5746 Tebo School Rd.
Boyne City, MI 49712
(231) 582-6940
Fax: (231) 582-6144
pvell@freeway.net

Peter J. Vellenga

March 9, 2009

Township Board of Review

Dear Board Members,

Before addressing the specifics with regard to my properties, it occurred to me that providing you with some general background materials may prove useful not only in my case, but for your general deliberations today. These are also intended as an attachment to my own cases before you.

Early Example of Increases caused by Equalization

This year the Board of review, in many ways, faces decisions that are as troubling as difficult as it was when we were facing the unrealistic increases each year which brought about the passing of **Proposition "A"**. In this case I am using Charlevoix County Evangeline Township as an example where they hired an appraisal service and all the property in the township was reassessed. At the time before the reassessment, the Township Supervisor and assessor was Bessie VanDorn. I bring up this history to make a point. The reassessment created a patently inequitable increase. I took the matter to the tax tribunal and the tax tribunal ruled that the original assessment was very close to the TCV determination after obtaining a full appraisal. This meant that many other similarly situated properties were also greatly over assessed using the mass appraisal techniques. Therefore, Equalization means that all properties now have to be equalized to these inflated valuations brought about by the mass appraisal techniques. In my opinion pushing of these increased valuations has aggravated the situation we face today.

Problems with Mass Appraisal Techniques

Real property is far more complex than is envisioned under the mass appraisal techniques. Let me address some of the issues that are totally ignored by these techniques:

- Ownership Interests in the property that are less than a fee simple holding: Example where property is owned by more than one family as tenants in common provided that this was not something that they created.
- A set policy for deducting for wetland property
- A set policy for deducting for landlocked property
- Valuation when property is not winterized and can only be used 6 months a year
- Deduction in value for having shared water and septic systems
- Deduction in value for those properties that zoning has turned into non-conforming uses

These are only a few of the almost endless variety of End Result of Equalization Policy which also relies upon the very flawed concept of mass appraisal techniques.

Conclusion
Regrettably, these over assessments which ostensibly wanted to make everything equal (*which benefited government programs at the expense of the taxpayers*) created the bubble which has finally burst. I will be including a number of attachments which you may find to be instructive in making your decision, and request that this will also become part of each of my protests being filed with you today.

National Notoriety
The serious nature of the problem in Michigan even reached national notoriety. In May *Michigan ranked 4th in the nation in declining home values*, **Attachment I** – ***Wall Street Journal Article dated May 28, 2008***. Yet for the 2009 assessment period each property owner affected by **Proposition "A"** is facing a 4.4 percent increase in our taxable values. If that does not bring about a disconnect in rational thinking in our legislators, then perhaps we may be beyond redemption as a state.

Why Was Proposition "A" Needed?
Part of the reason for the disconnect is **Proposition "A"** which was supposed to assure that our taxable valuation should not increase more than the rate of inflation. If we consider that if real estate is moving up more than the economy then there may be a major disconnect occurring some place and I hope to address at least some of the factors which may be contributing to that disconnect. I believe that we put in Proposition "A" to correct a systemic problem within our taxing system.

4.4% Taxable Rate Increase Not Justified
Contrary to the position taken by the State Tax Commission, it does not take a rocket scientist to realize that we did not have the highest rate of inflation this last year since the enactment of **Proposition "A"**. Pperhaps in the quest for revenues the state may have been ***creative*** in the interpretation of the Constitutional language. This creativity is in the statutory enactments that have supposedly implemented the Constitutional Amendment, but indeed may have seriously impaired its intended operation.

Yearly Standard Established by Constitution
The operative fact is that the Constitution indicates that it is to be based upon the inflation **for the previous year**. You will find, **Attachment II,** a brief discussion where I address both this taxable increase and also the failure of the State to properly consider foreclosures in their sales studies.

Wisdom of Our Founding Fathers
Our founding fathers struggled with some of these same issues. James Madison in an essay entitled Property written in 1792 wrote: "***Where an excess of power prevails, property of no sort is duly respected.***"

Excess of Power
This excess in power was arguably created when we established our current taxing

policies since the People of the State of Michigan were prohibited from reviewing and commenting upon the policies prior to their enactment. Then attorney General, Frank Kelly, issued an opinion that the administrative rules under which our taxes are set did not come under the Administrative Procedures Act and therefore citizens were denied the right to ever comment upon these procedures before adoption.

Effect Upon Boards of Review
These taxing procedures constrain you from the proper exercise of your responsibilities. It means (*particularly this year*) that you do not truly have the freedom to assess properties at 50% of their true cash value. You have been instructed that you cannot decrease the valuation below the 49% level or face all properties in any classification that should fall below that calculation can have a factor placed on each of them to assure that you raise sufficient funds based on the State Equalization to assure that we do not fall below the property valuations that have been set by Lansing for Charlevoix County and then spread between the governmental entities by the County Equalization Department.

Result is Assessment of Some Properties Above 50% of TCV
From my perspective, this constraint is one that particularly this year will force you to assess properties above 50% of their true cash value. ***I do not envy your position!***

Not Limited to Taxing Authority
Regrettably, throughout our system of government, we find an excess of power raising its ugly head. This has recently occurred during the budget hearing for Charlevoix County. Your Board of Commissioners decided to develop a budget based on a 9% increase in real estate tax revenues even after seeing that such increase would be forcing the assessment of properties above 50% of valuation and would also cause additional citizens to potentially be unable to pay their taxes. Please review my presentation to the Charlevoix County Board of Commissioners dated October 29, 2008, **Attachment III**.

Failure of Governor To Act
The resolution of this problem rests with the Governor who has failed to address this problem or even respond to my October 22, 2008 letter, **Attachment IV**.

Violation of Constitutional Mandate
Regrettably, the problem you are facing today may force you to violate your constitutional mandate by increasing the taxable value of every property above the Constitutional mandate based upon the calculations released in Tax Bulletin released October 27, 2008, **Attachment V**. It is interesting that the State Tax Commission references the statute rather than the governing provision which must be the Constitution. You will find from my comments in **Attachment II** is that the clear and unambiguous language of the Constitution requires it to be based on the **rate of inflation for the previous year**.

US Department Labor Statistics
It is clear from the US Labor Department that there was a 0% rate of inflation for 2008, **Attachment VI**. This contrasts with the highest increase since the establishment of Proposition "A". It is true that this procedure has not been brought before the courts, but

this could change this year. You may also find yourself assessing both newly acquired properties and also some others above 50% of their true cash value. That is the natural consequence of a real estate bubble. The failure to properly include all arms length sales in the sales study creates a situation where many properties may be assessed above 50% of TCV. Many people now owe more than their properties are worth further aggravating a very difficult situation. I saw on television some of the properties now being sold for pennies on the dollar by the taxing authorities. I agree that these tax sales should not be included in the sales studies since they are only reflecting the amount owed for taxes. However, the fact that these tax sales are increasing illustrates the very perilous times we are facing.

Unpalatable Solution for BOR
In the past, I agreed with you that you had no option but to follow the ***Guidelines*** and directions you receive from the Assessor. However, it is your responsibility to follow the Constitution. This year I seriously question, if you properly exercised your discretion, and actually decreased all properties that should be decreased, whether a factor would be placed on everyone for doing what is right, just and constitutional. I encourage each of you to consider this as an option to consider.

Did Not Come Upon Us Suddenly
This situation has not suddenly come upon us. You may wish to review my prior comments presented to you on March 10, 2008, **Attachment VII**. At that time I also provided you with a copy of State Tax Commission, **Bulletin #6** on foreclosures, dated August 15, 2007, **Attachment VIII**. It is very clear from the Bulletin that these are only **GUIDELINES** and not mandates. However, based on a conversation with Mr. Al Enciso, Evangeline Township Assessor, he views that these guidelines have the force of law, and believes they must be followed whether or not it may cause a particular property to be assessed above 50% of True Cash Value. I reject the argument that to properly assess a property is ***chasing sales***. You may wish to read a portion of the Michigan Economic Review and Outlook released January 9, 2009, **Attachment IX** on the economy specifically addressing the housing market. It is clear that Evangeline Township is not reflecting reality in its assessment practices.

Please also consider my comments to our elected representatives, **Attachment X**.

As I mentioned earlier, I do not envy you with the decisions you must make, and hope that you exercise wisdom and do what is right and just for Evangeline Township.

Sincerely,

Peter J. Vellenga

ATTACHMENT 1

May 28, 2008 Wall Street Journal

Granholm's Tax Warning

It's no fun to kick a state when it's down – especially when the local politicians are doing a fine job of it – but the latest news of Michigan's deepening budget woe is a national warning of what happens when you raise taxes in a weak economy.

Officials in Lansing reported this month that the state faces a revenue shortfall between $350 million and $550 million next budget year. This is a major embarrassment for Governor Jennifer Granholm, the second-term Democrat who shut down the state government last year until the Legislature approved Michigan's biggest tax hike in a generation. Her tax plan raised the state income tax rate to 4.35% from 3.9%, and increased the state's tax on gross business receipts by 22%. Ms. Granholm argued that these new taxes would raise some $1.3 billion in new revenue that could be "invested" in social spending and new businesses and lead to a Michigan renaissance.

Not quite. Six months later one-third of the expected revenues have vanished as the state's economy continues to struggle. Income tax collections are falling behind estimates, as are property tax receipts and those from the state's transaction tax on home sales.

Michigan is now in the 18th month of a state-wide recession, and the unemployment rate of 6.9% remains far above the national rate of 5%. Ms. Granholm blames the nationwide mortgage meltdown and higher energy prices for the job losses and disappearing revenues, but this Great Lakes state is in its own unique hole. Nearby Illinois (5.4% jobless rate) and even Ohio (5.6%) are doing better.

Leon Drolet, the head of the Michigan Taxpayers Alliance, complains that "we are witnessing the Detroit-ification of Michigan." By that he means that the same high tax and spend policies that have hollowed out the Motor City are now infecting many other areas of the state.

The tax hikes have done nothing but accelerate the departures of families and businesses. Michigan ranks fourth of the 50 states in declining home values, and these days about two families leave for every family that moves in. Making matters worse is that property taxes are continuing to rise by the rate of overall inflation, while home values fall. Michigan natives grumble that the only reason more people aren't blazing a path out of the state is they can't sell their homes. Research by former Comerica economist David Littmann finds that about the only industry still growing in Michigan is government. Ms. Granholm's $44.8 billion budget this year further fattened agency payrolls.

There's another national lesson from the Granholm tax dud. If Democrats believe that anger over the economy and high gas prices have put voters in a receptive mood for higher taxes, they should visit the Wolverine State.

Just a few weeks ago taxpayer advocates collected enough signatures in suburban Detroit for a ballot initiative to recall powerful Speaker of the House Andy Dillon, who was one of last year's tax-hike ringleaders. Voters seem to think there would be rough justice if for once politicians, rather than workers, lose their jobs from higher taxes.

ATTACHMENT II

Argument Regarding invalidity of 4.4% Increase in Taxable Rate

Article IX Michigan Constitution 1963 states very clearly that there shall be no increase in the taxes above the limitations set forth in what the Michigan voters approved as ***Proposition "A"***.

Sec. 25. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval. The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the proportion of state spending in the form of aid to local governments, or from shifting the tax burden to local government.

It is clear that there has been no direct voter approval of the increase of taxes. We find therefore that the limitations set forth in the Constitution must govern.

§ 31 Levying tax or increasing rate of existing tax; maximum tax rate on new base; increase in assessed valuation of property; exceptions to limitations.

Sec. 31. Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on the new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level **from the previous year**, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.

Section 31 specifically provides that the determination shall be made from the General Price Level **from the previous year**. The reliance of the State Tax Commission upon the provisions of **MCL 211.34d** provides for a calculation which includes figures from October 2006 to October 2008, Bulletin No. 6 of 2008 released October 27, 2008.. This determination is clearly at variance with the unambiguous Constitutional language which must govern. Therefore, the 4.4% increase cannot be justified based on a reading of the Constitutional language which clearly refers only to the **previous year** which for 2009 must be 2008. In fact the Department of Commerce found that last year the annual inflation rate was 0%. Therefore, it is my position that there should be no increase in the taxable rate on properties in the State of Michigan.

This issue is one that is of concern to the Michigan legislature which has proposed ***Super Cap*** resolution that when real estate valuations decrease as they have in this last year that the state cannot increase the taxable rate.

Argument to Consider all foreclosure sales by Banks

When a bank becomes the owner of a property it should be considered an owner equally with all other owners who sell their property. The imposition of special requirements on this class of sale by the Department of the Treasury violates the rights of the public to equal protection under the law and under its most recently adopted rules artificially increases the valuation of Michigan Real Estate and therefore specifically violates the mandate to not assess the property at more than 50% of its True Cash Value as set forth in Article 9, Section 3 of the Michigan Constitution 1963 as amended which provision provides:

Sec. 3. 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, after **January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. For taxes levied in 1995 and each year thereafter, the legislature shall provide that the taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred.**

It is for the foregoing reasons that the SEV should have decreased on most Michigan properties which is not reflected in the current assessment. We need to pass, **HB 4102.**

ATTACHMENT III

Peter J. Vellenga

Attorney and Counselor At Law
Real Estate Broker
5746 Tebo School Rd.
Boyne City, MI 49712
(231) 582-6940
Fax: (231) 582-6144
pvell@freeway.net

October 29, 2008

Charlevoix County Board Of Commissioners
County Offices
301 State Street
Charlevoix, MI 49720

In Re: Charlevoix County 2009 Budget Hearing

Dear Commissioners,

Past Appearances on Proposed Resolution

This is my third appearance before you. I had originally appeared and submitted a resolution to address what I saw as a serious concern about the way we compute the Sales Studies upon which the State determines the State Equalized Value. Please understand that once the state determines the county equalized value, we are then locked into a program which currently will guarantee violation of assessments above 50% to TCV. On the 22nd of October, 2008 the Board elected not to pass my proposed resolution. I do not believe that the current Department of Treasury Bulletin regarding a limited inclusion of some foreclosed property sales in the sales study is sufficient.

Reason For Appearing Tonight

I am appearing before you this evening to raise strenuous objections to your proposed 2009 budget. I fully understand that your budgetary process began long before the current economic crisis became apparent. I am not here to fault the budgetary process, but to cry out that unless the Board takes into consideration this serious economic crisis, you will potentially face a serious budget deficit.

Real Estate Tax Revenues Compared

The current proposed budget reflects the current Property Tax for 2008 as being $8,185,781.00. However, you are projecting a 9.06% increase in those revenues for the 2009 budget year which would mean the receipt of revenues of $8,927,067.00.

Increase In Foreclosures Combined with Significant Decrease in Property Valuations

Currently the taxable rate is slated to increase by 4.4 percent for this coming year. This is one of the largest increases we have had in the taxable rate and it is clearly not justified based on the current economic crisis that has been precipitated by the collapse of the real estate bubble. Currently nation wide we are facing 1.2 million foreclosures. Experts believe that over the next 5 years that will increase to over 5 million foreclosures. I do not believe that your budgetary process has properly factored this decrease in value into your calculations.

Dual Responsibilities Faced By Commissioners

You are the employer of the county employees. In that role you need to act as any other employer. We are seeing massive layoff's occurring in the private sector. They have to answer to their shareholders and if their projected sales cannot warrant the outflow of salaries then either reductions in salary or numbers of employees or both must take place. You are likewise accountable to your constituents who yearly fund your operations from taxes on their real property which constitutes the lion's share of your revenues.

What is Prudent Action?

For this Board to ***not act prudently*** in this emerging financial crisis would be a breach of your responsibility to your constituents. Since your constituents fund your business yearly, you must also make the hard decisions as employer to assure that you do not increase burdens on your constituents to provide pay increases when forward looking projections of revenue will clearly not warrant such increases. As employer your ultimate accountability must be to your constituents, the taxpayers and residents of Charlevoix County. In light of this economic crisis you must either cut programs, salaries or numbers of employees or a combination of all three. This cannot be based on a budgetary process started prior to the reality of the crisis, but based on the existing severe economic crisis conditions.

Will State Government Address The Inappropriate Increase in Taxable Value?

We do not know the answer to this question. However, I believe that the state is well aware of the adverse impact caused by this 4.4% taxable value increase. I believe prudent business projection would have you remove this unwarranted burden on you constituents in the budgetary process.

Why Should Public Servants Receive Salary Increases funded by Constituents who are losing their Jobs?

I believe we have lost track of an essential element. Public servants are to be here to serve the constituents and not control them. Too often we find public servants who mistakenly feel that they are the rulers over those who are their employers. My hope is that in addition to making the hard budgetary decisions, you will also remind all employees that they are here to serve the taxpayers and residents of this county. I do not believe that any salary increases can be justified. I also believe that you need to look very closely at every program, and any that do not directly benefit the taxpayers and residents should either be severely curtailed or totally eliminated.

Review of Building Department Issues

I was not fully aware till discussion this morning with your Chairman that the building Department had not been part of your '08 budget. In looking at those figures, I see a 39.89% projected decrease in building permit revenue, a 36% decrease in electrical permits, a 28.7% decrease in plumbing permits, a 27.27% decrease in mechanical permits and a 43% decrease in soil permits. You may wish to take an average of these indicators as to the overall size of your budget. I am not an accountant, but believe that there should be some careful consideration about whether these are historical decreases or forward looking projections. If they are historical then we may be severely adversely impacting county government to keep all employees in this department. Since, if this is a historical deceases, the crisis indicates there will be additional decreases in those fees. I also do not know how you account for decreases if the fees were not included in your 2008 budget. I believe this area merits additional review.

Increases and Decreases

Sadly, over the years I have found that government often cuts the items that most directly impact the very constituents they serve and increase areas which benefit primarily the public servants. I do not think in the current economic conditions that you should be giving any pay increases. If we lose employees; somehow our government will function. It operated previously with far fewer employees. Somehow, we will be able to pick up the slack just as every single one of your constituents must do for their personal and corporate budgets. The recent cement company layoff news is one example of the extraordinary measures that must be taken to be fiscally responsible.

Sincerely,

Peter J. Vellenga, P-21804
Attorney At Law and Real Estate Broker

ATTACHMENT IV Revised

Peter J. Vellenga

Attorney and Counselor At Law
5746 Tebo School Rd.
Boyne City, MI 49712
(231) 582-6940
Fax: (231) 582-6144
pvell@freeway.net

October 22, 2008

Governor Jennifer M. Granholm
111 S. Capitol Ave.
Lansing, MI 48933

Fax Communication
(517) 241-1707

In Re: Determination of Real Estate Tax Increase

Dear Governor Granholm,

Based on communication with the Charlevoix County Equalization Director and Scot Schrager with Department of Treasury, I understand that Treasury is planning to utilize an increase in taxable value that will be 4.4% for this year. I understand that this is based on established economic indicators and immediate legislation could address valuation unless you can take unilateral action based on the current emergency. I would submit that such an increase in taxable value for the entire state of Michigan will statistically mean more foreclosures.

I believe that we are in an economic crisis. Yet, I am seeing many local governments proposing pay increases for county employees. It is my position that we are no longer in a place where government at any level should have a mistaken belief that they should be increasing wages, when the very people who will be funding those increases are losing their jobs, their homes; and even the ability to put food on the table or heat their homes this winter.

I understand that the food pantries are seeing a tremendous increase in need that is severely challenging their ability to provide relief. Likewise those agencies that provide heating relief are finding that resources to meet these needs are not present. Increasing the real estate taxes on the people of the people of the State of Michigan under these circumstances is not only unwarranted, but clearly can severely worsen an already depressed real estate market.

I an asking you, as the Chief Executive officer of this state, to take the lead by:

- Freezing all taxable value increases for this year, or requesting legislation should that be necessary.
- Assuring that Treasury issue new guidelines to include **ALL** sales of foreclosed properties in the sales studies unless the assessing officer justifies in writing why any given sale is excluded from the sales studies.
- Make an Executive determination that the economic crisis warrants annual sales studies.

Please respond immediately, and advise what steps you are taking to address this crisis.

Sincerely,

Peter J. Vellenga

Peter J. Vellenga, P-21804
Attorney At Law

ATTachment V

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

ROBERT J. KLEINE
STATE TREASURER

BULLETIN NO. 6 of 2008
INFLATION RATE
OCTOBER 27, 2008

TO: **Assessors**
Equalization Directors

FROM: **State Tax Commission**

RE: **Inflation Rate Multiplier for use in the 2009 capped value formula and the 2009 "Headlee" Millage Reduction Fraction (MRF) formula**

Note: The Calculation of the Inflation Rate Multiplier is set in statute. MCL 211.34d states:

(l) "Inflation rate" means the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

(f) "General price level" means the annual average of the 12 monthly values for the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

Based on this statutory requirement, the calculation for 2009 is as follows:

1. The 12 monthly values for October 2006 through September 2007 are averaged.
2. The 12 monthly values for October 2007 through September 2008 are averaged.
3. The ratio is calculated by dividing the average of column 2 by the average of column 1.

The specific numbers from the US Department of Labor, Bureau of Labor Statistics are as follows:

Oct-06	201.800	Oct-07	208.936
Nov-06	201.500	Nov-07	210.177
Dec-06	201.800	Dec-07	210.036
Jan-07	202.416	Jan-08	211.080
Feb-07	203.499	Feb-08	211.693
Mar-07	205.352	Mar-08	213.528
Apr-07	206.686	Apr-08	214.823
May-07	207.949	May-08	216.632
Jun-07	208.352	Jun-08	218.815
Jul-07	208.299	Jul-08	219.964
Aug-07	207.917	Aug-08	219.086
Sep-07	208.490	Sep-08	218.783
Average	**205.338**		**214.463**
		Ratio	**1.044**
		% Change	**4.4%**

P.O. BOX 30471 • LANSING, MICHIGAN 48909-7971
www.michigan.gov/treasury • (517) 373-0500

Local units <u>cannot</u> develop or adopt or use an inflation rate multiplier other than 1.044 in 2009. It is not acceptable for Local units to indicate to taxpayers that you do not know how the multiplier is developed.

- **Inflation Rate Multiplier Used in the 2009 Capped Value Formula**

The inflation rate, expressed as a multiplier, to be used in the 2009 Capped Value Formula is **1.044.**

The 2009 Capped Value Formula is as follows:

2009 CAPPED VALUE = (2008 Taxable Value – LOSSES) X 1.044 + ADDITIONS

The formula above does not include 1.05 because the inflation rate multiplier of 1.044 is lower than 1.05.

- **Inflation Rate Multiplier Used in 2009 "Headlee" Calculations**

The inflation rate multiplier of 1.044 shall ALSO be used in the calculation of the 2009 "Headlee" Millage Reduction Fraction required by Michigan Compiled Law (MCL) 211.34d.

The formula for calculating the 2009 "Headlee" Millage Reduction Fraction (MRF) is as follows:

$$\textbf{2009 MRF} = \frac{\textbf{(2008 Taxable Value – LOSSES) X 1.044}}{\textbf{2009 Taxable Value – ADDITIONS}}$$

- The following is a listing of the inflation rate multipliers used in the Capped Value and "Headlee" calculations since the start of Proposal A:

1995	1.026
1996	1.028
1997	1.028
1998	1.027
1999	1.016
2000	1.019
2001	1.032
2002	1.032
2003	1.015
2004	1.023
2005	1.023
2006	1.033
2007	1.037
2008	1.023
2009	1.044

US Inflation Calculator

ATTACHMENT VI

Easily find how the buying power of the US dollar has changed from 1913-2009; get inflation rates, charts and inflation news.

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Annual inflation rate at 0%, consumer prices rise 0.3% in January

February 20, 2009 · Filed Under Inflation, Inflation Rates · Comment

Diving energy prices drove U.S. consumer prices flat over the past 12 months, marking the **lowest inflation rate** in more than a half a century, the Labor Department reported Friday. However, energy costs have been ticking upward of late and pulled consumer prices back up in January.

> "A bit of inflation is encouraging," Mark Zandi, chief economist at Moody's Economy.com, was quoted on NYTimes.com. "It means businesses aren't completely giving up and slashing prices. The fact that they can at least hold the line on their price cuts is a positive."

The Consumer Price Index (CPI), the most closely watched gauge for inflation, rose 0.3% in January following an adjusted 0.8% slide in December. The increase was in line with market expectations and the first positive advance in six months. Still, most economists believe prices will again decline.

> "We're in the heart of the recession right now, and with demand falling rapidly, we can expect downward pressure on prices," Chris Rupkey, chief financial economist in New York at Bank of Tokyo-Mitsubishi UFJ Ltd., was quoted on Bloomberg.com. "Everything is heading in the same direction, which is down. Sales are down, profits are down, prices are coming down."

More and more economists are now focusing on the dangers of continual, out of control falling prices, known as deflation. Even the Federal Reserve has discussed the risks. (See *Long-term inflation target set…* and *Deflation a key risk in 2009…*) Read more

ATTACHMENT DII

Evangeline Township Board of Review

As a taxpayer, the fact that I am seeing neutral or assessment increase is of great concern to me and I am requesting the Board of Review to request the following both from Charelvoix County Equalization and from the Township Assessor:

I am very concerned that Michigan which is at the top of foreclosures nationwide and apparently is experiencing a downturn in the real estate market of approximately 20% , yet with this decrease and most properties not selling or selling at significant discounts the assessments fail to reflect this fact. This tells me that the system is broken and needs to be fixed. I am asking that this be attached to my objections that are filed today although this is not a fact that can be addressed directly by the Board of Review relating to my individual assessments.

My illustration of taxation without representation comes from Tax Bulletin, No. 6, August 15, 2007, See attached. This is not law and it is certainly not an administrative rule. This is the type of dictatorial edict that subverts the taxing system from the purposes of the statute in the name of proper enforcement. The term public servant used to have meaning that our government officials were there to serve the needs of the people. Regrettably, today we find a bureaucracy that is more intent on funding its continued existence than serving the needs of the people.

My first question is why (if we have paid our officials to carry out this function) should they be allowed to ever use a ***"desk reviewed"*** sales study. This means that there is no need to actually examine the actual sales and determine whether there are unique factors that if ignored would only apply to a limited type of property. Too often the higher end homes are selling for amounts that are over their assessed valuation. When used in a sales study this will then place a high ECF on every home in that neighborhood. The devil is in the details and our servants should be there to assure that if an ECF is applied it is only to similar properties.

Therefore, the approval of ***"desk reviewed"*** sales studies should not be approved at all within our County and the Board of Review should specifically request the Assessor to reject any desk reviewed sales study that increases an ECF or valuation in general.

The same memorandum also then excludes any of the factors that would actually affect market value such as a sale by a financial institution unless it was owned by the institution for its own operations.

I am questioning whether the applicable sales studies done by the county reflect the foreclosure sales by the lending institutions and any auctions if they have become the predominate mode of conveyance **MCL 211.27** within Charlevoix County. If they do not then I believe these public servants need to be accountable and give full justification why they are excluding them other than relying on *"guidelines"* issued by the State Tax Commission.

I already know the answer is that if you do not toe the line then the State Tax Commission will come in and themselves appraise the county to make certain that you do not get out of line. I believe that is the very issue that was addressed by our founding fathers at the time that England attempted to impose taxation on them.

I am also concerned whether our public servants are going the extra mile for which they are paid to go beyond the "desk reviewed" sales study and carry out a field review to assure that we are not being over assessed in Charlevoix county and therefore in Evangeline Township.

I am also posing this question directly to the Equalization Department which conducts the sales studies upon which you as a Board of Review and your assessor have to spread the tax burden placed on the Township to avoid an Equalization factor being applied. I am also going to the County Board of Commissioners who ultimately pay the salaries in the Equalization Department. The problem goes above the County since the State tells the County how much they have to spread among the Townships.

I have been around long enough to know that this system is seriously flawed. We had a mass appraisal done in this county that seriously increased all the assessments. It was in error. I fought that and our taxes were reduced to approximately where they were before the appraisal. Does this mean that all of the other properties were actually higher? The answer is no. What should have happened would have been to take the Tax Tribunal Decision and apply it to all similarly situated properties. Instead, they just added more on top of all others to meet their quota. If we have an economic downturn then it should be reflected clearly in our assessment not glossed over to provide grease to the assessing machine to keep the people in bondage to a taxing system that is no longer accountable to the people. With this serious down turn in the economy, now is a time when each of us must demand accountability to make certain that this system operates properly.

Request Regarding Appraisal issue

I am specifically requesting the Board to request the assessor to evaluate whether the sales studies have appropriately included the foreclosure sales and perhaps auctions that have occurred within the county, and if not to make a specific request that the Equalization Department will include such sales within their sales studies even though that might not make the Tax Commission happy. The Tax Commission bureaucrats should not control the application of how we assess property within the purview of the statute which must be followed until it is changed.

I understand that the condition of the dwelling being foreclosed upon is a very relevant issue considered by the Equalization Department, but I do not believe that this should by itself allow for the exclusion of all foreclosures, but that where there is a clear depreciation in price due to destruction of the premises that such destruction still such a property should not be removed from the sales studies since it could be compensated for by inputting the cost of repair.

March 10, 2008

Submitted by: Peter J. Vellenga, 5746 Tebo School Rd., Boyne City, MI 49712 (231) 582-6940

Attachment: Bulletin No. 6, August 15, 2007 - Foreclosure Guidelines

ATTACHMENT VIII

255 (Rev. 1-03)

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

ROBERT J. KLEINE
STATE TREASURER

BULLETIN NO. 6
AUGUST 15, 2007
FORECLOSURE GUIDELINES

TO: **Assessing Officers and County Equalization Directors**

FROM: State Tax Commission

RE: **Guidelines for Foreclosure Sales**

Market sale transactions for real property are used by Michigan assessors and equalization directors to compare the assessor's assessments of particular properties that have sold in arms-length transactions with the actual sale prices for those same properties. The average ratio between the assessments and the sale prices should be 50%, since the assessment of the property should be at 50% of true cash value, as required by MCL 211.27a. However, since the market for real estate constantly changes, the average ratio actually found will usually not be 50%. In such cases, the county equalization director will require the assessor to adjust his or her level of assessment the next year so that the 50% ratio is reestablished. Further, within each local assessment jurisdiction, the assessor must conduct similar ratio studies to determine the levels of assessment in the various neighborhoods or sub-markets in the jurisdiction.

The proper selection of sales for inclusion in these ratio studies is critically important to the development of uniform and accurate assessments. The State Tax Commission has established guidelines to be used when reviewing sales for sales-ratio studies. The purpose of the guideline is to provide direction when compiling a "desk-reviewed" sales study. Desk-review means determining whether a particular sale will be used in a study based on transfer documents and other information in the office without additional investigation or field inspection.

Deviation from the guidelines should be based on investigation of the transaction beyond the normal steps of a desk review process. The recent increase in foreclosures has caused those transactions to have an impact on the real estate market in some parts of the state. While the following guidelines are specifically addressed to foreclosure sales, similar steps should be used in determining the use of any sale that would normally be excluded from study in a sales study.

GUIDELINES FOR FORECLOSURE SALES

- Sales to financial institutions are excluded from a sales ratio study unless the financial institution is using the property for its operations and it was not previously held as collateral.

- Sheriff's deeds are not typically included in sales ratio studies.

- If it is determined that sales from financial institutions are open market transactions the sales may be used if they have been verified.

- All sales must be analyzed and verified to ensure they are arms-length transactions. The appropriate verification process contains but is not limited to:

    1. A determination as to whether the type of sale being reviewed is a measurable portion of the market.
    2. A determination that the sale property was properly exposed to the market. For example, by listing with a real estate company.
    3. A physical inspection of the property to make a determination that the assessment reflects the condition of the property at the time of sale unless the condition can be verified by other means.
    4. Receipt of a properly completed real property statement to determine the terms and conditions of the sale unless adequate alternative statistical procedures are utilized to ensure the sales are an adequate part of the market.
    5. A determination that the parties to the transaction were not related and each was acting in their own best interest.

- Additional analysis specific to foreclosure transactions:

    1. Was a market value appraisal obtained before listing?
    2. Did the seller have the right to refuse all offers?
    3. Did the property have full market exposure after governmental intervention?
    4. Was the property marketed for an adequate period of time?
    5. Whether the seller was obligated to prorate taxes in accordance with local custom and provide evidence of title and a warranty deed to the purchaser.
    6. Was property purchase "as is" and was property well maintained during the marketing period?
    7. Was purchaser supplied with a disclosure and/or lead paint statement?
    8. Did seller help with financing? If yes, then the sale must also be treated as a creative financed sale and be treated under the same rules established for adjusting creatively financed sales.
    9. Were concessions involved and if so, are they typical of market?
    10. Were sale conditions affected by the financial institutions requirement to dispose of the foreclosed property within 1 year to avoid the uncapping of taxable value or because of banking regulation conditions requiring special treatment of property owned by the institution?

- If a sale is used in the sales ratio study, it is also used to help determine land values and Economic Condition Factor's.

- Counties and local units using "usually excluded sales" in a sales study for a particular period must maintain documentation of the verification process for each sale included in the study.

- Once verified for use in a study, a sale is included in the study in the appropriate year in the same manner as all other sales used in the study.

- Please note that if the foreclosing institution is also financing the sale for the new owner, the property is subject to analysis for creative financing as outlined in State Tax Commission Bulletin 11 of 1985.

ATTACHMENT IX

ECONOMIC REVIEW AND OUTLOOK
January 9, 2009

Current U.S. Economic Situation

Summary

The U.S. economy has officially been in recession since December 2007 -- as determined by the National Bureau of Economic Research.

After two strong quarters in mid 2007 during which real (inflation adjusted) GDP grew at a 4.8 percent annual rate, the economy contracted slightly in the final quarter of 2007 (-0.2 percent). Then, in the first three quarters of 2008, real GDP expanded at a 1.1 percent annual rate. An improving trade balance (exports minus imports) played a major role in supporting even this meager growth. In each of the past six quarters, the trade deficit has shrunk – the first such string of declines since mid-1991. *Excluding* the foreign trade sector, the domestic economy contracted at a 0.4 percent rate over the first three quarters of 2008. Overall real GDP (including the foreign trade sector) fell at a 0.5 percent rate in 2008Q3.

Comprising 70 percent of real GDP, real consumption is essential to U.S. economic growth. In each of the three quarters from 2007Q4 to 2008Q2, consumption grew at only around a 1.0 percent rate. In the third quarter of 2008, this key component fell dramatically (-3.8 percent annual rate) – its most severe decline in over 28 years. Both durable and non-durable consumption declined sharply (-14.8 percent rate and -7.1 percent rate, respectively). With services consumption flat, overall consumption subtracted 2.8 percentage points from overall economic growth.

Sharply declining residential investment has led the overall decline in the economy, falling at an 18.3 percent annual rate of decline over the first three quarters of 2008. In the third quarter, the *level* of residential investment fell to a 13-year low. Compared to its peak (2005Q4), residential investment is down an astounding 41.2 percent. 2008Q3 marked the tenth consecutive quarter of double digit declines in residential investment -- the first such stretch over a recorded history extending back to 1947.

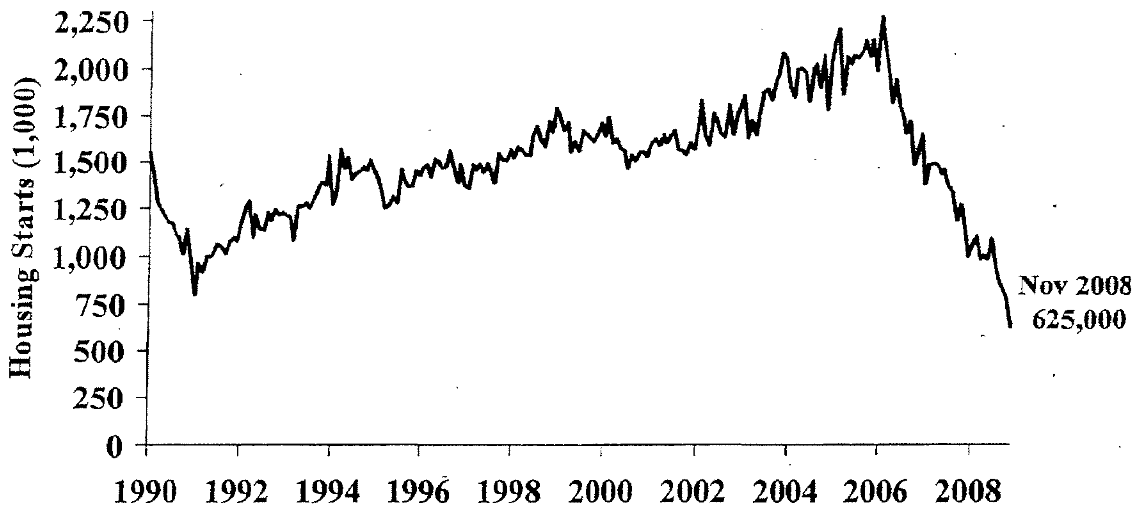
After posting rapid growth in mid 2007, *non*-residential investment slowed dramatically such that by the third quarter of 2008, non-residential investment actually declined slightly (-1.7 percent annual rate).

Compared to a year ago (2007Q3), the economy has expanded by only 0.7 percent. In contrast, the economy had grown 2.8 percent between 2006Q3 and 2007Q3.

Housing Market

The housing market has seen a substantial downturn in recent quarters. In the third quarter of 2008, the housing starts rate averaged 875,700 units -- the lowest quarterly average in nearly 27 years. In October 2008, starts fell to a 771,000 unit rate, setting a new record. Then, in November 2008, starts fell still further to a new record low 625,000 unit rate. These levels are in sharp contrast to the near 2.0 million unit pace in 2006 and even the 1.4 million unit pace in 2007.

Housing Starts Fall to Record Low



Source: U.S. Census Bureau.

In November 2008, home builder sentiment hit a record low with the National Association of Home Builders (NAHB) index falling to 9, half its level a year earlier. Sentiment remained unchanged at 9 in December.

Through October, existing home sales had remained around a 5.0 million unit rate in 2008. However, existing home sales fell sharply in November to a 4.5 million unit rate – down 10.6 percent from a year ago and down more than 35.0 percent from peak sales. Similarly, while months of sales inventory had trended down between mid-2008 and October, they rose in November. Existing home sales have been propped up above where they otherwise would have been by foreclosure and other distress sales.

Construction employment was down 7.6 percent compared to a year ago -- compared to a 1.4 percent year-over-year decline in overall payroll employment.

The Federal Reserve's two most recent *Beige Books* (October and December) further corroborate the poor housing market *and* weakening commercial real estate market. In October's *Beige Book*, the Federal Reserve noted,

> Residential real estate and construction activity weakened or remained low in all Districts. . . . Several Districts noted continuing downward price pressures and an increasing supply of homes for sale due to rising foreclosures. . . . Tighter credit conditions were cited as a limiting factor for demand in several Districts. Most Districts reported commercial real estate and construction activity had slowed . . . Several Districts reported project delays and cancellations due to tighter credit conditions and increased economic uncertainty.

Still again, December's *Beige Book* observed,

> Residential real estate continued at a slow pace nationwide. . . . Boston, New York, Cleveland, Richmond, Atlanta, Chicago, Minneapolis, Kansas City and Dallas noted decreases in housing prices. Inventories of unsold homes remained high in the New York, Atlanta, Kansas City and San Francisco Districts, but declined in Chicago and Minneapolis. Philadelphia, Richmond, Chicago and Kansas City reported relatively stronger demand for lower- and middle-priced "starter homes."
>
> Commercial real estate markets weakened broadly. Vacancy rates rose in Boston, New York, Richmond, Chicago, Kansas City and San Francisco, but were mixed across markets in the St. Louis District. Leasing activity was down in almost all Districts. Rents fell in the Boston, New York and Kansas City Districts. Despite reductions in construction materials costs, commercial building activity declined in many Districts with tighter credit conditions as a factor.

House Prices

There are three major housing price measures. All three price measures point to a sharp retrenchment in housing prices.

In October 2008, the Case-Shiller 20-metro area housing price index was down 18.0 percent from a year ago while the 10-metro area index fell 19.1 percent. On a year-over-year basis, housing prices have declined every month since January 2007, with the rate of decline accelerating each month.

The Federal Housing Finance Agency (formerly OFHEO), which excludes mortgages over $417,000, reports similar, but not as dramatic, findings. Compared to a year ago, the October 2008 FHFA index was down 7.5 percent.

The National Association of Realtors (NAR) reported that the November 2008 median existing home price declined a record 13.2 percent compared with a year ago, worsening from an 11.3 percent decline in October.

ATTACHment X

5746 Tebo School Rd.
Boyne City, MI 49712
(231) 582-6940
Fax: (231) 582-6144
pveil@freeway.net

Peter J. Vellenga

March 2, 2009

The Honorable Jason Allen
State Capitol
Rm. 820 Farnum Bldg.
P.O. Box 30026
Lansing, MI 48909-7536

The Honorable Kevin Elsenheimer
House Office Building
124 N. Capitol
P.O. Box 30014
Lansing, MI 48933

In Re: Taxation Issues - 2009

Dear Elected Representatives,

Your holding these town meetings on this most crucial issue is appreciated. The question is whether the legislature has the intestinal fortitude to properly represent your constituents, **the electorate**. The letter starts with this challenge because there exists a very real tension between government and the taxpayer electorate of this state. The government is looking how to raise revenue. We, the taxpayers, are saying you **MUST NOT** violate the rule of law, and to the extent you are assessing people in excess of 50% of the true cash value of their property that is an unconstitutional assessment, and however you may wish to justify it is **WRONG**. Example: I just bought a property for $68,000.00 and am having a new SEV assessment of $57,200.00. That would mean that the property must be worth $114,400.00. I give this example as to the inane situation we currently are facing in the assessment of Michigan real estate.

I appeared before the Charlevoix County Commission before they adopted their 2009 budget based on a projected 9% increase in revenues from real estate taxes. Currently, most assessors and equalization departments are not using the 12 month criteria which is available in this type of a situation. From my perspective, if there is not enough money then government must cut government. What we see is that too often when they cut government, they will often reduce snow plowing, or police protection. These are essential services. How often do we talk about decreasing the number of employees in the equalization office that forces townships and municipalities to increase your taxes by sales studies and conveniently effectively eliminates almost all foreclosed properties from the study?

I wrote the governor about this problem on October 22, 2008,and asked for a response, none has been received. Not responding is not proper governance. I have talked at length with Kevin and understand that some tax package was going to be introduced in the legislature. I hope we will have information about a legislative solution this evening so that each of us here can support a measure to prevent additional foreclosures.

Most taxpayers now know there will be a 4.4 percent increase in your taxable assessment. There is a very real problem with such an increase, and the Department of Treasury admits it, but it will take either or both executive and/or legislative intervention to stop this theft from the tax payers of Michigan. I doubt that the imposition of the stamp tax by the King would have had as great an impact on the colonists than an additional 4.4 percent increase in the taxable amount of their real property holdings. Of course, that would also have to assume that the valuation had been driven to unrealistic levels. Let me explain:

Missing from the taxation statutes are any requirements or checks and balances on the government. If a person appeals their assessment to the Michigan Tax Tribunal (if you are to win, it becomes expensive since you will need to hire an expert who can testify as to valuation) , and wins it would be presumed that the assessors would immediately lower all similarly situated properties. Instead, that is ignored and prior to **Proposition "A"** they would immediately again increase your assessment since all assessments have to

A Michigan Senior Demanding Justice!

be equal. Their definition of ***"equal"*** means higher. Regrettably, the taxing authorities are not there to assure equal fair taxation, but to get the highest possible taxation to sustain an every burgeoning government. Like our forefathers there comes a time when government must realize that they are here to serve the people not the government. Our elected officials are not here to assure raises for the employees (most of whom are paid far more than the average income in this community), but to represent the people. That may mean doing away with all government ***non-essential services***, and perhaps cutting employees wages or hours to allow a budget which can be sustained by available honest revenue, not based on inflated non-sustainable real estate valuations.

I am also a real estate broker. It is my view of valuation that if a property cannot return sufficient rental income to amortize a loan on the property then the property is clearly overpriced. The problem with our current system is that Attorney General Frank Kelley gave an opinion that the Assessing procedures were not administrative procedures and therefore the people of the State of Michigan had no right to review those administrative procedures before adoption.

I do not want to just toss stones without setting for some possible solutions.

- Require all government officials who are found to over assess property to be civilly liable for all costs incurred by the taxpayer. We may not want to provide for triple damages and full costs and attorney fees as is currently being proposed to be taxed on any citizen who ***harasses*** a public official by filing suit against them. **I am not joking** this is the language in **House Bill No. 6394.** Why do we not put the same burden on government officials that they want to place on us? I understand this may have been to prevent illegal leins, but find the legislation goes far beyond this objective and want an answer to this question from both our elected officials tonight and their position on the above proposed legislation.
- Assure that when lake front properties are changed from a traditional cottage to a majestic or colossal home that there will be a separate classification to assure that cottage owners are not forced to sell their small cottage to someone who will tear it down and build a different classification of structure. This would help alleviate the current ECF iniquity.
- Require the local assessor and county equalization Department to reduce the assessment on all similarly situated properties (where a reduction is granted by the Tax Tribunal) since such similarly situated properties were also over assessed.
- Require that portion of taxes paid under protest to be placed in a separate escrow account and provide that the government will pay the same amount on any portion of those taxes found not to be due and owning as they would charge a taxpayer who made a delinquent payment of taxes.
- Revise the assessment manuals to assure that the newer types of construction are being properly valued, but also allow the citizens to have the right to review and comment on such procedures prior to adoption.
- Require every assessor and equalization department to include all foreclosed properties in their sales studies unless they can set forth in writing why a given property must be excluded from the sales study. Exp. If all the plumbing and wiring are gone that would be a reason for exclusion.
- Take whatever action is necessary legislative or executive to have no increase in the taxable value of Michigan real estate for 2009. This would be a bare minimum action to avoid the already overburdened Michigan Tax Tribunal from ceasing to be able to manage its case load.
- Require that any administrative law judge that commits error (including not determining at the onset whether jurisdiction is present) to be held civilly liable for treble damages costs and attorney fees and to allow for a formal complaint to be filed with the State Attorney Grievance Committee.

Sincerely,

Peter J. Vellenga