

NOT FOR PUBLICATION WITHOUT APPROVAL OF
THE TAX COURT COMMITTEE ON OPINIONS

TAX COURT OF NEW JERSEY



Patrick DeAlmeida
Presiding Judge

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Re: CVS Pharmacies v. Township of Medford
Docket No. 006576-2009
Docket No. 004555-2010

Dear Counsel:

This letter constitutes the court's opinion after trial in the above-referenced matters challenging the assessment on real property leased by plaintiff for tax years 2009 and 2010. For the reasons stated more fully below, the court will enter Judgments reducing the assessment for both tax years.

*

I. Procedural History and Findings of Fact

The following findings of fact and conclusions of law are based on the evidence and testimony admitted at trial.

These appeals concern real property owned by Hartford Square, LLC and leased to plaintiff CVS Pharmacies (“CVS”) in defendant Medford Township, Burlington County. Pursuant to its lease, CVS is responsible for the local property taxes on the property.

The parcel is designated by the township as Block 401, Lot 14.02 and is commonly known as 137 Route 70. It sits on a well-traveled highway and is located at a traffic-signal-controlled intersection with high visibility. The highway serves as a retail center for an otherwise predominantly low-density residential community. Motor vehicles can access the property from both the highway and the intersecting street. The 2.022-acre parcel is in the township’s HM highway management zone, which permits retail uses, including fast food restaurants, assisted living facilities, outdoor recreation and child care centers. On the property is a 12,189-square-foot, single-story building constructed in 2001 and leased to CVS for the operation of a retail pharmacy with a drive through window. The building is of average quality construction, typical for a CVS Pharmacy. Based on the evidence introduced at trial, the court finds that although the building was constructed to meet the specifications of CVS, the structure is of a relatively basic design that could be retrofitted for a number of retail uses. In addition, the court finds that the building meets general commercial criteria for retail space with sufficient on-site surface parking. Wetlands on the parcel appear to preclude any further development with improvements.

For tax years 2009 and 2010, the subject property was assessed as follows:

Land	\$ 975,000
Improvement	<u>\$ 1,075,000</u>
Total	\$ 2,050,000

The average ratio for the township of tax year 2009 is 50.94%. When the ratio is applied to the assessment, the implied equalized value of the subject property for tax year 2009 is \$4,024,342.

The average ratio for the township for tax year 2010 is 52.07%. When the ratio is applied to the assessment, the implied equalized value of the subject property for tax year 2010 is \$3,937,008.

On March 30, 2009, CVS filed a Complaint challenging the tax year 2009 assessment on the property. The Complaint notes that CVS served a copy of the Complaint on the owner of the subject property. The owner elected not to participate in the tax year 2009 appeal.

On April 9, 2009, the municipality filed a Counterclaim, alleging that the subject property is assessed at below true market value for tax year 2009.

On March 24, 2010, CVS filed a Complaint challenging the tax year 2010 assessment on the property. The Complaint notes that CVS served a copy of the Complaint on the owner of the subject property. The owner elected not to participate in the tax year 2010 appeal.

On May 3, 2010, the municipality filed a Counterclaim, alleging that the subject property is assessed at below true market value for tax year 2010.

The appeals were consolidated for purposes of trial and this opinion.

At trial, each party relied solely on the expert testimony of a licensed real estate appraiser. The experts agreed that the highest and best use of the property was for retail purposes. They departed ways, however, on the particular retail use to which the property should be put. Plaintiff's expert reached his opinion of value based on his opinion that the building could be used for any retail purpose. The municipality's expert reached his opinion of value

based on his opinion that the building should be considered only for use as a pharmacy by a major pharmacy chain. This divergence of views accounts for the disparity in the opinions of true market value offered by the experts.

The expert presented by CVS opined that the subject property had a true market value of \$3,200,000 as of October 1, 2008, the valuation date for tax year 2009, and \$2,790,000 as of October 1, 2009, the valuation date for tax year 2010. The municipality's expert, on the other hand, opined that the subject property had a true market value of \$4,420,000 as of October 1, 2008 and \$3,730,000 as of October 1, 2009. For the reasons explained more fully below, the court concludes that the opinion offered by plaintiff's expert is the more credible opinion of true market value offered at trial.

II. Conclusions of Law

The court's analysis begins with the well-established principle that "[o]riginal assessments . . . are entitled to a presumption of validity." MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes, 18 N.J. Tax 364, 373 (Tax 1998). As Judge Kuskin explained, our Supreme Court has defined the parameters of the presumption as follows:

The presumption attaches to the quantum of the tax assessment. Based on this presumption the appealing taxpayer has the burden of proving that the assessment is erroneous. The presumption in favor of the taxing authority can be rebutted only by cogent evidence, a proposition that has long been settled. The strength of the presumption is exemplified by the nature of the evidence that is required to overcome it. That evidence must be "definite, positive and certain in quality and quantity to overcome the presumption."

Ibid. (quoting Pantasote Co. v. City of Passaic, 100 N.J. 408, 413 (1985)(citations omitted)).

The presumption of correctness arises from the view "that in tax matters it is to be presumed that governmental authority has been exercised correctly and in accordance with law."

Pantasote, supra, 100 N.J. at 413 (citing Powder Mill, I Assocs. v. Township of Hamilton, 3 N.J. Tax 439 (Tax 1981)); see also Township of Byram v. Western World, Inc., 111 N.J. 222 (1988). The presumption remains “in place even if the municipality utilized a flawed valuation methodology, so long as the quantum of the assessment is not so far removed from the true value of the property or the method of assessment itself is so patently defective as to justify removal of the presumption of validity.” Transcontinental Gas Pipe Line Corp. v. Township of Bernards, 111 N.J. 507, 517 (1988).

“The presumption of correctness . . . stands, until sufficient competent evidence to the contrary is adduced.” Township of Little Egg Harbor v. Bonsangue, 316 N.J. Super. 271, 285-86 (App. Div. 1998)(citation omitted); City of Atlantic City v. Ace Gaming, LLC, 23 N.J. Tax 70, 98 (Tax 2006). “In the absence of a R. 4:37-2(b) motion . . . the presumption of validity remains in the case through the close of all proofs.” MSGW Real Estate Fund, LLC, supra, 18 N.J. Tax at 377. In making the determination of whether the presumption has been overcome, the court should weigh and analyze the evidence “as if a motion for judgment at the close of all the evidence had been made pursuant to R. 4:40-1 (whether or not the defendant or plaintiff actually so moves), employing the evidentiary standard applicable to such a motion.” Ibid. The court must accept as true the proofs of the party challenging the assessment and accord that party all legitimate favorable inferences from that evidence. Id. at 376 (citing Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 535 (1995)). In order to overcome the presumption, the evidence “must be ‘sufficient to determine the value of the property under appeal, thereby establishing the existence of a debatable question as to the correctness of the assessment.’” West Colonial Enters, LLC v. City of East Orange, 20 N.J. Tax 576, 579 (Tax 2003)(quoting Lenal Props., Inc.

v. City of Jersey City, 18 N.J. Tax 405, 408 (Tax 1999), certif. denied, 165 N.J. 488 (2000)), aff'd, 18 N.J. Tax 658 (App. Div. 2004).

Only after the presumption is overcome with sufficient evidence at the close of trial must the court “appraise the testimony, make a determination of true value and fix the assessment.” Rodwood Gardens, Inc. v. City of Summit, 188 N.J. Super. 34, 38-39 (App. Div. 1982). If the court determines that sufficient evidence to overcome the presumption that the assessment is correct has not been produced, the assessment shall be affirmed and the court need not proceed to making an independent determination of value. Ford Motor Co. v. Township of Edison, 127 N.J. 290, 312 (1992); Global Terminal & Container Serv. v. City of Jersey City, 15 N.J. Tax 698, 703-04 (App. Div. 1996).

The court finds that plaintiff produced sufficient evidence to overcome the presumption of validity attached to the assessment. If taken as true, the opinion of plaintiff’s expert and the facts upon which he relied, create a debatable question regarding the correctness of the assessment on the subject property in each tax year sufficient to allow the court to make an independent determination of the value of plaintiff’s property. The expert opined that on each valuation date the subject property had a true market value of at least a million dollars less than the implied equalized value reflected in the assessment. This opinion is based on the expert’s inspection of the subject property and analysis of market data. Based on market evidence, the expert offered an opinion of market rent, a market vacancy and collection rate, market expenses, and a market capitalization rate for each tax year. Giving that testimony every positive inference, the court concludes the presumption of correctness has been overcome.

The court’s inquiry, however, does not end here. Once the presumption is overcome, the “court must then turn to a consideration of the evidence adduced on behalf of both parties and

conclude the matter based on a fair preponderance of the evidence.” Ford Motor Co., *supra*, 127 N.J. at 312 (quotations omitted). “[A]lthough there may have been enough evidence to overcome the presumption of correctness at the close of plaintiff’s case-in-chief, the burden of proof remain[s] on the taxpayer throughout the entire case . . . to demonstrate that the judgment under review was incorrect.” *Id.* at 314-15 (citing Pantasote, *supra*, 100 N.J. at 413).

A. Approach to Valuation.

“There are three traditional appraisal methods utilized to predict what a willing buyer would pay a willing seller on a given date, applicable to different types of properties: the comparable sales method, capitalization of income and cost.” Brown v. Borough of Glen Rock, 19 N.J. Tax 366, 376 (App. Div.) (citing Appraisal Institute, The Appraisal of Real Estate 81 (11th ed 2006)), *certif. denied*, 168 N.J. 291 (2001). “There is no single determinative approach to the valuation of real property.” 125 Monitor Street, LLC v. City of Jersey City, 21 N.J. Tax 232, 237 (Tax 2004) (citing Samuel Hird & Sons, Inc. v. City of Garfield, 87 N.J. Super. 65, 72 (App. Div. 1965); ITT Continental Baking Co. v. Township of East Brunswick, 1 N.J. Tax 244 (Tax 1980)), *aff’d*, 23 N.J. Tax 9 (App. Div. 2005). “The choice of the predominant approach will depend upon the facts of each case and the reaction of the experts to those facts.” *Id.* at 238 (citing City of New Brunswick v. Division of Tax Appeals, 39 N.J. 537 (1963); Pennwalt Corp. v. Township of Holmdel, 4 N.J. Tax 51, 61 (Tax 1982)).

Both experts relied on the income approach to valuing the subject property. The income capitalization approach is the preferred method of estimating the value of income producing property. Parkway Village Apartments Co. v. Township of Cranford, 108 N.J. 266, 270 (1987); Hull Junction Holding Corp. v. Borough of Princeton, 16 N.J. Tax 68, 79 (Tax 1996). “In the income capitalization approach, an appraiser analyzes a property’s capacity to generate future

benefits and capitalizes the income into an indication of present value.” Appraisal Institute, The Appraisal of Real Estate 445 (13th ed 2008). The court finds that the income capitalization approach is the best method for determining the value of the subject property, a parcel on which is located an income producing structure suitable for retail operations.

B. Calculation of Value Using Income Approach.

Determining the value of real property pursuant to the income approach can be summarized as follows:

$$\begin{array}{r}
 \text{Market Rent} \\
 \times \text{ Square Footage} \\
 \hline
 \text{Potential Gross Income} \\
 \\
 - \text{ Vacancy and Collection Losses} \\
 \hline
 \text{Effective Gross Income} \\
 \\
 - \text{ Operating Expenses} \\
 \hline
 \text{Net Operating Income} \\
 \\
 \div \text{ Capitalization Rate} \\
 \hline
 \text{Value of Property}
 \end{array}$$

See Spiegel v. Town of Harrison, 19 N.J. Tax 291, 295 (App. Div. 2001), aff’g, 18 N.J. Tax 416 (Tax 1999); Appraisal Institute, The Appraisal of Real Estate 466 (13th ed 2008).

1. Market Rent.

“Central to an income analysis is the determination of the economic rent, also known as the ‘market rent’ or ‘fair rental value.’” Parkway Village Apartments, supra, 108 N.J. at 270. This differs from the actual rental income realized on the property, which may be below market rates. Parkview Village Assocs. v. Borough of Collingswood, 62 N.J. 21, 29-30 (1972). However, actual income is a significant probative factor in the inquiry as to economic income. Id. at 30. “Checking actual income to determine whether it reflects economic income is a

process of sound appraisal judgment applied to rentals currently being charged for comparable facilities in the competitive area.” Ibid.

The experts offered opinions of market rent that do not differ dramatically. Plaintiff’s expert opined a market rent of \$24.00 per square foot for tax year 2009 and \$22.00 per square foot for tax year 2010. Defendant’s expert opined a market rent of \$27.00 per square foot for tax year 2009 and \$25.65 per square foot for tax year 2010.

For tax year 2009, plaintiff’s expert examined the subject lease and three leases for pharmacies that compete in the subject property’s market area. The expert verified the terms of all of the leases he considered. The subject lease, which took effect in June 1999, is for an initial 20-year term at \$25.71 per square foot. CVS also pays a percentage of net sales to the property owner. The lease is on a triple net basis and provides for four options to renew for five years each with 10% increases in rent every ten years.

One of the comparable leases is for property in Burlington County, one is for property in Ocean County, and one is for property in Cumberland County. The leases, which took effect in November 2005, January 2008 and September 2006, have unadjusted rents of \$24.49, \$28.68 and \$18.82.¹ Plaintiff’s expert made adjustments to the rents for market conditions, the density and income levels of surrounding residential properties, condition, size of the building, and, in one case, the credit worthiness of the tenant. After adjustments, the expert opined adjusted rents of \$23.88, \$29.40 and \$20.23. After weighing these adjusted rents, the expert reached the opinion of market rent of \$24.00.

For tax year 2010, plaintiff’s expert relied on two of the leases he used for tax year 2009 and two additional leases for pharmacies in the subject’s market area. The two new comparable

¹ All rental figures are per square foot of building space.

leases took effect in 2009. The unadjusted rental rates in the four leases ranged from \$18.47 to \$28.68. After adjustments similar to those described above, the expert reached adjusted rents of \$22.50, \$20.78, \$27.96 and \$19.29. After weighing the adjusted rents, the expert opined market rent of \$22.00.

For tax year 2009, defendant's expert relied on four comparable leases for pharmacies in Southern New Jersey. Two of the leases commenced in November 2007 and two commenced in 2009, after the valuation date for tax year 2008. Defendant's expert offered the opinion that the two 2009 leases were appropriate data for determining a market rent for tax year 2009 because he believed those leases were "under contract" during 2008 because construction of a pharmacy takes a "minimum of one year, might have been two" from the time that the leases are executed. The expert offered no evidence in support of his observation. Nor did the expert explain why, if this observation is true, the two comparable leases from November 2007 on which he relied did not actually reflect market conditions in 2006 or 2005 requiring appropriate adjustments.

Defendant's expert placed the four leases in a single adjustment grid. He testified that the grid, which was not labeled in his report, concerned tax year 2009. The unadjusted rents for the four comparable leases ranged from \$27.77 to \$31.44. The expert made adjustments for location and age of the structure. Notably, the expert made no adjustment for market conditions, even though two of the leases were from the period after October 1, 2008. After application of the adjustments, the expert opined adjusted rents ranging from \$24.27 to \$28.44. After weighing these adjusted rents and considering the subject lease, he opined a market rent of \$27.00 for tax year 2009.

For tax year 2010, defendant's expert did not create a separate adjustment grid. He merely offered the opinion that the market rent for tax year 2010 was \$25.65 based on market

conditions. He testified that he was of the opinion that market rents declined 5% from October 1, 2008 to October 1, 2009. He provided no market data to support his conclusion. Nor did he explain why no market adjustment was made for tax year 2009, even though two of the comparable leases he considered for that tax year were from the period October 1, 2008 to October 1, 2009, during which he believes market rents were declining. Nor did the expert explain how his opinion of declining market rents during that period squares with the fact that the two comparable leases he used from 2009 had adjusted rents higher than one of the comparable leases he used from 2007.

The court concludes that the opinions of market rent offered by plaintiff's expert are more credible than those offered by defendant's expert. The court does not find credible the municipality's expert's opinion of market rent for tax year 2009 because the court is not convinced by the explanation of defendant's expert with respect to the credibility of two of his comparable leases from 2009. Those leases are dated after the valuation date for tax year 2009 and no appropriate adjustment for market conditions was made to the rent in those leases, despite the expert's testimony that the market was declining during that period.

In addition, for two reasons, the court does not find credible defendant's expert's opinion of market rent for tax year 2010, based as it was on a 5% adjustment for market conditions to his opinion of market rent for 2009. First, the court has already determined that the expert's market rent opinion for tax year 2009 lacks credibility. Thus, a 5% adjustment to that rate to arrive at an opinion of market rent for tax year 2010 does not produce a credible result. In addition, the court is not persuaded that the expert's opinion of a 5% market decline from October 1, 2008 to October 1, 2009 is supported by market data. The expert cited no market evidence in support of this 5% adjustment to reach a market rent for tax year 2010.

2. Building Size.

The parties stipulated to the size of the rentable space at the subject property, the details of which are set forth above.

3. Vacancy and Collection Rate.

The municipality's expert offered the opinion that a 0% vacancy rate is appropriate for the subject property. He testified that pharmacy buildings are rarely vacant. His own report, however, indicates that "[t]hree existing Rite Aid single tenant drug store properties in Southern New Jersey were listed for lease as of February 2010." He acknowledged during his testimony that those pharmacies were vacant. He could not credibly explain his opinion of a 0% vacancy rate when confronted with his own evidence of three vacant Southern New Jersey pharmacies between October 1, 2008 and October 1, 2009.

Nor did the expert examine vacancy rates in retail properties generally, as he was of the opinion that the subject property was unlikely to be rented for a use other than as a pharmacy. Yet, the expert's report offers the opinion that "[s]ome re-leasing of existing single tenant drug stores has taken place but these generally have deed restrictions prohibiting drug store use." If, as the expert suggests, pharmacy leases generally have restrictions prohibiting the re-leasing of the structure for drug store use, it is not credible to opine that general retail vacancy rates would be irrelevant to the subject property's market vacancy rate.

Plaintiff's expert offered the more credible opinion of a market vacancy and collection rates for the subject property. Relying on market data concerning retail properties within a five mile radius of the subject showing a vacancy rate between 5.5% and 6.5%, plaintiff's expert opined a market vacancy and collection rate of 5% for tax year 2009. He allocated that rate at 3% for vacancy and 2% for collection loss.

Relying on similar data for subsequent periods showing a vacancy rate between 6% and 8%, plaintiff's expert opined a market vacancy and collection rate of 7%. He allocated that rate at 5% for vacancy and 2% for collection loss.

4. Operating Expenses.

Plaintiff's expert examined operating statements from similar properties, as well as industry ratios and historic expense patterns from similar properties to reach an opinion of market expenses for each tax year. He opined expenses of 9% of effective gross income for tax year 2009 and 8.89% of effective gross income for tax year 2010. These figures include a reserve for repairs and capital improvements, a management fee, commissions, and professional fees.

The municipality's expert opined \$0 in market expenses. He opined that leases with major pharmacies general are triple net leases with tenants responsible for all expenses. Because he was of the view that the subject property would be rented to a major pharmacy and not for general retail purposes, he opined that all expenses would be the responsibility of the tenant. He offered no market data to support this conclusion. He did, however, include a 3% leasing commission to reflect stabilized leasing costs.

The taxpayer's expert offered the more credible opinion with respect to market expenses. While it may be true that the market rents offered by both experts were based on the opinion that the market would produce triple net leases for the subject property, plaintiff's expert accounted for that fact. His opinion of market expenses does not include utilities, taxes, insurance, maintenance and repairs, which, he opined, would be the responsibility of a tenant under a triple net lease. This opinion is confirmed by the historic expense data from similar properties.

5. Capitalization Rate.

The overall capitalization rate is an “income rate for a total real property interest that reflects the relationship between a single year’s net operating income expectancy and the total property price or value” Appraisal Institute, The Appraisal of Real Estate at 462. The overall capitalization rate is “used to convert net operating income into an indication of overall property value.” Ibid.

Both experts used the Band of Investment technique to calculate an overall capitalization rate. “This technique is a form of ‘direct capitalization’ which is used ‘to convert a single year’s income estimate into a value indication.’ The technique includes both a mortgage and an equity component.” Hull Junction Holding, supra, 16 N.J. Tax. at 80-81 (quoting Appraisal Institute, Appraisal of Real Estate 467 (10th ed 1992)).

Because most properties are purchased with debt and equity capital, the overall capitalization rate must satisfy the market return requirements of both investment positions. Lenders must anticipate receiving a competitive interest rate commensurate with the perceived risk of the investment or they will not make funds available. Lenders generally require that the loan principal be repaid through periodic amortization payments. Similarly, equity investors must anticipate receiving a competitive equity cash return commensurate with the perceived risk, or they will invest their funds elsewhere.

[Appraisal Institute, Appraisal of Real Estate 505 (13th ed 2008).]

In “using the Band of Investment technique, it is incumbent upon the appraiser to support the various components of the capitalization rate analysis by furnishing ‘reliable market data . . . to the court as the basis for the expert’s opinion so that the court may evaluate the opinion.’” Hull Junction Holding, supra, 16 N.J. Tax at 82 (quoting Glen Wall Assocs., supra, 99 N.J. at 279-80). “For these purposes, the Tax Court has accepted, and the Supreme Court has sanctioned, the use

of data collected and published by the American Council of Life Insurance.” Id. at 82-83. “Relevant data is also collected and published by . . . Korpacz Real Estate Investor Survey.” Id. at 83. “By analyzing this data in toto, the court can make a reasoned determination as to the accuracy and reliability of the mortgage interest rates, mortgage constants, loan-to-value ratios, and equity dividend rates used by the appraisers.” Ibid.

Plaintiff’s expert relied on published market data and interviews with investors to determine an appropriate capitalization rate for the subject property. He opined a capitalization rate of 7.9% for tax year 2009 and 8.15% for tax year 2010. The municipality’s expert examined four pharmacy leases, one of which was from Pennsylvania and three of which were from New Jersey, along with market data to reach a capitalization rate opinion. He opined a capitalization rate of 7.2% for tax year 2009 and 8.1% for tax year 2010. The experts’ opinions on this point vary only slightly. The court adopts the capitalization rates offered by plaintiff’s expert, which are based on credible market data.

6. Calculation of Value

Having accepted as credible the income, expenses and capitalization rate offered by plaintiff’s expert, the court need not set forth at length the calculation of value for the subject property. Given that the court accepts as credible each of the components of the analysis of plaintiff’s expert, the court also accepts the expert’s value conclusions. The court, therefore, concludes that the true market value of the subject property is as follows:

For tax year 2009, the true market value of the subject property as of October 1, 2008 was \$3,200,000.

For tax year 2010, the true market value of the subject property as of October 1, 2009 was \$2,790,000.

C. Applying Chapter 123

Pursuant to N.J.S.A. 54:51A-6a, commonly known as Chapter 123, in a non-revaluation year an assessment must be reduced when the ratio of the assessed value of the property to its true value exceeds the upper limit of the common level range. The common level range is defined by N.J.S.A. 54:1-35a(b) as “that range which is plus or minus 15% of the average ratio” for the municipality in which the subject property is located.

1. Tax Year 2009.

The true value determined above must, therefore, be compared to the average ratio for Medford Township for tax year 2009. The formula for determining the subject property’s ratio is:

$$\text{Assessment} \div \text{True Value} = \text{Ratio}$$

Here, that equation is represented as follows:

$$\$2,050,000 \div \$3,200,000 = .6406$$

The chapter 123 average ratio for Medford Township for tax year 2009 is .5094 with a common level range with an upper limit of .5858 and a lower limit of .4330. The ratio for the subject property for this tax year is .6406, which exceeds the upper limit of the common level range for this tax year.

According to N.J.S.A. 54:51A-6 “[w]henver the tax court is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true market value exceeds the upper limit or falls below the lower limit of the common level range, it shall enter judgment revising the taxable value of the property by applying the average ratio to the true market value of the property” Thus, the correct formula for determining the taxable value of the subject property for tax year 2009 is:

$$\$3,200,000 \times .5094 = \$1,630,080$$

The court will round this figure to \$1,630,000 enter Judgment setting the tax year 2009 assessment on the subject property as follows:

Land	\$ 975,000
Improvements	<u>\$ 655,000</u>
Total	\$1,630,000

2. Tax Year 2010.

The true value determined for tax year 2010 must be compared to the average ratio for Medford Township for tax year 2010. The formula for determining the subject property's ratio is:

$$\text{Assessment} \div \text{True Value} = \text{Ratio}$$

Here, that equation is represented as follows:

$$\$2,050,000 \div \$2,790,000 = .7348$$

The chapter 123 average ratio for Medford Township for tax year 2010 is .5207 with a common level range with an upper limit of .5988 and a lower limit of .4426. The ratio for the subject property for this tax year is .7348, which exceeds the upper limit of the common level range for this tax year.

According to N.J.S.A. 54:51A-6 “[w]henver the tax court is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true market value exceeds the upper limit or falls below the lower limit of the common level range, it shall enter judgment revising the taxable value of the property by applying the average ratio to the true market value of the property” Thus, the correct formula for determining the taxable value of the subject property for tax year 2010 is:

$$\$2,790,000 \quad \times \quad .5207 \quad = \quad \$1,452,753$$

The court will round this figure to \$1,452,800 and enter Judgment setting the tax year 2009 assessment on the subject property as follows:

Land	\$ 975,000
Improvements	<u>\$ 477,800</u>
Total	\$1,452,800

Very truly yours,



Patrick DeAlmeida, P.J.T.C.