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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
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Dear Tax Tribunal Practitioner:

Caseload/E-Filing/E-Service

The Tribunal has received a number of phone calls recently regarding service of answers and documentation, in both the Small Claims and Entire Tribunal divisions. Unfortunately, our e-filing software cannot forward your pleadings or documentation to the opposing party. Thus, even if you e-file your answer or other documentation you *must still serve it on the opposing party*. The parties may engage in electronic service amongst themselves; however, both parties must agree prior to utilizing electronic service.

If the Tribunal has record of a party's e-mail address, the Tribunal *will electronically serve all correspondence*. Parties cannot opt out of electronic service. As such, changes to your e-mail address should be treated the same as if your mailing address changed. Please notify the Tribunal, via e-filing or mailing a letter, of any address changes as soon as possible. (The Tribunal will not accept fax or e-mail, as opposed to e-service, notifications)

\*If a local unit of government is requesting any update, please include the county in which the unit resides.

Finally, the Tribunal has had problems with spam filters and full email accounts on email addresses utilized by assessors. The Tribunal believes that it is the responsibility of each assessor to set an appropriate spam filter and clean out their email accounts on a regular basis to receive orders and decisions rendered by the Tribunal. The Tribunal will NOT resend notices, orders, decisions, etc. where such correspondence from the Tribunal is rejected as spam or is returned because an e-mail account is full.

Small Claims Appeals

The Tribunal has recently audited its scheduling practices and has determined that guidelines regarding telephonic hearing requests are required. Currently, most Small Claims Hearings are scheduled as in-person hearings. The Tribunal's practice will remain and the vast majority of cases will be scheduled to be conducted in-person, rather than by telephone. If a party or representative requests to be heard by telephone, the Tribunal will now consider the party or representative's proximity to the hearing site in determining whether to grant or deny the request. Generally, no telephonic requests will be granted if the party or representative is within 100 miles of the hearing site. If they are outside that mileage the telephonic request may be granted.

LARA is an equal opportunity employer/program.  
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Also, the Tribunal will make greater attempts to group cases involving the same unit of government, petitioner, or representative together on the same hearing date, when possible. Parties and representatives may still request to be heard on the file if a telephonic request is denied.

Also, issues have arisen where a Petitioner is placed in default for filing a small claims petition although the amount in dispute exceeds the \$100,000 limitation and Petitioner then attempts to cure the default by filing an amended petition reducing the amount in contention sufficient to satisfy the \$100,000 limitation. The Tribunal will no longer grant Petitioner's requested amendment to the petition unless Petitioner provides documentation supporting any revision.

### Mailing of Final Decisions

The Michigan Tax Tribunal currently mails copies of all final decisions rendered by the Tribunal to the parties and the affected County Treasurer. That practice will, however, be changing. Although the Tribunal's new web-based e-filing system provides searching capability by county and on-line access to all documents contained in the file for each case, the system also provides for the automatic electronic transmission of all Tribunal orders and decisions by email. Currently, the Tribunal emails orders and decisions to the parties in each case as well as mails hard copies of the decisions to the parties and the County Treasurers.

Because of budget considerations, the Tribunal must eliminate the mailing of those hard copies. Nevertheless, the system allows us to input the email addresses of County Treasurers so that they can still receive electronic copies of all final decisions. In that regard, we have requested a current listing of e-mail addresses from the Michigan County Treasurers Association. However, if anyone receiving this GovDelivery can provide the Tribunal with a current e-mail address for a County Treasurer, the Tribunal would appreciate receiving such information

### Miscellaneous

When filing a new Entire Tribunal petition in Caseload, please use the new Case Information Sheet. Specific issues have arisen regarding contiguous parcels. Petitioners who do not state whether parcels are contiguous in their Petitions and do not complete a Case Information Sheet will likely be defaulted if filing a Petition identifying more than one parcel and fail to address the contiguous parcel issue.

### Recent Court of Appeals Decisions

*Paul Dillon and Jodee Dillon v Plymouth Twp.* Unpublished opinion per curiam of the Court of Appeals, issued July 24, 2014 (Docket No. 315316).

Petitioners' appealed the Tribunal's dismissal of their appeal for failure to appear. Additionally, Petitioners appealed the Tribunal's subsequent denial of Petitioners' Motion for Reconsideration, which stated, in part, that Petitioners' never received the mailed notice of conference. The Court affirmed the Tribunal's dismissal for failure to appeal but reversed the Tribunal's denial of Petitioners' Motion for Reconsideration. In doing so, the court held that when denying a Motion

for Reconsideration when the party claimed it never received notice the Tribunal must follow *Goodyear Tire & Rubber Co v City of Roseville*, 468 Mich 947; 664 NW2d 751 (2003). *Goodyear* determined that the Tribunal: 1) “ must make a factual finding on whether Petitioner’s received actual notice of the hearing; and 2) “must determine whether Petitioners established good cause to reinstate the case.” Further, there is a presumption that notice was given when a letter with a “proper address and postage” is mailed, although this presumption can be rebutted with “evidence that the letter was not received.” For example: An affidavit filed by the party that the letter was not received will be enough to rebut the presumption. In this case the court found that the signed pleadings submitted by Petitioners were sufficient to “create a factual dispute regarding receipt of the notice.” The Court remanded the case back to the Tribunal to “make a factual finding on whether petitioners received actual notice of the hearing, and then . . . determine whether petitioners established good cause to reinstate the case.” Thus, from now on, when Petitioner contends that a notice of hearing issued by the Tribunal was not received, the Tribunal will no longer dismiss the case, but will conduct a fact finding to determine whether petitioners received actual notice of the hearing.