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Kheterpal and Gupta v. Ann Arbor Township

Michigan Tax Tribunal

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

Sachin Kheterpal and Ruchika Gupta,
Petitioners,

v

MTT Docket No. 15-005347

Ann Arbor Township,
Respondent.

Tribunal Judge Presiding
Marcus L. Abood

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioners, Sachin Kheterpal and Ruchika Gupta, appeal ad valorem property tax assessments levied by Respondent, Ann Arbor Township, against Parcel No. I-09-07-335-003 for the 2015 and 2016 tax years. Bruce H. Benz, Attorney, represented Petitioners, and Laura M. Hallahan, Attorney, represented Respondent.

A hearing on this matter was held on May 10-12, 2017. Petitioners' witnesses were Sachin Kheterpal, James Green, Mark St. Dennis and John Hamlin. Respondent's witnesses were Ruchika Gupta and Sharon Frischman.

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

Parcel Number: I-09-07-335-003

Year	TCV	AV	TV
2015	\$1,300,000	\$650,000	\$650,000
2016	\$1,333,260	\$666,630	\$651,950

PETITIONER'S CONTENTIONS

Petitioners contend that they were not knowledgeable buyers regarding the subject property and their purchase price. They carried many assumptions about the split-offs, percolation tests for a conventional septic system and township ordinances to develop the subject property. Petitioners believe their lack of knowledge resulted in over paying for the subject property. Further, Petitioners' contend their appraisal reports and conclusions of value prove

that they paid too much for the subject property. More specifically, Petitioners were required to comply with township tree and slope ordinances and were encumbered with additional expenses to develop the property.

Petitioners' appraiser considers all three approaches to value but asserts the cost approach is not applicable for this tax appeal appraisal assignment. Petitioners' appraisal reports employ the sales comparison approach and an income approach based on a subdivision development method for a discounted cash flow analysis. Petitioners' appraiser contends the subject site is acceptable for 3 splits which is supported by his highest and best use analysis.

St. Dennis describes his initial research which included publicly available information regarding the subject sales history as well as the subject property. Again, the appraisal reports include a highest and best use analysis and St. Dennis claims his reports are consistent with the *Uniform Standards of Professional Appraisal Practice* published by The Appraisal Foundation. He notes Petitioners' were in the process of construction at the time of his physical inspection.

Regarding the sales comparison approach, Petitioners contend there is an overall lack of comparable sales data in the subject market area. Nevertheless, St. Dennis relies on 3 sales located within the market area to render a comparative analysis. He describes the relevant characteristics of each comparable sale and necessary adjustments. Adjusted prices per acre are applied to the proposed 4 acre parcels and the 7 acre parcel and Petitioners' appraiser contends these concluded values are further analyzed in conjunction with his subdivision development methodology.

Regarding the income approach, Petitioners' appraiser analyzes the subject with several assumptions¹ in developing a subdivision approach method. St. Dennis asserts the elements of absorption, commission costs, rates of inflation and discount rates were properly analyzed and applied to the subject to render indications of value for an income approach. He relies on RealtyRates.com as a reputable source for the splits to the subject property.

¹ Tr., Day 1, 208.

PETITIONER'S ADMITTED EXHIBITS

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

- P-1: Marketing Comments (flyer)
- P-2: Sales Contract
- P-3: Well Invoice
- P-4: Tank Invoice
- P-5: Demolition Affidavit
- P-7: WCHD Conditional Approval
- P-8: Tree Survey/Replacement Plan
- P-9: Tree and Woodland Ordinance
- P-10: Steep Slope Ordinance
- P-11: CWA Report 10/13/15
- P-12: Planning Commission Minutes 11/2/15
- P-13: CWA Report 11/10/15
- P-14: Planning Commission Minutes 12/7/15
- P-15: CWA Report 12/15/15
- P-16: Planning Commission Minutes 1/4/16
- P-17: KLM Landscape Proposal
- P-18: Plant Wise Proposal
- P-19: Escrow Agreement – Tree Replacement
- P-20: Township Invoice
- P-21: Building Permit Checklist
- P-22A: Appraisal Report prepared by Mark St. Dennis
- P-22B: Appraisal Report prepared by Mark St. Dennis

PETITIONER'S WITNESSES

Petitioner's 1st witness, Sachin Kheterpal, is the owner of the subject property which is located on the Huron River in Ann Arbor Township. He describes his search for a residential property with privacy, a wooded lot and with a water view. His search includes other areas and he wishes “. . . to be in a home of significance”.² He further describes the negotiations and purchase price of the subject property as well as the process to develop the subject site through township ordinances.

Petitioner's 2nd witness, James Green, is employed by Cranbook Home Builders. He is in charge of the construction site work and planning for the subject property. In general, he

² Tr., Day 1, 97-98.

describes the site development for the subject property in relation to the tree and slope ordinances.

Petitioner's 3rd witness, Mark St. Dennis, prepared appraisal reports for the subject property. He is primarily a residential appraiser with 23 years of valuation experience. He is a Certified General Real Estate Appraiser in the state of Michigan. Based on his education, background and experience, the Tribunal accepted Mr. St. Dennis as an expert real estate appraiser.

Petitioner's 4th witness, John Hamlin is the current building inspector for Washtenaw County and was the former building official and zoning administrator for Ann Arbor Township. In general, he described his recollection of the subject property and 3 prior township meetings involving the subject's development in relation to the slope and woodland ordinances.

RESPONDENT'S CONTENTIONS

Respondent's appraiser notes typographical errors and minor corrections to her appraisal report and contends none of the changes impact her conclusions of value.³ Frischman claims the appraisal report was completed in a retrospective manner.

Respondent's appraiser was unable to access the subject property but photographed, researched and analyzed the immediate area as well as the relevant roadways. In addition, she spoke with Randy Spaller, senior sanitarian for the Washtenaw County Health Department, regarding the subject site and the potential of conventional and engineered septic systems.⁴ Aside from a physical inspection of the subject property, Frischman maintains she was able to complete her appraisal report with credible results.

Respondent's appraisal report employs the sales comparison approach for the determination of market value for the subject property as 2 buildable residential parcels. Respondent's appraiser contends the subject site is acceptable for 2 splits which is supported by her highest and best analysis.

³ Tr., Day 3, 60.

⁴ Resp's Exh. R-1, 20.

Frischman resides in the city of Ypsilanti and contends she is familiar with the subject market area.⁵ She further contends waterfront property in Washtenaw County is limited. While considering all three approaches to value, she asserts the sales comparison approach is the most relevant for this tax appeal appraisal assignment.

Frischman describes her initial research which includes publicly available information regarding the subject sales history as well as the subject property. Her appraisal report includes a highest and best use analysis and claims her report is consistent with the *Uniform Standards of Professional Appraisal Practice* published by The Appraisal Foundation.

Frischman argues splitting a parcel is significantly different than subdividing a parcel of land. In general, subdividing requires greater time and money to fulfill development and a return on investment.⁶

RESPONDENT'S ADMITTED EXHIBITS

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

- R-1: Appraisal Report prepared by Sharon Frischman.
- R-5: Natural Features Application for Subject Property.

RESPONDENT'S WITNESSES

Respondent's 1st witness, Dr. Ruchika Gupta, confirmed various family members (by blood or marriage) as well as neighbors' letters in support of Petitioners purchase of the subject property. Dr. Gupta acknowledged her attendance at some township meetings as well as Petitioners' application for residential development at the subject property.

Respondent's 2nd witness, Sharon Frischman prepared an appraisal report for the subject property. She is licensed as an assessor in the state of Michigan since 1984 but has been licensed as a Certified General Real Estate Appraiser in the state of Michigan for the past 24 years. Based on her education, background and experience, the Tribunal accepted Sharon Frischman as an expert real estate appraiser.

⁵ Tr., Day 2, 206.

⁶ Tr., Day 2, 245.

FINDINGS OF FACT

1. The subject property is located at 1205 Country Club Road, in Ann Arbor Township, and within Washtenaw County.
2. The subject parcel code number is I-09-07-335-003 and is zoned R-1, Single Family Rural Residential.
3. As of the relevant tax days, the subject parcel was surveyed as a single parcel of land. In other words, the subject property was not formally surveyed in the contemplation of any splits to the subject property. The tree and topography surveys were rendered for the subject property as a singular parcel of land.
4. The subject site has gross land area of 15.78 acres.
5. The subject property has frontage on the Huron River.
6. As of December 31, 2014 and December 31, 2015, an abandoned home and well/septic systems existed on the subject property. The existing dwelling was demolished in February 2016.
7. Petitioners had been looking for a property with features including privacy, woods and water view in the Ann Arbor area for 4-5 years.⁷
8. Ann Arbor Township is an affluent township within Washtenaw County.⁸
9. Petitioners engaged the services of a real estate agent for the search of a buildable property.⁹
10. Petitioners consulted with Dr. Kheterpal's father-in-law who is a civil engineer and professor at the University of Toledo.¹⁰
11. Petitioners consulted with Dr. Kheterpal's brother who lives in Barton Hills and also owns 10 acres on the Huron River in Dexter, Michigan.¹¹
12. Petitioners desired a wooded property with privacy and seclusion located on the Huron River. In testimony, Dr. Kheterpal states, "We didn't see any other properties that offered that criteria."¹²
13. Petitioners viewed the subject property in late 2012 or early 2013¹³ and were advised by their real estate agent that the subject had the potential for 4 parcel splits¹⁴.
14. Ann Arbor Township requires a minimum lot size of 3 acres for a parcel split.¹⁵
15. Ann Arbor Township has a tree ordinance and a steep slope ordinance.¹⁶
16. Petitioner's documentary evidence included a general flyer depicting the features of the subject property but did not include a MLS listing ticket or line-side for the subject property.

⁷ Tr., Day 1, 11.

⁸ Tr., Day 2, 207.

⁹ Tr., Day 1, 12.

¹⁰ Tr., Day 1, 23 and 96.

¹¹ Tr., Day 1, 22.

¹² Tr., Day 1, 98.

¹³ Tr., Day 1, 12.

¹⁴ Tr., Day 1, 13.

¹⁵ Tr., Day 1, 14.

¹⁶ The parties' stipulation to the authenticity of subpoenas and exhibits, while well intended, were acknowledged and admitted on the record through the course of the hearing.

17. The subject property was originally listed for \$1,999,000 in November 2011. The listing was reduced to \$1,699,000 in July 2012.¹⁷
18. Petitioners purchased the subject property on March 5, 2013 for \$1,160,000.
19. The subject property was properly exposed to the market for 424 days.
20. The sale of the subject property in 2013 was an arm's length transaction based on the fundamental elements of market value.
21. Petitioners' negotiated the sale price of the subject property without undue duress.
22. Petitioners purchase price accounts for the demolition of the existing dwelling and well/septic systems.¹⁸
23. As part of the purchase of the subject property, Petitioners were required to sign an agreement (as an addendum to the purchase agreement) with Washtenaw County for the well system to be capped and the septic system to be crushed.
24. As of December 7, 2015, Petitioners intentions were not to split the subject property. Petitioners' intentions were disclosed in the Ann Arbor Township meeting minutes.¹⁹
25. In testimony, Dr. Kheterpal admits he knew there would be expected costs to the grade and erect retaining walls on the subject property.²⁰
26. Petitioners hired the builder Cranbrook Homes to construct their new home on the subject property.
27. Cranbrook Homes was responsible for construction of the subject dwelling including all permits, site plan, engineering etc.²¹
28. Jim Green was the project manager for the site work on the subject property.²²
29. Washtenaw County conducted percolation tests at the subject property on three separate occasions in attempts to locate a conventional septic drainage field.²³
30. Petitioners were required to have an engineered septic system for the construction of their dwelling on the subject property.²⁴
31. Petitioners were required to have a topography survey for the subject parcel.²⁵
32. Petitioners were required to have a steep slope permit for the construction of their dwelling on the subject property.²⁶
33. Petitioners engaged the services of Atwell Engineering in the decision-making process for the placement of the proposed dwelling on a portion of the subject property in conformity with township ordinances.²⁷
34. Respondent engaged the services of the consulting firm Carlisle Wortman to analyze the proposed construction on the subject property.
35. Petitioner submitted valuation disclosures in the form of a narrative appraisal reports prepared by Mark St. Dennis.

¹⁷ Tr., Day 1, 193.

¹⁸ Tr., Day 1, 116 and 129.

¹⁹ Tr., Day 1, 103.

²⁰ Tr., Day 1, 120.

²¹ Tr., Day 1, 30-31.

²² Tr., Day 1, 134.

²³ Tr., Day 1, 137.

²⁴ Tr., Day 1, 33.

²⁵ Tr., Day 1, 34.

²⁶ Tr., Day 1, 39.

²⁷ Tr., Day 1, 68.

36. Petitioners' appraiser physically inspected the subject property on November 29, 2016.
37. Petitioner's appraisal reports include the income and sales comparison approaches to value for the years under appeal.
38. Petitioners' appraiser includes only 1 extraordinary assumption in his appraisal reports.²⁸
39. Petitioners' appraiser assumes that the subject site will be split into 3 residential parcels (two 4 acre parcels and a 7.8 acre parcel).
40. Petitioners' appraisal reports are not subject to surveys or township approval for each of the 3 proposed residential parcels.
41. Petitioners' sales comparison adjustments are based on St. Dennis's experience and judgment.²⁹
42. Petitioners' sales in the adjustment grids are all adjusted downward to the subject. In other words, no sales were adjusted upward to bracket the subject.
43. Petitioners' appraiser develops a sales comparison adjustment grid for the analysis of each assumed 4 acre parcel. St. Dennis does not develop a sales comparison adjustment grid for the analysis of the assumed 7.8 acre parcel.³⁰
44. Petitioners' income approach is premised on a subdivision development methodology which is otherwise known as a discounted cash flow methodology.³¹
45. Petitioners' absorption analysis is based on 3 comparable vacant lot sales with days on market plus the subject's sale and days on market. Chronologically, the sales' days on market (including the subject) decreased from 2012 to 2016.³²
46. Within Petitioners' income approach, Petitioners' appraiser admits that his derived expenses are based on his judgment and experience.³³
47. In testimony, Petitioners' appraiser admits that waterfront properties are generally more valuable. St. Dennis also admits that the subject property was properly exposed to the market.³⁴
48. Petitioners' home was under construction at the time of St. Dennis inspection of the subject property.³⁵
49. In testimony, Petitioners' appraiser admits that splitting land is less expensive than undertaking the development of a subdivision.³⁶
50. In testimony, Petitioners' appraiser determined that property values have increased since 2013 but admits that his report does not contain any support or analysis for his conclusory statement of 2.5% market appreciation.³⁷ Likewise, Respondent's appraiser concurs that market appreciation has increased since 2013.³⁸

²⁸ Petr.'s Exh. P-22a and 22b, 6, 21, 30, 55.

²⁹ Tr., Day 1, 231 and Day 2, 36, 51.

³⁰ Tr., Day 2, 55-56.

³¹ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), pp 372-376.

³² Petr.'s Exh. P-22a and 22b, 41.

³³ Tr., Day 2, 87.

³⁴ Tr., Day 1, 232.

³⁵ Tr., Day 2, 123.

³⁶ Tr., Day 2, 11-12.

³⁷ Tr., Day 2, 26.

³⁸ Tr., Day 2, 230.

51. In testimony, Petitioners' appraiser denotes Barton Hills is not located within Ann Arbor Township.³⁹ In fact, the village of Barton Hills is located within Ann Arbor Township.⁴⁰
52. Petitioners' appraiser states, "I've done more than 3,000 residential real estate appraisals. I know what the adjustments are."⁴¹
53. In testimony, Petitioners' appraiser admits he acknowledges that Petitioners' intentions did not include future plans to divide the subject parcel.⁴²
54. In testimony, Petitioners' appraiser was unable to identify any other residential sources for surveys other than RealtyRates.com.⁴³
55. Respondent submitted a valuation disclosure in the form of a narrative appraisal report prepared by Sharon Frischman.
56. Respondent's appraiser considered all three approaches to value but only develops and communicates the sales comparison approach to value in her appraisal report.
57. Frischman's sources for her research include the Bureau of Labor Statistics and Southeast Michigan Council of Governments (SEMCOG).⁴⁴
58. Respondent's appraiser did not access the subject property as part of her appraisal.⁴⁵ In accordance with professional standards, a "drive-by" inspection is permissible with an appropriate scope of work and signed certification.⁴⁶
59. Respondent's appraisal report includes 1 extraordinary assumption and no hypothetical conditions.
60. Respondent's appraiser assumes that the subject site will be split into 2 residential parcels.
61. Respondent's appraisal report is not subject to surveys or township approval for the 2 proposed residential parcels.
62. Respondent's appraiser admits that she has no support for her sales comparison adjustments.⁴⁷
63. Respondent's appraiser analyzes and adjusts her comparable sales against only 1 proposed site from the subject property.
64. Respondent's appraiser did not include days on market for her comparable sales data.⁴⁸
65. Respondent's sales in the adjustment grids are all adjusted upward to the subject. In other words, no sales were adjusted downward to bracket the subject.
66. In testimony, Respondent's appraiser believes exposure time and marketing time are self-explanatory.⁴⁹ Further, she treats exposure time and market time as being equivalent in the analysis of the subject property.⁵⁰

³⁹ Tr., Day 2, 31.

⁴⁰ Tr., Day 2, 207.

⁴¹ Tr., Day 2, 37.

⁴² Tr., Day 2, 69.

⁴³ Tr., Day 2, 165.

⁴⁴ Resp's Exh. R-1, 13.

⁴⁵ Tr., Day 2, 204-205.

⁴⁶ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-2017 edition), pp 79-81.

⁴⁷ Tr., Day 3, 46.

⁴⁸ Tr., Day 3, 49.

⁴⁹ Tr., Day 3, 44.

⁵⁰ Tr., Day 3, 50.

67. Neither party's appraiser developed or communicated quantitative (paired sales analysis, regression analysis, descriptive statistics, inferential statistics, statistical analysis, scenario analysis, graphic analysis) or qualitative (trend analysis, relative comparison analysis, ranking analysis) methodologies.⁵¹
68. The parties' respective sales comparison approaches rely on a common comparable sale located at 1805 West Huron Drive.

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.⁵²

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . . .⁵³

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.⁵⁴

The Michigan Supreme Court has determined that "[t]he concepts of 'true cash value' and 'fair market value' . . . are synonymous."⁵⁵

"By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment."⁵⁶ The Tribunal is not bound to accept either of the parties' theories of valuation.⁵⁷ "It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case."⁵⁸ In that regard, the

⁵¹ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), pp 397-404.

⁵² See MCL 211.27a.

⁵³ Const 1963, art 9, sec 3.

⁵⁴ MCL 211.27(1).

⁵⁵ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁵⁶ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

⁵⁷ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

⁵⁸ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

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.”⁵⁹

A proceeding before the Tax Tribunal is original, independent, and de novo.⁶⁰ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”⁶¹ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”⁶²

“The petitioner has the burden of proof in establishing the true cash value of the property.”⁶³ “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.”⁶⁴ 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.”⁶⁵

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.⁶⁶ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”⁶⁷ 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.⁶⁸

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.⁶⁹

⁵⁹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

⁶⁰ MCL 205.735a(2).

⁶¹ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

⁶² *Jones & Laughlin Steel Corp, supra* at 352-353.

⁶³ MCL 205.737(3).

⁶⁴ *Jones & Laughlin Steel Corp, supra* at 354-355.

⁶⁵ MCL 205.737(3).

⁶⁶ *Meadowlanes, supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

⁶⁷ *Jones & Laughlin Steel Corp, supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

⁶⁸ *Antisdale, supra* at 277.

⁶⁹ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

Again, Petitioner developed and analyzed the income and sales comparison approaches to value. Respondent developed and analyzed the sales comparison approach to value. Petitioner's appraiser was charged with determining the market value of the subject property for the 2015 and 2016 years under appeal. Respondent was charged with defending the assessments for the subject property for those years under appeal.

The extensive Findings of Fact prove Petitioners' did not embark alone on their journey to find an acceptable property to develop. Petitioners consulted with professionals that happen to be family members or extended family members. Likewise, a real agent was engaged to search the real estate market for an acceptable property. Petitioners were not proven to be under any duress in the search for a suitable property. Further, their actions epitomize the very elements of market value.⁷⁰ Petitioners' level of knowledge, confidence and certainty reveals their true intentions aside from the thought of developing the subject property for investment purposes. Petitioners reviewed their plans to build a new home in January 2016 and decided to continue onward with the process.⁷¹ Reliance on a variety of professionals in the purchase and development of a single-family residential property is reasonable and customary.

Next, Petitioners confidence in the negotiation and consummation of the purchase agreement (including subsequent addendum) for the property fulfilled their requirements of privacy, woods and water view/access. There is no dispute that Petitioners' purchase price is approximately 40% below the original list price. Petitioners still went forward with purchase despite the requirement to demolish the existing dwelling, crush the existing septic system and cap the existing well. Petitioners relied on Cranbrook Homes for all of the necessary details to secure a residential building permit. Dr. Kheterpal's testimony demonstrating his use and familiarity of technical terminology is so extensive as to validate his position as a knowledgeable purchaser of a residential parcel for single-family residential development. Petitioners' alleged self-imposed costs are actually self-realized expenses in the pursuit of a new home with wooded privacy as well as views of the Huron River. The simple fact remains that Petitioners intentions to purchase a property to build a new home took precedence over the thought of becoming investors to this property. While Petitioners' claim that they made mistakes in assumptions for

⁷⁰ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago: 6th ed, 2015), pp 141-142.

⁷¹ Tr., Day 1, 77-78.

the subject property, they did so as investors. On the other hand, Petitioners' primary actions clearly demonstrate their capability as a purchaser of a residential site for the construction of a single-family residential site. Petitioners' appraisal reports repeatedly state Petitioners' erroneous assumptions about split-offs to the subject property (along with allegations that Petitioners overpaid for the property). The Tribunal concurs with Petitioners' appraiser's testimony that Petitioners were not thinking like investors.⁷² St. Dennis makes this point abundantly clear in his appraisal reports with redundant verbiage.⁷³ However, Petitioners' appraiser was engaged to render appraisal report for the tax years under appeal and not valuations at the point Petitioners purchased the property in 2013. Nonetheless, the subject's purchase price and sale date provide a benchmark for the parties' admission that market appreciation existed from 2013 to 2016.

Again, the subject property was properly exposed to the market and the listing price was reduced based on negotiations between knowledgeable market participants. These elements point to an arm's length sales transaction of a residential property for the development of a single-family residence. Expenditures immediately after sale⁷⁴ were anticipated (by virtue of the addendum to the purchase agreement) and were reflected in the eventual sale price.

The parties' assumptions for splits to the subject parcel were not consistently or persuasively articulated as testimonial or documentary evidence.⁷⁵ Purported compliance with professional standards was not accompanied by specific, conspicuous extraordinary assumptions and hypothetical conditions⁷⁶ from the parties' appraisal reports. More specifically, testifying to assumptions that were not present within the appraisal reports is illogical. Likewise, the premise that too many assumptions make an appraisal less reliable or credible is not persuasive.⁷⁷

Excessive testimony carried over into the confusion of supposed hypothetical conditions and

⁷² Tr., Day 1, 209-210.

⁷³ Petr's Exhs. P-22a and 22b, 3, 19, 27, 48.

⁷⁴ Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), pp 412-413.

⁷⁵ The Tribunal's quest for facts relative to this valuation tax appeal should not be viewed as a purist position. The reasonable expectations made of licensed appraisers for their responsibilities in valuation practice and theory is akin to the expectations placed on other licensed professionals (i.e. an attorney in rendering sound legal analysis from relevant case law).

⁷⁶ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago, 2016-2017 ed), pp 3 and 19.

⁷⁷ Tr., Day 2, 226.

diminishes the overall credible analysis.⁷⁸ Moreover, St. Dennis's unsupported assumptions for a subdivision analysis and discounted cash flow analysis illustrates the very concerns for this methodology within professional standards.⁷⁹ In compounding fashion, Petitioners' appraiser is unfamiliar with the background and specifics from RealtyRates (as his only survey for a capitalization rate) and the absorption of only 3 splits that are not claimed to be part of a subdivision.⁸⁰ St. Dennis's methodology is applicable for a subdivision development rather than the basic split of 3 proposed parcels. As a parallel example, a direct capitalization analysis is overkill for a single-family income property. Similarly, Respondent's conclusory assumptions without the benefit of specific market support is not acceptable or credible.⁸¹ In other words, conclusory statements are not the equivalent of summary analysis. Valuation practice and theory encompasses the support and articulation of market data which results in a defensible conclusion of value. The Tribunal is not at liberty to take an appraiser's conclusory testimony and apply it to an appraisal report that lacks fundamental concepts. Judgment, experience and a plethora of vaguely documented assumptions do not come before customary due diligence in developing qualitative and quantitative methodologies. Opinions of value must be **supportable and defensible**. Regardless of type of analysis, an appraiser must lead all readers through an appraisal report to the conclusion of value. This is the responsibility of rendering analysis which is meaningful and not misleading.

Lastly, the parties' efforts in showing the many complexities of developing a site with trees, a steep slope and river access/views unmasked the many deficiencies within the appraisal reports for any number of splits. "Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care."⁸²

"In applying quantitative adjustments, qualitative analysis, or both, appraisers must ensure that their reasoning is clear and adequately explained in the appraisal report. The extent of narrative explanation required also depends on the complexity of the property being appraised. The more complex the property, the more factors that must be considered in the analysis and then explained

⁷⁸ Tr., Day 2, 258.

⁷⁹ The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-17 ed), p 190.

⁸⁰ Tr., Day 2, 92.

⁸¹ Tr., Day 1, 208.

⁸² The Appraisal Foundation, *Uniform Standards of Professional Appraisal Practice* (Chicago: 2016-17 ed.), p 17.

to intended users of the appraisal.” Appraisal Institute, *The Appraisal of Real Estate* (Chicago: 14th ed, 2013), p 398.

Aside from the common comparable sale, the parties’ sales comparison approaches are not meaningful and are given no weight or credibility in the determination of market value.

Respondent’s 2015 and 2016 assessments are supported by the parties’ common comparable sale located at 1805 West Huron Drive. However, the appraisers’ adjustments (based on experience and judgment) are not reasonable or logical in the context of a market based comparative analysis. The application of this sale’s unadjusted price per acre of \$97,000, multiplied by the subject’s 15.78 acres, results in value indication of \$1,530,660. Second, the subject’s sale price of \$1,160,000 in 2013 is an arm’s length sales transaction which is supported by the elements of market value.⁸³ Third, market appreciation subsequent to the subject’s sale date in 2013 was acknowledged and undisputed by the parties and further supports the subject’s assessments. Therefore, these three facts are the most reliable evidence in support of the determination of market value for the subject property as of the tax dates at issue.⁸⁴

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

JUDGMENT

IT IS FURTHER ORDERED that the property’s state equalized and taxable values for the tax year(s) at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property’s true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of

⁸³ Petitioners’ witnesses and abundant testimony only served to prove Petitioners’ knowledge and resolve to purchase the subject property for the purpose of building a single-family residence of significance on a desirable river in the affluent Ann Arbor market area.

⁸⁴ The Tribunal finds that Petitioner was not able to show that the subject’s real property was over-assessed for the tax years under appeal. The extensive Findings of Fact not only focus on the unsupported propositions of parcel splits but on the fundamental concepts of valuation practice and theory to the subject parcel.

equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, and (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%.

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

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.⁸⁵ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail

⁸⁵ See TTR 261 and 257.

or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.⁸⁶ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.⁸⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁸⁸

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an “appeal by right.” If the claim is filed more than 21 days after the entry of the final decision, it is an “appeal by leave.”⁸⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁹⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁹¹

By Marcus L. Abood

Entered: July 21, 2017

⁸⁶ See TTR 217 and 267.

⁸⁷ See TTR 261 and 225.

⁸⁸ See TTR 261 and 257.

⁸⁹ See MCL 205.753 and MCR 7.204.

⁹⁰ See TTR 213.

⁹¹ See TTR 217 and 267.