

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

Bomarko, Inc,  
Petitioner,

v

MTT Docket No. 390634

City of Grand Rapids,  
Respondent.

Tribunal Judge Presiding  
Marcus L. Abood

**OPINION AND JUDGMENT**

Petitioner, Bomarko, Inc, appeals the ad valorem property tax assessment levied by Respondent, City of Grand Rapids, against the real property owned by Petitioner for the 2010, 2011, and 2012 tax years.

A hearing was held on October 29, 2012, to resolve the real property tax dispute. Scott J. Steiner, attorney, at Rhoades Mckee, P.C., appeared on behalf of Petitioner. Ta-Tanisha Manson, attorney, appeared on behalf of Respondent. Todd Schaal was Petitioner's valuation witness. William Bassford was Respondent's valuation witness.

SUMMARY OF JUDGMENT

The subject property's 2009, 2010, and 2011 True Cash Values (TCVs), Assessed Values (AVs), and Taxable Values (TVs) as determined by Respondent are:

Parcel Number	Year	TCV	AV	TV
41-14-22-400-055	2010	\$2,021,800	\$2,021,800	\$2,021,800
	2011	\$1,900,000	\$1,900,000	\$1,900,000
	2012	\$1,833,000	\$1,833,000	\$1,833,000

Respondent's revised contentions of the property's True Cash Value (TCV), SEV, and TV:

Parcel Number	Year	TCV	SEV	TV
41-14-22-400-055	2010	\$1,175,000	\$ 587,500	\$ 587,500
	2011	\$1,175,000	\$ 587,500	\$ 587,500
	2012	\$1,175,000	\$ 587,500	\$ 587,500

Petitioner's contentions of the property's True Cash Value (TCV), SEV, and TV:

Parcel Number	Year	TCV	SEV	TV
41-14-22-400-055	2010	\$ 755,000	\$ 377,500	\$ 377,500
	2011	\$ 680,000	\$ 340,000	\$ 340,000
	2012	\$ 670,000	\$ 335,000	\$ 335,000

The Tribunal's conclusions are:

Parcel Number	Year	TCV	SEV	TV
41-14-22-400-055	2010	\$1,150,000	\$ 575,000	\$ 575,000
	2011	\$1,045,000	\$ 522,500	\$ 522,500
	2012	\$ 993,000	\$ 496,500	\$ 496,500

### GENERAL PROPERTY DESCRIPTION

The subject property is known as Bomarko Inc., and is located at 640 Leffingwell Avenue NE, City of Grand Rapids, Kent County, Michigan. The gross building area is 52,256 square feet. The subject site is comprised of 29.48 acres. It is classified as an industrial building.

### SUMMARY OF PETITIONER'S CASE

Petitioner presented testimony from its appraiser, Todd Schaal. Mr. Schaal has appraised a variety of office, retail, and industrial buildings. He has been a real estate appraiser since 1984. In addition to being a certified general real estate appraiser, Mr. Schaal has several designations and accreditations. He has given expert testimony in various courts in the state of Michigan. Based on his education and experience, the Tribunal accepted Mr. Schaal as an expert appraiser.

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

P-1: Schaal Appraisal Report.

Mr. Schaal described the subject property and improvements. The subject is located on a larger acreage parcel within the city of Grand Rapids. He walked the property noting several ponds, lowland, and wetlands. The subject building has 42 foot ceiling heights. This characteristic has a significant impact on the

marketability and appeal of the subject property. He described a variety of interior and exterior photographs taken of the subject property. He went on to describe and analyze the market conditions for the relevant tax years. (TR, pp 22-24) Market studies developed by W.E. Upjohn and Collier's International were also included in Mr. Schaal's appraisal report.

Mr. Schaal considered the sales comparison, income, and cost approaches to value in his appraisal report. The cost approach was deemed inapplicable for its lack of relevancy and was not needed for credible results. (Petitioner's Exhibit, P-1, p 8) Measuring depreciation in older buildings is very difficult. Therefore, this approach was not developed. The sales and income approaches to values were developed and analyzed to arrive at conclusions of value.

Mr. Schaal developed and communicated an income approach to value. He testified to the main elements of this approach. (TR, pp 26-28) Rental data was analyzed and adjusted for the differences in ceiling height, location, number of loading docks, overhead doors, office space ratios, etc. He presented a rental analysis of four comparable leases for the 2009 valuation. The unadjusted rental rates range from \$3.95 to \$3.55. Downward adjustments were made to all four rental comparables. The adjusted rental rates range from \$2.10 to \$2.40. The concluded rental rate for the subject property is \$2.25 per square foot. A similar rental analysis was conducted for the 2010 valuation. Four comparable rentals

with an unadjusted rental rate range of \$2.35 to \$3.55 were analyzed. Downward adjustments resulted in a concluded rent of \$1.90 for the subject property. The rental data for the 2011 valuation included five leases between \$2.35 and \$2.79. Downward adjustments were made to all five rental comparables. The concluded 2011 rental rate for the subject property is \$1.85.

The next step in the income approach was to determine the vacancy and credit loss. From the market analysis, Mr. Schaal determines an overall market occupancy of 80% and a vacancy of 20%. He relied on a review of typical lease terms, conversations with real estate brokers, and competing market data to conclude to a 20% vacancy and credit loss for each year.

Mr. Schaal then calculated gross income from the rental rate per square foot. Vacancy and credit losses were deducted for an effective gross income; operating expenses were deducted to equal the net operating income (NOI). Mr. Schaal considered capitalization rates from extracted sales, band-of-investment, and industry surveys. His decision for the overall capitalization rate (OAR) was 11.98%, 12.23%, and 12.48%, respectively, for the three years under appeal.

After capitalizing the NOI, Mr. Schaal arrives at indications of true cash value of \$650,000 as of December 31, 2009; \$520,000 as of December 31, 2010; and \$500,000 as of December 31, 2011.

Mr. Schaal developed and communicated an opinion of value from the sales comparison approach for the subject property. Sales data of industrial properties was analyzed. Five comparable sales were analyzed for each year under appeal. The comparable sales data indicates variations in location, size, and age, and dissimilarities in market conditions. All of the comparables are located in west Michigan. The subject property is located in the Grand Rapids Metropolitan Statistical Area (“MSA”). There was sufficient data within west Michigan for comparison analysis. Write-ups and photographs of each comparable sale are included in the appraisal report.

Mr. Schaal stated that a significant factor to consider in this comparison analysis is ceiling height. The subject has 42 foot ceiling heights which are not typical in this real estate market.

For the 2010 valuation, Comparables 1, 3, 4, and 5 are considered to be the most similar to the subject. Other sales were reviewed but not utilized in this analysis. (Petitioner’s Exhibit, P-1, p 45) The concluded price per square foot is \$16.50 or a value of \$860,000.

Sale #	1	2	3	4	5
Location	Kentwood	Cascade Twp	Grand Rapids	Grand Rapids	Grand Rapids
Sale Date	June-09	Dec-08	Sept-08	April-08	July-07
Square Feet	60,434	45,950	50,000	48,001	26,048
Ceiling height	29 feet	20 feet	24 feet	20 feet	18 feet
Sale Price	\$1,350,000	\$1,000,000	\$1,040,000	\$1,050,000	\$835,000
SP/SF	\$22.34	\$21.76	\$20.80	\$21.87	\$32.06
Adj \$/SF (2010)	\$16.70	\$16.70	\$15.90	\$13.80	\$19.30

For the 2011 valuation, Comparables , 2, 3, and 5 were given the greatest weight. Other sales were reviewed but not utilized in this analysis. The concluded price per square foot is \$16.00 or a value of \$835,000.

Sale #	1	2	3	4	5
Location	Cascade Twp.	Wyoming	Kentwood	Grand Rapids	Kentwood
Sale Date	Nov-10	June-10	June-10	Feb-10	June-09
Square Feet	30,000	53,272	34,060	25,214	60,434
Ceiling height	24 feet	22-26 ft	28 feet	31 feet	29 feet
Sale Price	\$483,349	\$1,375,000	\$850,000	\$650,000	\$1,350,000
SP/SF	\$16.11	\$25.81	\$24.96	\$25.78	\$22.34
Adj \$/SF (2011)	\$12.00	\$18.70	\$18.00	\$20.60	\$15.10

For the 2012 valuation, Comparables 1, 3, 4, and 5 were considered to be the most similar to the subject. Other sales were reviewed but not utilized in this analysis. The concluded price per square foot is \$16.00 or a value of \$835,000.

Sale #	1	2	3	4	5
Location	Wyoming	Cascade Twp	Cascade Twp	Wyoming	Wyoming
Sale Date	Nov-11	Sept-11	April-11	April-11	June-10
Square Feet	35,000	34,410	45,000	25,986	53,272
Ceiling height	20 feet	20 feet	20 feet	18 feet	22-26 ft
Sale Price	\$850,000	\$650,000	\$1,025,000	\$500,000	\$1,375,000
SP/SF	\$24.08	\$18.89	\$22.78	\$19.24	\$25.81
Adj \$/SF (2012)	\$17.40	\$11.30	\$17.10	\$12.70	\$16.80

Petitioner's reconciled values from its two approaches are \$775,000 for 2010, \$680,000 for 2011, and \$670,000 for 2012. Equal weight was given to both approaches; Mr. Schaal averaged the two approaches to arrive at his final conclusions of value.

#### SUMMARY OF RESPONDENT'S CASE

Respondent presented testimony from its appraiser, William A. Bassford. In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

R-1: Bassford Appraisal Report.

William A. Bassford developed and communicated an appraisal of the subject property. He is a commercial appraiser employed by the city of Grand Rapids for the past four years. The subject is a light industrial building with warehouse, office, and manufacturing. The building was constructed in 1971.

The highest and best of the subject property is “for an industrial user provided by the existing improvements.” (Respondent’s Exhibit, R-1, p 43)

Respondent considered all three approaches to value. The cost approach was not developed within the appraisal report.

Respondent developed and communicated a sales comparison approach to value. The analysis included six sales occurring between January, 2010, and December, 2011. The sales are industrial buildings within the Grand Rapids market area. The unadjusted sale prices range from \$22.78 to \$27.26 per square foot. The adjusted sale prices per square foot range from \$21.14 to \$23.01.

The sales were analyzed for difference in ceiling height, age/condition, quality of construction, office space, and location. None of the six comparable sales required a market conditions adjustment. “The comparables took place over a two year period and the indicated values stayed pretty consistent during that time frame.” (Respondent’s Exhibit, R-1, p 65) The concluded price per square foot is \$22.50 or a value of \$1,175,000 for each year under appeal.

Sale #	1	2	3	4	5	6
Location	Grand Rapids	Grandville	Cascade	Wyoming	Kentwood	Walker
Sale Date	Feb-10	Sept-11	April-11	Dec-11	June-10	Jan-10
Square Feet	25,215	60,000	45,000	35,300	31,180	31,120
Ceiling height	8-31 feet	27 feet	20 feet	20 feet	28 feet	27 feet
Sale Price	\$650,000	\$1,560,000	\$1,025,000	\$850,000	\$850,000	\$825,000
SP/SF	\$25.78	\$26.00	\$22.78	\$24.08	\$27.26	\$26.51
Adj \$/SF	\$21.14	\$22.10	\$23.01	\$22.88	\$22.63	\$17.50

Respondent's income approach begins with an analysis of market rent comparables. Six comparables are analyzed for the three years under appeal. The rentals range in price per square foot of \$2.50 to \$3.50. The strengths and weaknesses of each vacant sale were considered by Mr. Bassford. The rent per square foot was concluded near the middle of the range at \$2.90. This unit of comparison was then multiplied by the subject's 52,256 square feet to arrive at a potential gross rent of \$151,542 for each year.

Respondent then derives a vacancy rate for the subject property to arrive at an effective gross income. Operating expenses are determined which results in a net operating income for the subject property. The last component in the income methodology is the capitalization rate. National surveys were reviewed (Respondent's Exhibit, R-1, p 74) and Respondent concludes to a capitalization rate of 10% for each year. Mr. Bassford notes that capitalization rates for industrial buildings tend to increase with the age of the property.

Respondent's indication of value from the income approach is \$1,165,000. (Respondent's Exhibit, R-1, p 74) Mr. Bassford concludes to the same value for the income approach for all three years. "In reviewing rental rates for the past few years indicated by expense comparables, it does not appear that there is a significant amount of change in that time period. The value conclusion for

December 31, 2009 is considered to be representative of the values for December 31, 2010, and December 31, 2011.” (Respondent’s Exhibit, R-1, p 75)

Respondent’s reconciled values from its two approaches are \$1,750,000 for 2010, \$1,175,000 for 2011, and \$1,175,000 for 2012. Primary weight was given to the sales comparison approach.

### FINDINGS OF FACT

1. Subject property is located at 640 Leffingwell Avenue, NE, City of Grand Rapids, Kent, County, Michigan.
2. Subject building was constructed in 1971.
3. Subject building has 52,256 square feet.
4. Subject building has a ceiling height of 42 feet.
5. Subject property has a total of 29.48 acres.
6. Subject property is zoned SD-IT (Industrial Transportation) and SD-NOS (Neighborhood Office Service).
7. Subject property is an owner-occupied, warehouse building.
8. Both parties have furnished valuation disclosures in the form of appraisal reports.
9. Both parties have appraised the subject property as a fee simple interest.
10. The highest and best use of the subject property is for an industrial user based on the existing improvements.
11. Both appraisers agree that the subject is not an investor property. (TR, p 86)
12. Petitioner’s sales and rental comparables are all adjusted downward. In other words, the data is skewed; no comparables were adjusted upward to the subject.
13. Respondent’s appraiser is an employee of the city of Grand Rapids. Mr. Bassford has a fiduciary relationship with the city of Grand Rapids.
14. Respondent admits to a significant time constraint in completing the appraisal of the subject property.
15. Respondent shows the same value for all three years for the sales comparison approach.
16. Respondent indicates the same value for all three years for the income approach.
17. Petitioner’s appraiser alleges that the subject’s 42 foot ceiling height is a detriment.

18. Respondent's appraiser alleges that the subject's 42 foot ceiling height is a benefit.
19. Petitioner was unable to articulate the data trend of sale prices to ceiling height in its sales comparison grid.
20. Respondent did not show evidence of a trend between an industrial building's age and a capitalization rate.
21. Petitioner's concluded vacancy rate of 20% in the income approach is substantially greater than the survey rates shown in its appraisal addendum.

### 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.

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).

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 must 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 Department 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. *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 risk 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.

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 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 Limited Dividend Housing Association v City of Holland*, 437 Mich 473, 485- 486; 473 NW2d 636 (1991).

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. *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 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. *Antisdale*, p277.

#### CONCLUSIONS OF LAW

Petitioner considered all three approaches to value, but only developed the sales and income approaches to value. Respondent considered all three approaches to value, but only developed the sales and income approaches to value in its appraisal report. The appraisers were charged with determining market value of the subject property for the three years under appeal.

Both appraisals lack certain elements of analysis, narration, and/or consistency. Petitioner's appraiser cites various appraisal authoritative sources that are outdated. (Petitioner's Exhibit, P-1, pp 7, 8, 52) Similarly, Respondent has relied on obsolete appraisal sources. (Respondent's Exhibit, R-1, pp 17, 42, 45,

66) The effect of outdated appraisal concepts, techniques, and methodologies can impact an appraiser's final opinion of value. As will be discussed further, both appraisers' actions give rise issues of credibility.

Petitioner's appraiser, Mr. Schaal testified that he knows his report intimately (TR, p 36) and that he knows the subject property intimately (TR, p 48) Additional testimony from Mr. Schaal suggests otherwise. For example, he testified that the subject property has 17 acres (TR, p 16); in fact, the subject site comprises 29.48 acres. Next, he claims to know all of the commercial brokers involved in the listing history for the subject property. Yet, no meaningful explanation was given for the absence of a detailed listing history in Mr. Schaal's appraisal report. (TR, p 43) Still further within his report, there is an interior photograph that is not part of the subject property. (Petitioner's Exhibit, P-1, Addendum, p 6) Mr. Schaal was unable to explain how this unrelated photograph was included in the subject appraisal report (TR, p 59)

The issue of Mr. Schaal's familiarity with his report goes further with the question of his comparables' inclusion of mezzanine space in square foot analysis. He states, "If we were aware of it, we would have included it." (TR, p 53) This does not convince the Tribunal that Mr. Schaal's analysis of mezzanine space (or any other element of comparison) is only relevant if he is aware of it. The axiom of out of sight, out of mind is not a reasonable justification in this instance. The

question of mezzanine space becomes more clouded by Mr. Schaal's additional statement, "If we were aware of it, we considered it." (TR, P 54) Some of Petitioner's comparable sales have mezzanine space and some do not. An appraiser may be aware of an item of comparison but the relevant issue is how that appraiser develops and communicates that item in an appraisal report. Mr. Schaal did not include the subject's mezzanine space in the gross building area or as a line-item in sales comparison grid analysis. Petitioner concludes that the subject does not have any office space; the omission of mezzanine space alleviates the need to consider office space in the subject building. The result is a significant downward adjustment to all of Petitioner's comparable sales for office ratio. Respondent contends that the subject's mezzanine space is suitable as office space. The Tribunal is unable to ascertain how Mr. Schaal analyzed the mezzanine square footage of the comparable sales data.

Next, Petitioner shows a lack of support for the ceiling height adjustment in its comparison grid analysis. All of Petitioner's comparable sales are adjusted downward to the subject for superior ceiling heights. When questioned about the relationship between the comparable sale prices and ceiling height, Petitioner's expert, Mr. Schaal was unable to articulate the trend. (TR, pp 64-66) Some of Petitioner's comparables appear to have greater sale prices for higher ceiling heights. Respondent's expert, Mr. Bassford testifies that industrial buildings with

higher ceiling heights do exist in the market. Moreover, he actually has older sales with higher ceiling heights but did not cite them in his report. (TR, p 90)

Respondent's refutation that the subject's higher ceiling height is not a detriment is plausible in light of Petitioner's inconsistent ceiling height adjustment.

Mr. Schaal was questioned about the value contribution of the locker room within the subject building. "Minimal, and it's inherent in the report. I saw it and I considered it, just like I saw everything else and considered everything else. It's inherent in my opinion of value conclusions." (TR, p 60) This thought of inherency is misguided on the part of Petitioner. On the one hand, Petitioner does disclose that locker rooms do exist in the subject building. (Petitioner's Exhibit, P-1, p 36) On the other hand, this acknowledged improvement resulting in Mr. Schaal's opinion of value conclusions overlooks any analytical narration. In other words, the mere mention of an improvement does not automatically result in a transcendental moment to a final opinion of value. The true connection of an improvement or characteristic of a property culminating in the opinion of value is the appraiser's analyses and narration. Otherwise, appraisal reports would resemble the archaic letter of opinion. Petitioner's catch-all phrase is another indication that it is not intimate with the appraisal report.

Petitioner's development of the sales comparison approach creates more questions than answers. As noted, Petitioner offers minimal support or rationale

for its ceiling height adjustment. The exclusion of mezzanine space for the subject results in a skewed effect from the adjusted comparable data. In total, all of Petitioner's comparable data is adjusted downward to the subject. There is no written or oral testimony why there is a lack of bracketing for the subject. In other words, Petitioner has no sales that adjust upward to the subject. The Tribunal is not convinced that absent ceiling heights, Petitioner is unable to find any comparable data that demonstrates upward adjustments. The Tribunal is unable to accept Petitioner's comparable analysis (adjustments) from its comparable data.

Petitioner's income approach to value sets forth various elements of analysis such as vacancy rates. All of the rental data is adjusted downward to arrive at averaged (rounded) rental rate per square foot. The technique of averaging adjusted rental rates is not meaningful. The reconciliation of approaches is similar to the reconciliation of rental and sales data. Reconciliation is an appraiser's opportunity to fill in gaps, and to prove overall logic and reasoning for the value conclusions. In this instance, Petitioner's data, even after adjustments, indicates a given range in adjusted sales prices. "Even when adjustments are supported by comparable data, the adjustment process and the values indicated reflect human judgment."<sup>1</sup> The strengths and weaknesses of each comparable rental are examined for reliability and appropriateness. Again, similar to the sales

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<sup>1</sup> Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13<sup>th</sup> ed, 2008), p 313

comparison approach, Petitioner's rental comparables are all adjusted downward. The issues of mezzanine space, office ratios, and ceiling heights are questionable. Petitioner has provided sufficient rental data for an income comparison but the manner of adjustments and reconciliation is not reasonable.

Further in the income approach, Mr. Schaal concludes to a vacancy rate of 20% for all three years under appeal. (Petitioner's Exhibit, P-1, p 62) The addendum portion of his report includes surveys from Grubb & Ellis, Collier's International, and the Grand Rapids Industrial Market that illustrate vacancy rates for the Grand Rapids market well below 20%. The disparity between these surveys and Mr. Schaal's concluded vacancy rates is not meaningful. Therefore, Petitioner's income approach to value is given no weight or consideration in the final determination of value.

There is little doubt that Mr. Schaal's involvement in his appraisal report is lacking. The unfamiliarity with his report is equally evident. The series of errors and contradictions significantly affect his opinions and conclusions. He testifies that he has complete control of his report and that only his secretary had incidental involvement in the report. (TR, p 77) Mr. Schaal's testimony contradicts the stated assistance of Matthew H. Johnson. (Petitioner's Exhibit, P-1, p 74)

Ultimately, the appraisers' are responsible for the content of their reports to create credible results. This is evident by their intent to convey valuation

disclosures in the form of summary appraisal reports. Further, both appraisers invoke professional standards and ethics to bolster credible appraisal results.

Respondent's eagerness to call upon appraisal standards is admirable but misplaced. Respondent's appraiser, Mr. Bassford is an employee for the city of Grand Rapids. The appraisal standards he invokes to be objective, impartial, and independent<sup>2</sup> are in direct conflict with his fiduciary relationship with the city. Mr. Bassford rendered an appraisal report on behalf of the city of Grand Rapids; he is unable to maintain a detached, arm's length position from his employer. In this regard, the Tribunal is not convinced that Respondent's intent is sufficient to satisfy the cornerstone of appraisal practice in maintaining public trust. The expectations when invoking appraisal standards and ethics far exceed Respondent's understanding of this type of obligation. Mr. Bassford admittedly was unable to comprehend his formal relationship to the municipality. (TR, p 119)

Respondent develops and communicates a sales comparison approach by using the same six comparable sales for each year under appeal. Further, Mr. Bassford concludes to the same opinion of value for each year. The premise that the market has been stable for these years does not coincide with narration in Mr. Bassford's appraisal report. He states, "Market conditions are highly recessionary at this time making it impossible to estimate with any degree of certainty how local

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<sup>2</sup> The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice*, (Chicago: 2012-13), p U-7

real estate market will perform in future periods immediately following this report.” (Respondent’s Exhibit, R-1, p 11) His market area analysis creates further contradictions. “Probably no other factor has impacted the Grand Rapids economy in recent years more than the job losses and plant closings in the manufacturing sectors of area industries.” (Respondent’s Exhibit, R-1, p 22) Respondent’s sales comparison approach is rendered in an abbreviated and consolidated fashion.

Respondent develops and communicates an income approach to value by using the same six rental comparables for each year under appeal. The result is the same rental rate of \$2.90 per square foot, the same vacancy rate of 10%, and the same capitalization rate of 10%. The end result is Mr. Bassford concludes to the same opinion of value for each year under appeal. Again, his conclusions do not parallel his analyses. For example, Collier’s International reports were reviewed for industrial absorption and vacancy rates. (Respondent’s Exhibit, R-1, p 29) However, information was only reviewed for the 2<sup>nd</sup> and 3<sup>rd</sup> quarters for 2011 showing relatively lower vacancy rates. No survey data was shown that coincides with the years under appeal. Retail and office vacancies in the Grand Rapids area were reported to be substantially larger. Next, Mr. Bassford acknowledges the lack of comparable sales to derive a supportable capitalization rate. In addition, various surveys were reviewed for the determination of a capitalization rate.

(Respondent's Exhibit, R-1, p 74) Since the subject is not an institutional grade property, Mr. Bassford states, "It's been the appraiser's experience to find that capitalization rates for industrial buildings tend to increase with the age of the property. Older buildings incur higher capitalization rates." (Respondent's Exhibit, R-1, p 75) Outside of this narrative statement, Mr. Bassford does not demonstrate any type of trend analysis to prove a correlation between a building's chronological age and a capitalization rate. Similar to the sales comparison approach, Respondent's income approach is boiled down to a less than meaningful fashion.

The Tribunal questions Respondent's explanation regarding the completion of its appraisal report in a shortened timeframe. Mr. Bassford admitted he was working under a very short timeframe to complete appraisal reports. (TR, p 87) An appraiser's obligation and commitment to complete an assignment must equate to credible results. An appraiser risks credible results by accepting a quick turnaround time. In this instance, Respondent has developed a set of comparable sales and comparable rentals for all three years. Each approach carries the same value indication for each year. Respondent's analyses contradict the thought of a stable market and accentuate Respondent appraiser's shortcuts and inability to understand appraisal standards and ethics. Respondent's time constraint in completing the appraisal assignment directly relates to his voluntary compliance

with professional standards and ethics in creating credible results.<sup>3</sup> Rushing to complete a report is not a legitimate excuse for having less than sufficient data for analysis. Duplicative data for the three years under appeal is unreasonable. Therefore, the Tribunal is unable to accept Respondent's opinions, analyses, and conclusions from its sales comparison and income approaches.

Each party places emphasis on the sales comparison approach to value. This approach to value is consistent with the parties' application of fee simple to the subject property. To this end, a comparative analysis combining the parties' sales data is warranted. Petitioner's sales comparison grids provide line-item adjustments, but without the benefit of sufficient market support or narration. Respondent goes through the sales individually and identifies the adjustments that were needed. The appraisers' adjustment grids indicate similarities and dissimilarities for the comparable data. What is absent are the appraisers' support and rationale for the adjustments found in the grids. An appraiser's analysis does not stop at the point of the adjustment. Following through with the source and reasoning for the adjustment solidifies a meaningful process.

The Tribunal is able to analyze the parties' combined comparable sales data in a qualitative methodology. A ranking analysis is "a qualitative technique for analyzing comparable sales; a variant of relative comparison analysis in which

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<sup>3</sup> The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice*, (Chicago: 2012-13), p U-14

comparable sales are ranked in descending or ascending order of desirability and each is analyzed to determine its position relative to the subject.”<sup>4</sup> The following grid analysis for each year illustrates differences with plus (+) and minus (-) denotations.

2010 QUALITATIVE ANALYSIS

Sale #	Resp 1	Resp 6	Pet 1	Pet 2	Pet 3	Pet 4
	1310 Scribner	2943 Wilson	3851 Model	3800 Patterson	3740 29 <sup>th</sup> St	2450 Oak Industrial
Sale Date	2/5/2010	1/8/2010	6/30/2009	12/5/2008	9/9/2008	4/7/2008
Location	-	+				
GBA	-	-				
Land/Bldg Ratio	+					
Age/Cond	-	-	-			
Off space	-	-	-	+		-
Ceiling Height				+	+	+
<b>Overall Rating</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Inferior</b>	<b>Inferior</b>	<b>Inferior</b>

For the 2010 comparative analysis, the Tribunal applies Petitioner’s sales 1, 2, 3, and 4; and Respondent’s sales 1 and 6. Respondent’s sales 2, 3, 4, and 5 are beyond the 12/31/2009 tax day. Respondent’s sales 1 and 6 are relatively close to tax day. Petitioner’s sale 5 is a much older sale occurring in July, 2007.

Respondent’s sales present an upper range for the subject property; these sales are adjusted downward to the subject. Petitioner’s sale 1 is also superior to the subject. Petitioner’s sales 2, 3, and 4 are inferior and are adjusted upward to the

<sup>4</sup> Appraisal Institute, *The Appraisal of Real Estate*, (Chicago: 13<sup>th</sup> ed, 2008), p 321

subject. However, Petitioner’s sales 2, 3, and 4 are older sales. Petitioner’s sale 1 has the fewest qualitative adjustments and is the closest to the tax day. The prices per square foot are ranked relative to the subject.

SUPERIOR	Respondent’s Sale 6	\$26.51/SF
SUPERIOR	Respondent’s Sale 1	\$25.78/SF
SUPERIOR	Petitioner’s Sale 1	\$22.34/SF
	SUBJECT	
INFERIOR	Petitioner’s Sale 4	\$21.87/SF
INFERIOR	Petitioner’s Sale 2	\$21.76/SF
INFERIOR	Petitioner’s Sale 3	\$20.80/SF

The overall comparative ranking analysis demonstrates bracketing for the value of the subject property. Therefore, a reasoned and reconciled price per square foot for the 2010 valuation is \$22.00 or calculated as \$1,149,632.

**2011 QUALITATIVE ANALYSIS**

For the 2011 comparative analysis, the Tribunal applies Petitioner’s comparables 1, 2, and 3, and Respondent’s sales 3 and 5.

Sale #	R1/P4	Resp 3	Resp 5	Resp 6	Pet 1	Pet 2	Pet 3	Pet 5
	1310 Scribner	5360 36 <sup>th</sup> St	3695 40 <sup>th</sup> St	2943 Wilson	4939 Starr	5801 Clay Ave	3695 44 <sup>th</sup> St	3851 Model
Sale Date	2/5/10	4/27/11	6/14/10	1/8/10	11/3/10	6/25/10	6/18/10	6/30/09
Location	-			+				
GBA	-		-	-	-		-	
Land/Bldg Ratio	+	+	+			+		
Age/Cond	-	-	-	-				-
Off space	-	-	-	-	-	-	-	
Ceiling Height		+			+			
<b>Overall Rating</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Inferior</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>

Respondent's sale 1 and Petitioner's sale 4 are a common analyzed property. Respondent's sale 2 is the furthest beyond the December 31, 2010 tax date and is not analyzed in the adjustment process. Respondent's sale 3 and Petitioner's sale 2 are the most similar to the subject in gross building area. All of Respondent's sales are superior to the subject in condition. Respondent's sale 3 and Petitioner's sale 5 are similar to the subject in office space. Petitioner's sale 1 is a bank sale and is adjusted upward for conditions of sale. The prices per square foot are ranked relative to the subject.

SUPERIOR	Respondent's Sale 5	\$27.26/SF
SUPERIOR	Respondent's Sale 6	\$26.51/SF
SUPERIOR	Petitioner's Sale 2	\$25.81/SF
SUPERIOR	Resp Sale 1/Pet Sale 4	\$25.78/SF
SUPERIOR	Petitioner's Sale 3	\$24.96/SF
SUPERIOR	Petitioner's Sale 5	\$22.34/SF
SUPERIOR	Respondent's Sale 3	\$22.78/SF
	SUBJECT	
INFERIOR	Petitioner's Sale 1	\$18.50/SF

The overall comparative ranking analysis demonstrates bracketing for the value of the subject property. Therefore, a reasoned and reconciled price per square foot for the 2011 valuation is \$20.00 or calculated as \$1,045,120.

#### 2012 QUALITATIVE ANALYSIS

For the 2012 comparative analysis, the Tribunal applies Petitioner's comparables 1,2, 3, 4, and 5, and Respondent's sales 1, 2, 3, 4, and 5.

Sale #	R4/P1	Resp 1	Resp 2	R3/P3	Resp 5	Pet 2	Pet 4	Pet 5
Sale Date	12/28/11	2/25/10	9/15/11	4/27/11	6/14/10	9/23/11	4/26/11	6/25/10
Location		-	+					
GBA	-	-			-	-	-	
Land/Bldg Ratio	+	+	+		+			+
Age/Cond	-	-	-	-	-	-	-	
Off space		-	-	-	-	-		-
Ceiling Height	+			+		+	+	
<b>Overall Rating</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Superior</b>	<b>Inferior</b>	<b>Superior</b>	<b>Superior</b>

The parties' have common sales for this analysis. Respondent's sale 3 is Petitioner's sale 3. Also, Respondent's sale 4 is Petitioner's sale 1. These common sales strengthen the ranking analysis to the subject. All of the sales are superior to the subject in condition except for Petitioner's sale 5. The various characteristic differences indicate that ceiling height is not the most compelling item for comparison analysis. The prices per square foot are ranked relative to the subject.

SUPERIOR	Respondent's Sale 5	\$27.26/SF
SUPERIOR	Petitioner's Sale 5	\$25.81/SF
SUPERIOR	Respondent's Sale 1	\$25.78/SF
SUPERIOR	Resp sale 4/Pet Sale 1	\$24.08/SF
SUPERIOR	Respondent's Sale 2	\$23.00/SF
SUPERIOR	Resp sale 3/Pet Sale 3	\$22.78/SF
SUPERIOR	Petitioner's Sale 4	\$19.24/SF
	<b>SUBJECT</b>	
INFERIOR	Petitioner's Sale 2	\$18.89/SF

The overall comparative ranking analysis demonstrates bracketing for the value of the subject property. Therefore, a reasoned and reconciled price per square foot for the 2012 valuation is \$19.00 or calculated as \$992,864.

Again, the subject property is an owner-occupied building. The property does not have a history of an income stream. In other words, the subject is not a tenant-occupied property. This is validated by both parties' analysis of the subject property in a fee simple interest. The subject is an older industrial building with locker rooms, a mezzanine, and shop space. Determining all forms of depreciation (physical, functional, and external) is complex and unreasonable. Therefore, the income and cost approaches are not reliable indicators of value for the years under appeal. The primary focus is given to the sales approach to value.

The Tribunal finds that the sales data from both parties shows that the subject property was over-assessed for the tax years under appeal. As such, and in light of the above, the Tribunal finds that Petitioner has succeeded in meeting its burden of going forward with competent evidence on the issue of true cash value, assessed value, and taxable value. The sales comparison data from both parties is germane to render a qualitative ranking analysis for the 2010, 2011, and 2012 tax years at issue and, as such, the Tribunal finds sales data within the parties' sales comparison approaches is sufficient to arrive at the independent determination of value, indicated herein.

JUDGMENT

IT IS ORDERED that the subject property's true cash, assessed, and taxable values for the 2010, 2011, and 2012 tax years are those shown in the "Summary of Judgment" section of this 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 assessed and taxable values in the amounts as finally shown in the "Final Values" section of this Opinion and Judgment, subject to the processes of equalization, within 20 days of the entry of this Opinion and Judgment. 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 this Opinion and Judgment within 20 days of the entry of this 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 Order. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 2008, at the rate of 3.31% for calendar year 2009, and (ii) after December 31, 2009, at the rate of 1.23% for calendar year 2010 (iii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (iv) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (v) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012 and (vi) after June 30, 2012 and prior to January 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: Marcus L. Abood

Entered: February 01, 2013