

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

HJS Central Park Apartments, LLC d/b/a Central Park Apartments,
Petitioner,

v

MTT Docket No. 373905

City of Detroit,
Respondent.

Tribunal Judge Presiding
Preeti Gadola

FINAL OPINION AND JUDGMENT

Introduction

Petitioner, HJS Central Park Apartments, LLC d/b/a Central Park Apartments, appeals the ad valorem property tax assessment levied by Respondent, City of Detroit, against the real property owned by Petitioner for the 2009-2012 tax years (parcel number: 07001962). The property under appeal consists of multi-family residential dwellings (apartment buildings) located at 631 Orleans in the city of Detroit, Michigan. Petitioner was represented by Herbert Strather and Respondent was represented by Kevin Richard, attorney. Mr. Strather testified on Petitioner's behalf and Respondent presented no witnesses. The hearing of this matter occurred on November 27, 2012.

Respondent, City of Detroit, assessed the property as follows:

Parcel Number: 07001962

Year	TCV	SEV	TV
2009	\$1,586,782	\$793,391	\$635,246
2010	\$1,586,782	\$793,391	\$633,340
2011	\$1,507,442	\$753,721	\$644,106
2012	\$1,473,374	\$736,687	\$661,496

Petitioner's contentions of true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV") for the tax years in question are as follows:

Parcel Number: 07001962

Year	TCV	SEV	TV
2009	\$660,000	\$330,000	\$330,000
2010	\$620,000	\$310,000	\$310,000
2011	\$630,000	\$315,000	\$315,000
2012	\$630,000	\$315,000	\$315,000

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

Parcel Number: 07001962

Year	TCV	SEV	TV
2009	\$1,586,782	\$793,391	\$635,246
2010	\$1,586,782	\$793,391	\$633,340
2011	\$1,507,442	\$753,721	\$644,106
2012	\$1,473,374	\$736,687	\$661,496

PETITIONER'S ADMITTED EXHIBITS

Petitioner did not submit any exhibits.

PETITIONER'S WITNESS

Herbert Strather

Mr. Strather testified that he sold the subject property in 2002 to a basketball player who went to jail and later died. Mr. Strather testified that the basketball player did not do a good job of managing the property and Mr. Strather reacquired it by a deed in lieu of foreclosure in 2006. Mr. Strather testified that the property apartments were poorly constructed and that it would cost \$50,000 per unit to fix them up to be rented, which is more than the property is worth. He further testified that “the Building Safety and Engineering Department” (Transcript, pp. 4-5) had ordered the building to be shut down completely; however he was able to keep it open by shoring it up with two-by-eights. (Transcript, p. 5) He testified that he has applied for financing from the Michigan State Housing Development Authority (“MSHDA”) in order to reestablish the value of the building; however, he had not yet received any money at the time of the hearing.

RESPONDENT'S ADMITTED EXHIBITS

R-1 Excerpt of the subject property on the tax roll

R-2 Property Record Cards of the subject property listing its value as of 2010-2013.

R-3 Valuation Report of the subject property for 2013

RESPONDENT'S WITNESS

Respondent did not present any witnesses.

FINDINGS OF FACT

1. The subject property (parcel number: 07001962) consists of multi-family residential dwellings (apartment buildings) located at 631 Orleans in the city of Detroit, Michigan.
2. The subject property is classified as commercial, real and was built in 1963.
3. The subject property building is assessed at 44% good and has an effective age of 48 years old.
4. Petitioner did not provide any documentary evidence regarding its cost to cure the subject property.

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. See MCL 211.27(a).

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not...exceed 50%....
Const 1963, art 9, sec 3.

The Michigan Legislature has defined "true cash value" to mean:

...the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. MCL 211.27(1); MSA 7.27(1).

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

Under MCL 205.737(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. See *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept either of the parties' theories of valuation. See *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378; NW2d 590 (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. See *Meadowlanes Ltd. Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 485-486; 473 NW2d 636 (1991).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735a(2). The Tribunal's factual findings are to be supported by competent, material, and substantial evidence. See *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; 462 NW2d 765 (1990). "Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence," *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

"The petitioner has the burden of establishing the true cash value of the property." MCL 205.737(3). "This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party." *Jones & Laughlin* at 354-355. However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question." MCL 205.735(3).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. See *Meadowlanes* at 484-485; *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the

balance of supply and demand for property in marketplace trading. See *Antisdale*.

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. See *Antisdale*, at 277.

Respondent presented no witnesses or testimony regarding the 2009-2012 fair market values of the subject property. It did, however, enter three exhibits into the record: R-1, an excerpt of the tax roll presenting “MBOR Assessed,” state equalized and taxable values for the property. R-2 consisted of record cards listing the 2010-2013 values of the subject property, and R-3 was the valuation report for the subject property. Petitioner did not enter any exhibits into the record. Mr. Strather testified that the subject property was dilapidated and it would cost approximately \$50,000 per unit to return the property into rentable apartments.

Mr. Strather did not present any evidence supporting Petitioner’s estimated cost to cure the subject property units. He did not enter any sales comparables into the record, and the subject property has not itself sold. There was no evidence regarding how the “shoring up of the property” (Transcript, p.5) resulted in a value determination by Petitioner of over \$600,000 for the tax years in question.

The Tribunal is required to make an independent determination of the market value of the property using the best evidence of value presented to it. Respondent has provided property record cards and valuation reports (R-2 and R-3) that demonstrate a percentage good of the property of 44% and an effective age of 48 years. The percentage good and effective age corroborate Mr. Strather's testimony that the property buildings are dilapidated, old, and require repair. The Tribunal has carefully reviewed the property record cards and valuation statement for the subject property and has determined that they are the best evidence presented with regard to making its independent determination of the fair market value of the property for the tax years in question. In this matter, the Tribunal concludes that the evidence and testimony indicate that the subject property is properly assessed at 50% of its market value.

JUDGMENT

The subject property's true cash value (TCV), state equalized value (SEV), and taxable value (TV) for the 2009-2012 tax years are as stated in the Introduction section above.

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 value as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

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

Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2008, at the rate of 3.31% for calendar year 2009, ii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (iii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iv) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012; (v) after June 30, 2012 and prior to January 1, 2013, at the rate of 4.25%; and (vi) after December 31, 2012, and prior to July 1, 2013, at the rate of 4.25%.

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

MICHIGAN TAX TRIBUNAL

By: Preeti Gadola

Entered: January 14, 2013