



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Lakeland Community Hospital, Watervliet,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 19-001432

Niles Township,
Respondent.

Presiding Judge
Marcus L Abood

SUMMARY OF PREHEARING CONFERENCE

SCHEDULING ORDER

NOTICE OF VIDEO CONFERENCE HEARING

A Prehearing Conference on this matter was held on November 4, 2020. Mark R. Adams appeared (telephonically) on behalf of Petitioner. Laura J. Genovich appeared (telephonically) on behalf of Respondent. A scheduling order has been established and a video conference hearing, held via Microsoft Teams, has been set for:

HEARING DATE:	February 16, 2021
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting +1 248-509-0316,,800283367# United States, Pontiac Phone Conference ID: 800 283 367#
PARTICIPANTS' GUIDE:	https://bit.ly/34fBXnN

This hearing is open to the public and this notice is provided under the Open Meetings Act. Any participant in the hearing or member of the public wishing to attend this hearing must click on the link above to gain access to the hearing.

This is an important legal document. Please have someone translate the document.

Este es un documento legal importante. Por favor, haga traducir este documento.

এটি একটি গুরুত্বপূর্ণ আইনি দলিল, অনুগ্রহ করে কেউ দলিলটিকে অনুবাদ করুন।

هذا هو وثيقة قانونية هامة يرجى لديك شخص تترجم الوثيقة.

Ito ay isang mahalagang legal na dokumento. Mangyari lamang na magkaroon ng isang tao isalin ang dokumento.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
MICHIGAN TAX TRIBUNAL

611 W. OTTAWA ST • P.O. BOX 30232 • LANSING, MICHIGAN 48909-8195 • 517-335-9760

PREHEARING CONFERENCE SUMMARY

I. VALUATION INFORMATION:

A. The true cash value (TCV), assessed value (AV), and taxable value (TV) for each parcel and tax year at issue as established by the Board of Review:

2019

Parcel Number	TCV	AV	TV
14-0930-0011-02-0	\$949,400	\$474,700	\$454,051
11-14-9999-2762-00-8	\$94,800	\$47,400	\$47,400

B. The parties' contentions of TCV, state equalized value (SEV), and TV for each parcel and tax year at issue:

Parcel Number: 14-0930-0011-02-0

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2019	Exempt	Exempt	Exempt	\$949,400	\$474,700	\$454,051

Parcel Number: 11-14-9999-2762-00-8

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
	Exempt	Exempt	Exempt	\$94,800	\$47,400	\$47,400

C. Amounts in dispute for the tax years at issue:

2019

Parcel Number	SEV	TV
14-0930-0011-02-0	\$474,700	\$454,051
11-14-9999-2762-00-8	\$47,400	\$47,400

II. TAX INFORMATION

The property's taxes have been paid for the tax year(s) at issue.

III. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property (**by parcel number**):

Parcel Number	Classification
14-0930-0011-02-0	Commercial
11-14-9999-2762-00-8	Commercial

B. Highest and best use (“H&BU”) for the tax years at issue **(by parcel number)**:

2019	H&BU
14-0930-0011-02-0	Commercial
11-14-9999-2762-00-8	Commercial

C. The property’s exemption from property taxes, under MCL 211.7o, is at issue for each tax year under appeal.

D. Petitioner’s claims or counterclaims:

“Petitioner is a nonprofit charitable institution per *Wexford Medical Group v City of Cadillac*, 474 Mich. 192 (2006) and is entitled to a real and personal property tax exemption for the subject property. The facts supporting Petitioner’s claims are set forth in a) Petitioner’s Petition filed with the Tribunal on May 30, 2019; The facts supporting Petitioner’s contentions include: i) Petitioner’s organizational documents, ii) Petitioner’s IRC 501(c)(3) status granted by the IRS; iii) Petitioner’s Community Benefit (including charity care); iv) Petitioner’s charity care program that offers free and reduced-cost medical care to the indigent with no restrictions via its Financial Assistance Enrollment Program; v) Petitioner’s significant Medicare and Medicaid shortfalls/losses; vi) the Affidavit of Petitioner’s President, Seth Wolk, MD, MHSA; and vii) the other information included in Petitioner’s Response and Exhibits thereto. Petitioner’s facts support the conclusion that Petitioner satisfies all six factors to be a “charitable institution” under the *Wexford* case and other applicable Michigan law.”

E. Respondent’s claims or counterclaims:

“The language of MCL 211.7o has been interpreted by the Michigan Supreme Court to create a three-factor test for whether an institution is exempt from real and personal property tax. First the real estate must be owned and occupied by the exemption claimant; second, the exemption claimant must be a nonprofit charitable institution; and third, the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. *Wexford Med Group v City of Cadillac*, 474 Mich 192, 203; 713 NW2d 734 (2006). Petitioner has provided no evidence which shows that it meets the occupancy test for the exemption or that all occupants of Petitioner’s property are nonprofit charitable institutions.”

IV. PENDING MOTIONS OR DISCOVERY:

- A. Motions: Petitioner's Motion for Summary Motion is pending at this time.
- B. Discovery: Discovery is closed unless otherwise stated below.

V. VIDEO CONFERENCE HEARING INFORMATION

The parties and the Tribunal have determined the above-captioned case shall be conducted via video conference. Video conference proceedings via Microsoft Teams are set up using the parties or, if represented, their Attorneys or Authorized Representative's email addresses.

A link to the **MOAHR MTT Guide for Participants for the Conducting of Entire Tribunal Hearings as Video Conference Proceedings** is provided above. Participants are encouraged to review this Guide prior to hearing and are **required** to comply with the requirements of the Guide, as said requirements will facilitate the conducting of the scheduled hearing.

SCHEDULING ORDER

- I. February 1, 2021 is the final date to file and serve upon the opposing party(ies) and the Tribunal a final exhibit list and to furnish the opposing party(ies) with a copy of each exhibit. **The parties must use the form prescribed by the Tribunal.** An exhibit will not be admitted into evidence unless the exhibit is disclosed and furnished in accordance with this Order (even though admissible) except upon a finding of good cause by the Tribunal.
- II. February 1, 2021 is the date for Petitioner to notify the Tribunal in writing of the name and telephone number of the court reporter retained by the parties to transcribe the hearing.

Failure to comply with this Order may result in the dismissal of the case or the conducting of a show cause or default hearing, as provided by TTR 231.¹

By



Date Entered: November 12, 2020

¹ See also MCL 205.732.

HEARING INFORMATION – PLEASE READ IMMEDIATELY

GENERAL INFORMATION: An impartial hearing will be conducted in accordance with the Michigan Administrative Hearing Rules (R 792.10101-R 792.11289) and the Michigan Administrative Procedures Act, MCL 24.201 *et seq.* The Michigan Rules of Evidence and the Michigan Court Rules may be applicable. A party is expected to exercise proper respect and courtesy toward other parties, witnesses and administrative law judges, which includes attending the hearing on time, silencing cell phones, and dressing in appropriate clothing for in-person hearings.

REPRESENTATION: A party may be represented by an attorney or other authorized representative of the party's own choosing and at the party's own expense. The Michigan Office of Administrative Hearings and Rules does not recommend or appoint attorneys.

WITNESSES: Parties may present witnesses, if any, identified in the Prehearing Statements, to testify under oath or affirmation at the hearing, subject to cross-examination by the opposing party, and questions by the administrative law judge.

EXHIBITS: The parties shall submit exhibits pursuant to the Guide for Participants.

COURT REPORTER: The parties shall not only provide a court reporter to transcribe the hearing but shall also provide an electronic copy of the hearing transcript to the Tribunal by e-mailing it to taxtrib@michigan.gov. The costs attributable to the court reporter shall be shared equally by the parties. If the parties fail to pay the costs of the transcript to the court report prior to the submission of the transcript to the Tribunal, the court reporter may report this to the Tribunal with the submission of the transcript. As a result, the party or parties who failed to pay the costs associated with the transcript may be held in default.²

WITHDRAWAL: If Petitioner no longer wants to continue with the appeal, Petitioner may submit a written request to withdraw the case. Respondent must concur with the withdrawal. The request must be submitted to the Tribunal and served on Respondent at least 14 days before the hearing. Respondent may file a concurrence or objection to the request within 7 days of the service of the request on that party. If Respondent does not timely submit a concurrence or objection to the request will be deemed to be a concurrence to the request. If the request is granted, the case will be dismissed. If a request is not granted or the Tribunal has not notified you that it has been granted, you are required to attend the hearing.

SETTLEMENT: Parties may submit a written agreement settling a case (i.e., stipulation). The stipulation must be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form and be signed by the parties' attorneys or authorized representatives, if they have attorneys or authorized representatives, or by the parties, if they do not have attorneys or authorized representatives. There is a \$50 fee for the filing of the stipulation. If the stipulation with appropriate filing fee is received by the Tribunal or the parties email a copy of the signed stipulation to the Tribunal by 4:30 p.m. on the business day immediately preceding the day of the scheduled hearing, the hearing may be adjourned. Parties that email a copy of a signed stipulation to the Tribunal for purposes of adjourning a hearing are also required to submit the original signed stipulation with appropriate filing fee. The

² See TTR 321.

stipulation, once submitted, will be reviewed and, if accepted, the Tribunal will issue a consent judgment.

FAILURE TO APPEAR: The failure of a party to timely appear or otherwise participate in a hearing will result in adjournment of the hearing and the holding of that party in default. The defaulted party will be given an opportunity to show good cause for the failure to appear. Failure to respond or show good cause may result in dismissal of the case or the conducting of a default hearing.

REASONABLE ACCOMMODATION: All hearings are conducted in a barrier-free location in compliance with the Americans with Disabilities Act. An individual requiring reasonable accommodation for effective participation in a hearing, including accessible documentation such as braille, large print, electronic or audio reader, should contact the MOAHR by telephone at (517) 335-9760, or complete and submit an accommodation request form at https://www.michigan.gov/documents/lara/Disability_Accommodation_FORM_v1_2_464017_7.d [oc](#) within five (5) days of receipt of the Notice of Hearing to ensure availability of accommodation.

Hearing participants and observing members of the public who need assistance with speech or hearing may also participate in a telephonic or virtual hearing by dialing 7-1-1 and using the Michigan Relay service. More information about this service may be found at https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93425_94040_94041---,00.html.

PRIVACY OF INFORMATION: In order to conduct a comprehensive and fair hearing, a party's private or confidential information, such as health or financial information, may be disclosed to the Tribunal and other parties and their attorneys or representatives. The MOAHR will use the private information solely for purposes related to the hearings process. A party may file a motion to request that a public hearing be closed in part or file a motion for protective order to deem certain information private and confidential in order to afford that information special protection.

CONTACT INFORMATION:

Michigan Tax Tribunal
Mailing Address: P.O. Box 30232, Lansing, MI 48909
Phone: (517) 335-9760
E-Mail: taxtrib@michigan.gov
Website: www.michigan.gov/taxtrib
E-Filing: <https://eFiling.apps.lara.state.mi.us>
Office Hours: 8:00 a.m. – 5:00 p.m., our office is closed from 12:00 p.m. – 1:00 p.m.