence that may be compared to a major international airport. The Tribunal is unconvinced of the similarity of Petitioner's comparable sales to the subject property.

Respondent's comparable sales analysis, as set forth in R-1, p. 29, included five properties that sold between August 23, 2006 and September 2, 2008. Petitioner's sales occurring in 2006 and 2007 are found to be less reliable given the substantial changes in market conditions. This is evidenced by adjustments of 25% to 35% for date of sale alone. Respondent's remaining sales, comparables four and five, are further from the subject property than Petitioner's listings. Further, Respondent's comparable sales four and five have different zoning than the subject property. As a whole, Respondent's comparable sales analysis relies on older sales and properties further from the subject property than does Petitioner's.

The Tribunal is left with Petitioner's comparable listing data, which does provide evidence of openly marketed property with, in the case of listing four, the same zoning and general location based influences. Listings three and four are sufficiently similar in size to the subject property. Prior to adjustments, these listings present the best indicators of an upper limit to the subject property's true cash value.

However, as noted by both experts, Petitioner's comparable listing three is subject to an easement affecting ten acres of the reported 38.89 acres. Petitioner's expert testified that a portion of that acreage could or would be used for "retention," while Respondent's expert testified that any retention project would require far less than ten acres. The easement must be accounted for in establishing a sales price, and given that neither party clearly established what portion would likely be used for retention, the Tribunal finds that the entire ten acres should be adjusted from the useable acreage. This is not unreasonable given that any future development would necessitate building around the existing easement. Correcting for the easement, the unadjusted upper limit, expressed as a range, is \$45,000 – \$58,000 per acre.

Applying Petitioner's remaining adjustments of .7 for conditions of sale and 1.26 combined for size, location and functional utility, comparable listing three produces a per acre value of roughly \$39,000. Overall, Petitioner's listing comparable three is closest to the subject property in size, even after consideration of the easement, and location, and represents the most reliable indicator of value for the 2010 tax year.

The Tribunal concludes that the subject property's true cash value for the 2010 tax year is \$39,000 per acre. The resulting 2010 total true cash value for the 36.44 acres is \$1,420,000, the basis for which is set forth above.

### JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax years at issue shall be as set forth in the *Final Values* section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that Petitioner's request for costs is DENIED.

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 as required by the Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final

Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 1995, at a rate of 6.55% for calendar year 1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a rate of 6.04% for calendar year 1998, (iv) after December 31, 1998, at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999, at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000, at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001, at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003, at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004, at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008 at the rate of 3.315 for calendar year 2009, (xv), after December 31, 2009, at the rate of 1.23% for calendar year 2010, and (xvi) after December 31, 2010, at the rate of 1.12% for calendar year 2011.

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

MICHIGAN TAX TRIBUNAL

Entered: May 6, 2011

By: Kimbal R. Smith III, Tribunal Judge