

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

Prism Real Estate Investments, LLC,  
Petitioner,

v

MTT Docket No. 424298

Union Township,  
Respondent.

Tribunal Judge Presiding  
Steven H. Lasher

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Prism Real Estate Investments, LLC, appeals ad valorem property tax assessments levied by Respondent, Union Township, against Parcel No. 37-14-026-20-005-13 for the 2011 and 2012 tax years. Charles M. Fortino, Attorney, represented Petitioner, and Frederick C. Overdier, Attorney, represented Respondent.

A hearing on this matter was held on December 2, 2013. Petitioner's witnesses were Rakesh Saxena, member of Prism Real Estate Investments, LLC, and William McDonald, Michigan Certified General Appraiser. Respondent's witness was Patricia Marie DePriest, MAAO.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values ("TCV"), state equalized values ("SEV"), and taxable values ("TV") of the subject property for the 2011 and 2012 tax years are as follows:

**Parcel Number:** 37-14-026-20-005-13

Year	TCV	AV	TV
2011	\$534,150	\$267,075	\$267,075
2012	\$534,150	\$267,075	\$267,075

PETITIONER'S CONTENTIONS

Petitioner contends that the evidence presented in this case supports a determination that the true cash value of the subject property on the assessment rolls is substantially overstated. Specifically, Petitioner contends that the evidence and testimony supports the contention of true cash value at \$515,000 for both tax years under appeal.

As determined by Petitioner's appraiser, the TCV, SEV, and TV for the subject property for the tax years at issue should be as follows:

**Parcel Number:** 37-14-026-20-005-13

Year	TCV	AV	TV
2011	\$515,000	\$257,500	\$257,500
2012	\$515,000	\$257,500	\$257,500

#### PETITIONER'S ADMITTED EXHIBITS

- P-1 Warranty Deed.
- P-2 Appraisal, William O. McDonald, dated September 16, 2013.
- P-3 Map with Identified Sites.
- P-4 Office Land Sale Absorption Chart.
- P-5 Summary of Acreage Vacant Land Sales and Listings.
- P-6 Impact of Highest and Best Use On Land Sales.
- P-7 Extracted Land Development Bulk Sales Discounts Chart.
- P-8 Comparison of Adjacent Assessments Chart.
- P-9 Tallgrass Commons Assessor's True Cash Value Per Square Foot Chart.
- P-10 Summary of Big Box Sales Chart.

#### PETITIONER'S WITNESSES

##### Rakesh Saxena

Rakesh Saxena is one of the members of Prism Real Estate Investments, LLC. He testified that: (i) Petitioner acquired the subject property in 2010 for \$375,000 to develop medical offices, (ii) the property has not been actively marketed by Petitioner since the purchase, and (iii) in his opinion, the market has been down for the last two years. [Transcript at 7 - 13.]

##### William McDonald

William McDonald, Michigan Certified General Appraiser, was admitted as Petitioner's valuation expert in this matter. He testified that: (i) the subject is approximately 7.5 acres and is a nine unit site condominium project with all infrastructure in place, (ii) he learned from reviewing the master deed that the intended use of the subject is to sell off the nine condominium

sites for development as office buildings, (iii) the 7.5 acres is the net area, exclusive of road right-of-ways and unit 10, (iv) he selected the development method, which is a combination of the sales comparison approach and the discounted cash flow analysis as the method to be used in appraising the subject property, (v) the sales comparison approach was used to estimate the retail value of the individual units and then a sell-off period is determined, the absorption is estimated, and appropriate expenses and discounts are deducted over this absorption period to determine the market value, (vi) to test for reasonableness, he also extracted discounts from bulk sales in the market, (vii) the market began to decline in the fall of 2008 both nationally and locally, (viii) his studies show there was a decline in office use and historically there have been at least 1 – 3 office land sales per year in Union Township and Mt. Pleasant, (ix) what the chart in P-4 shows is that his value conclusion is within the framework of this 1 – 3 land sales per year and that this conclusion is not unreasonable, based on the history of office sales in this market, (x) the chart in P-5 shows that if there was an alternate use, sales of large tracts of land surrounding the subject are consistent with the value conclusion in the appraisal, (xi) sale number 12 on the map is directly across the street from the subject, is 19.92 acres, was listed as of December 31, 2010, for \$1.2 million and sold in July of 2013 for \$430,000, and had 15 acres rezoned for student use, (xii) he is finding that there is a trend with development parcels because of the lack of demand for commercial use to be rezoned for multi-family use, (xiii) all six of the sales in P-5 were designed for office use, but due to lack of demand, were down-zoned because they cannot be sold as office use, (xiv) he did two separate analyses for highest and best use; one if the site was vacant and one as currently approved as a site condominium project, (xv) one of the most reasonable uses of the subject if vacant would be to rezone as student apartments since you would not develop an office park now in this market, (xvi) as improved, the subject is not a vacant seven acre parcel, but is a nine site condominium design for the development of office sell-off and office buildings, (xvii) the subject property is too large for single use as one office and there are no examples of sales of single offices on parcels that large in the market, (xviii) office land sales in the market ranged from \$1 per square foot to \$3.59 per square foot, with the comparable selected by both parties being the highest at \$3.59 per square foot, (xix) P-6 shows the value for multi-family parcels is less than the value for office use and that retail commercial lots would not be comparable to the subject, (xx) another check for reasonableness is P-10,

which shows that a top-tier big box store (Kohl's) of similar size to the subject sold in 2006 for \$3.63 per square foot, and the value of the subject has to be well below this after adjusting for market conditions, highest and best use, and location, (xxi) in his sales comparison approach, he selected three sales, two of which were in Tallgrass Commons, and one listing, also in Tallgrass Commons, (xxii) his final conclusion of value at \$515,000 was arrived at after subtracting selling costs, nominal costs, and application of a loaded yield rate, (xxiii) the value in Respondent's appraisal of \$1.5 million is what the property could be worth in four years, but anyone buying the property would need to hold it for four years and the value by Respondent's appraiser would need some sort of adjustment to reflect this, and (xxiv) Respondent's comparable #1 was a top tier commercial site and would too expensive for office use, comparable #2 was listed for \$990,000, but sold in September 2012 for only \$145,000, comparables #3 and #4 were prime outlot parcels that would not be made into an office development, comparables #5 and #6 were the same two comparables he used from Tallgrass Commons, comparables #7, #8, and #9 sold in 2007 and 2008 before the market crashed and they would need significant adjustment.

[Transcript at 14 – 96.]

#### RESPONDENT'S CONTENTIONS

Respondent contends that the true cash, assessed, and taxable values initially determined by Respondent for the 2011 and 2012 tax years at issue should be reduced, based on the submitted appraisal. Specifically, Respondent contends that: (i) the sales comparison approach should be utilized to determine the value for the tax years at issue, and (ii) the development approach is not necessarily the best formula, as Petitioner could plausibly sell the subject property directly to an end user rather than a developer.

As determined by Respondent's expert, the TCV, SEV, and TV for the subject property for the tax years at issue should be as follows:

**Parcel Number:** 37-14-026-20-005-13

Year	TCV	AV	TV
2011	\$1,500,000	\$750,000	\$750,000
2012	\$1,500,000	\$750,000	\$750,000

#### RESPONDENT'S ADMITTED EXHIBITS

- R-1 Valuation Disclosure, dated July 17, 2013.
- R-2 Chart of Comparables.
- R-3 Map of Vacant Land Sales 2005 – 2013.
- R-4 Map of New Grass Condominium Complex.

#### RESPONDENT'S WITNESS

##### Patricia M. DePriest

Patricia M. DePriest, MAAO, was admitted as Respondent's expert assessor. She testified that: (i) she utilized the sales comparison approach to value the subject property, (ii) all of the comparables selected were adjusted for size and location, (iii) comparable #1 was a 2013 sale for the construction of a new Olive Garden and was given a negative 10% adjustment because it was a superior site, another negative 10% for size, and a positive 10% for lack of road frontage, and a negative 5% for being owner-occupied, (iv) she used the \$990,000 listing of comparable #2 with a negative 20% adjustment and did not use the \$145,000 purchase price, and a negative 5% for size, (v) comparable #3 was adjusted negative 5% for location and negative 15% for size, (vi) comparable #4 was adjusted negative 15% for location and the appraisal should say superior, not similar, (vii) comparable #5 was adjusted 5% for limited frontage, negative 20% for location, and 10% for infrastructure, (viii) #6 was adjusted negative 5% for being a corner lot and negative 15% for size, (ix) #7 was adjusted negative 20% for location, (x) #8 was adjusted negative 10% for size and negative 10% for location, (xi) #9 was adjusted negative 20% for location, (xii) her conclusion of value was made after removing the lowest and highest comparables, #1 and #5, (xiii) comparables #7, #8, and #9 were sold prior to the market crash in 2008, but she does not agree that property values collapsed in large measure during that time, (xiv) she concluded to a value of \$1.5 million for each tax year with an assumed exposure time of 36 to 48 months, being the period of time it is presumed to take to sell the subject property, (xv) the valuation report does not contain a discount to present value consideration for the up to 48 month exposure time, (xvi) page 4 of the valuation report states there are 339,338 square feet of buildable area, and if the \$3.97 per square foot value conclusion is applied, the true cash value is \$1,347,172, (xvii) her conclusion of value was reduced by a \$50,000 cost to cure to remove the concrete and view the subject as one parcel

and not as nine condominium units, and (xviii) the issue of profitability was not addressed in her valuation report because the subject is vacant land, and it is not known what the property is going to be used for or what the profit would be. [Transcript at 97 – 137.]

#### FINDINGS OF FACT

1. The subject property is one parcel and consists of 9 vacant condominium units located at 4305 S. Jennifer Lane, Union Township, Michigan, Isabella County.
2. The subject property was assessed for the tax years at issue as follows:

**Parcel Number:** 37-14-026-20-005-13

Year	TCV	AV	TV
2011	\$1,978,400	\$989,200	\$989,200
2012	\$1,624,800	\$812,400	\$812,400

3. The subject property is zoned B-5 Highway Business District, which is also the highest and best use.
4. Petitioner's appraiser indicated a reasonable alternative highest and best use as vacant would be to rezone the property to an alternative future use consistent with the growing demand for student housing.
5. Petitioner's purchase for \$375,000 in 2010 encompassed units 1 – 9. An additional unit 10 is not owned by Petitioner.
6. The total land area owned by Petitioner (exclusive of road right-of-ways and unit 10), according to the surveyor that prepared the master deed, is 325,367 square feet, or approximately 7.47 acres. The total building footprint for the 9 units is 50,500 square feet.
7. The subject property is located at the southwest corner of Jennifer Lane and Chandler Road, with frontage along Collegiate Way, Chandler Road, and Jennifer Lane.
8. Petitioner's appraiser prepared a sales comparison approach utilizing three vacant land sales (one from 2009 and two from 2010) and one listing, and arrived at an adjusted value per unit of \$4.00 per square foot, based on comparables #1 and #3. Petitioner's appraiser then applied an average unit size of 36,152 square feet to arrive at a true cash value per unit rounded to \$140,000.

9. Petitioner's appraiser concluded that the development method was most appropriate to value the subject, and once the sales comparison analysis was completed, he applied a discounted cash flow analysis to the adjusted true cash value.
10. Petitioner's appraiser indicated an estimated marketing time of 24 – 36 months for a bulk sale of all 9 units, and an estimated exposure/absorption time of 60 months for the individual units.
11. Petitioner's discounted cash flow analysis made adjustments for projected expenses and discounts over a five-year absorption period. At the end of this 5-year period, the total present value of cash flows was \$516,727, which the appraiser rounded down to \$515,000 to reach the final conclusion of true cash value for the subject property.
12. Petitioner's appraiser tested his value conclusions for reasonableness under multiple methods: history of office sales in the market; sales of vacant multi-family residential properties as an alternate use; retail commercial lot sales; and historical sales of top-tier big box store sites.
13. Respondent submitted a sales comparison approach utilizing eight sales (from 2007 into 2013) and one listing and arrived at a true cash value of \$3.97 per square foot.
14. Respondent's assessor applied a negative \$50,000 adjustment reflecting the cost to cure for removal of the concrete on the property. The final conclusion of true cash value was \$1,500,000 for both tax years under appeal.
15. Respondent's valuation report indicates there is 339,338 square feet of buildable area at the subject property, and applying the \$3.97 value per square foot would equal a true cash value of \$1,347,172 before application of the \$50,000 deduction for cost to cure.
16. Respondent's assessor did not label what the adjustments made related to, but indicated through testimony that the comparables were adjusted for size, location, infrastructure, frontage, and owner-occupancy.
17. Respondent's valuation report states that the estimate of true cash value presumes a reasonable exposure time of 24 to 48 months. Respondent's appraiser indicated that there was no discount to present value applied to the value conclusion to reflect this exposure time.

18. Both parties used the same two comparables located in Tallgrass Commons, which were Petitioner's comparables #2 and #3 and Respondent's comparables #5 and #6.
19. Petitioner adjusted the Tallgrass Commons comparables to \$2.09 per square foot and \$4.14 per square foot. Respondent adjusted these comparables to \$1.44 per square foot and \$2.66 per square foot.

### 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 211.27a.

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 percent . . . . 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).

The Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value." See *CAF Investment Co v State Tax Comm*, 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 Dev 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 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 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 proof in 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 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.” MCL 205.737(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 Comm*, 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. In this regard, given that the subject parcel is unimproved, the Tribunal finds that the cost approach to value is not appropriate. The Tribunal further finds that given the minimal demand for office related development in the immediate market area that the sales comparison approach, as modified for present value based on the income approach (discounted cash flow analysis), is appropriate in determining the true cash value of the subject property for the tax years at issue.

The Tribunal finds that Respondent presented a flawed sales comparison approach. As an initial matter, Respondent's assessor did not label the adjustments being made to the comparables in the valuation report. Respondent's appraiser testified as to what each adjustment was for, and also indicated errors in the adjustments that would need correction. [Transcript at 111 – 119.] With respect to the comparable selection, the Tribunal finds that comparable #1 is not similar to the subject, being a significantly superior site purchased for the construction of an Olive Garden. Respondent's appraiser used a listing of comparable #2 at \$990,000 and not its actual sale price of \$145,000 in 2012. The 20% downward adjustment to the \$990,000 list price does not sufficiently account for what the comparable actually sold for. This \$145,000 purchase price is reflective of what the market would actually pay for this type of property, not the \$990,000 listing. Comparable #9 was only 1.38 acres in size as compared to the 8.97 acres Respondent used for the subject, but no size adjustment was made.

Further, Respondent's assessor stated on page 4 of the valuation disclosure that the subject had a gross buildable area of 339,338 square feet, but utilized 390,733 square feet (or 8.97 acres) in the sales comparison analysis. However, this does not take into consideration the road right-of-ways or the fact that unit 10 is not owned by Petitioner. Respondent did not submit any evidence to support either its land area at 390,733 square feet or the gross buildable area indicated on page 4 of the valuation disclosure of 339,338 square feet. As stated in Petitioner's appraisal, the total land area owned by Petitioner (exclusive of road right-of-ways and unit 10), according to the surveyor that prepared the master deed, is 325,367 square feet, or approximately 7.47 acres. [P-2 at 29.] Utilization of the correct land size of the subject could have an impact on the adjustment made by Respondent's expert to the comparables for size. Nevertheless, if the value conclusion by Respondent at \$3.97 per square foot is applied to the 325,367 square feet, the resulting value per Respondent's sales comparison analysis would be \$1,291,707. If Respondent's cost to cure of \$50,000 to remove the concrete is also applied, the resulting true cash value would be \$1,241,707. The corrected true cash value that would be reflected from Respondent's comparables if the 325,367 square feet was used is similar to the rounded value of \$1,260,000<sup>1</sup> reflected in Petitioner's appraisal before any further adjustments are applied. Both

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<sup>1</sup> \$140,000 rounded value conclusion per unit multiplied by 9 total units.

experts, however, have indicated that the exposure time for a bulk sale of all 9 units would be between 24 – 48 months<sup>2</sup>. Despite this exposure time, Respondent’s appraiser did not adjust her conclusion of value for the 2011 and 2012 tax years under appeal. The Tribunal finds that the selection of clearly superior comparables, the inconsistent adjustments, utilization of the wrong land size of the subject, and the failure to account for the necessary exposure time are all factors that make Respondent’s conclusion of value unreliable as an indicator of value for the subject property.

Petitioner’s appraiser performed a sales comparison analysis utilizing three vacant land sales and one listing, one from 2009 and three from 2010. Petitioner’s appraiser used comparables based on 36,152 square feet, which is the land to building ratio of 6.44291 applied to the average building footprint size of 5,611 square feet. Adjustments were made for differences in market conditions, location, size, and amenities, as well as a 10% adjustment for #4 being a listing. Petitioner’s appraiser determined comparables #1 and #3 were the most similar, and placed primary reliance on comparable #3 in deciding to value each individual unit (at 36,152 square feet) at \$4 per square foot, or \$140,000 per unit. This would have resulted in a true cash value for all 9 units of \$1,260,000. This value, however, does not take into consideration the market situation as of relevant tax dates, and the fact that both parties indicate at least a 24 month period for a bulk sale of all units. The Tribunal finds that although the approximate value conclusion that can be reached utilizing both parties’ sales is \$1.25 million, such a value does not account for decreased demand for office parks in the subject’s market area.

Given the market conditions in the area for properties like the subject, Petitioner utilized the development method to determine the true cash value of the property. As stated in the Appraisal of Real Estate, the subdivision development method<sup>3</sup> “is primarily used to provide a bulk sale value . . . [and] can also be used to estimate the value of vacant land or finished lots . . . .” Appraisal Institute: The Appraisal of Real Estate (Chicago, Appraisal Institute, 14th ed, 2013), at 372. Further, this method relies on the discounted cash flow analysis, while the

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<sup>2</sup> Petitioner’s appraiser indicated 24 – 36 months and Respondent’s assessor indicated 36 – 48 months.

<sup>3</sup> The Appraisal of Real Estate refers to the method employed by Petitioner’s appraiser as the subdivision development method, which can be applied to completed homes within a subdivision, condominiums, super pads, and other property types. *Id* at 372, Footnote 3.

“[m]arket analysis provides the evidence necessary to support absorption estimates, retail lot values, and other components required to calculate land value . . . .” *Id.*

In order to adjust the projected value of the subject units to a present value for the tax years at issue, Petitioner’s appraiser performed a discounted cash flow analysis, based on the value conclusion from the sales comparison approach at \$140,000 per unit, utilizing an estimated absorption time for all 9 units of 60 months (5 years). As stated in *The Appraisal of Real Estate*:

Discounted cash flow (DCF) analysis is an appropriate tool for valuing any pattern of regular or irregular income . . . . The proper application of DCF analysis identifies the market conditions investors are anticipating as of the date of value . . . . Whether the expectations of investors are realized or not, the appraisal will be prepared properly if the appraiser has correctly identified the investor’s expectations on the date of the appraisal. *Appraisal Institute: The Appraisal of Real Estate* (Chicago, Appraisal Institute, 14th ed, 2013), at 530.

The 5 year absorption period was based on the appraiser’s determination that the current market conditions were poor and there was insufficient demand and insufficient development activity. Petitioner’s appraisal included an analysis of office park development absorption in the market area, which reflected absorption rates of 0.55 to 0.71 lots per year for 2011 and 0.74 to 0.87 lots per year for 2012. [P-2 at 39 - 40.] The history of office absorption in error, included as a check on Petitioner’s value conclusion, further reflected that between 2002 and 2010, the absorption was 1 to 3 units per year. Petitioner’s appraiser indicated the absorption for all 9 units across the 5 year period would be as follows:

Year 1	1 unit
Year 2	1 unit
Year 3	2 unit
Year 4	2 unit
Year 5	3 unit

Petitioner’s appraiser utilized the following expenses in the discounted cash flow analysis:

Maintenance	\$500/unit
Admin/Marketing/Legal	\$200/unit
Insurance	\$100/unit
Sales Commissions/Closing costs	7% of gross sales

Petitioner's appraiser further utilized a discount rate, based on RealtyRates.com for the 4<sup>th</sup> Quarter of 2010, of 25.0% (with the actual rates for site built offices from 15.06% to 36.29%). [P-2 at 53.] During cross-examination, Petitioner's appraiser indicated that his intent was to find a base yield rate that would most closely match the conditions of the subject property as of the assessment date and that the data he used was taken from the Great Lakes region, as he was not aware of any sources limited to just Michigan. [Transcript at 76 – 80.] Half the effective millage rate to account for real estate taxes was then added to arrive at a loaded yield rate of 27.38%. The Tribunal finds that Petitioner's appraiser utilized the best information available when selecting the base rate and also properly accounted for the real estate taxes by factoring in the millage rate to establish his overall loaded yield rate.

After application across the 5 year absorption period, the resulting present value of the subject property was \$516,727, rounded down by the appraiser to \$515,000 for each tax year under appeal. The Tribunal finds that while the development method employed by Petitioner's appraiser was the most accurate reflection of true cash value, the value conclusion reached needs to be adjusted. Specifically, the value per unit, based on Petitioner's sales comparison approach, was \$144,608. The Tribunal does not agree with rounding this value down to \$140,000. If the actual value reflected of \$144,608, rounded to \$144,600, is used when the discounted cash flow analysis is applied across the 5 year absorption period, the resulting true cash value is \$534,150.

The determination reached under the development method is further supported by the various tests for reasonableness applied by Petitioner's appraiser. Petitioner's appraiser looked to the history of office sale absorption from 2002 to 2010, which supports his estimate of 1 – 3 sales per year and shows that sale prices per square foot have been between \$1.00 and \$3.59. The \$515,000 true cash value conclusion for the subject property, if broken down to a square foot rate, would be \$1.58. Exhibit P-5 shows vacant land sales of properties that had been designed for office use, but rezoned for other uses, such as multi-family residential. These sales reflect that if the subject property was rezoned to Petitioner's alternate use as student housing, the sale prices per square foot ranged from \$0.50 to \$1.84, again supporting the \$1.58 per square foot value of the subject. As a further check for reasonableness, Exhibit P-10 shows four "big box" land sales in the area, which would represent superior commercial lots as compared to the subject. The 2005 – 2006 sale prices of these types of properties show values from \$2.87 to

\$3.63 per square foot. This supports a finding that the value of the subject, both as originally assessed and as valued under a sales comparison approach without further adjustment, is significantly above what even commercial land in the area has historically sold for. The Tribunal finds that all of the information presented by Petitioner supports a finding that the subject property is assessed in excess of 50% of true cash value, and that the most reliable indicator of value for the 2011 and 2012 tax years at issue was the combination of the sales comparison method and the discounted cash flow analysis, which results in a true cash value of \$534,150.

#### JUDGMENT

IT IS ORDERED that the properties' assessed 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 90 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 this Order within 28 days of the entry of this Order. 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 the Tribunal's order. 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, and prior to July 1, 2012, at the rate

of 1.09% for calendar year 2012, (iv) after June 30, 2012, through December 31, 2013, at the rate of 4.25%, and (v) after December 31, 2013, and through June 30, 2014, at the rate of 4.25%.

This Opinion resolves the last pending claim and closes this case.

By: Steven H. Lasher

Entered: Feb 27, 2014

klm