



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
CHRIS SEPPANEN
ACTING EXECUTIVE DIRECTOR

MICHAEL ZIMMER
ACTING DIRECTOR

October 17, 2014

Dear Tax Tribunal Practitioner:

While the Tribunal acknowledges and appreciates that the overwhelming majority of assessors perform their duties in the manner expected of them, including defending their assessments at the Tribunal, the Tribunal has become increasingly concerned with the number of assessors who neglect that duty by failing to file answers to petitions, filing incomplete answers to petitions, failing to submit evidence in support of their assessments, and by failing to appear for scheduled hearings. To some extent, the Tribunal has discussed these issues over the past several GovDeliveries; however, the Tribunal now feels it is necessary to clearly outline its expectations with respect to adherence to applicable statutes and rules. Further, the Tribunal has reported and will continue to report those assessors who fail to properly defend their assessments to the STC.

Respondent's Failure to Appear at a Scheduled Small Claims Hearing

As discussed above, assessors are required, as a condition of their certification by the STC, to defend their assessments. The Tribunal finds that a failure to appear at the scheduled hearing is evidence that Respondent has failed to properly prosecute the case. See TTR 261 and 231. Even though the failure to properly prosecute a case would generally result in the holding of the offending party in default, so as to give that party notice and an opportunity to cure its failure prior to the dismissal of the case or the conducting of a default hearing, a hearing would have been scheduled and duly-noticed, and the adjournment of that hearing would unduly prejudice Petitioner by further delaying the resolution of the case. A lesser sanction that better serves the interests of justice is the exclusion of Respondent's documentary evidence (to the extent that Respondent actually submitted any evidence), as Respondent was not present at the hearing to either offer evidence or testify in support of that evidence. See MCL 24.276 and *Grimm v Treasury*, 291 Mich App 140; 810 NW2d 65 (2010). Thus, if Respondent fails to appear for a scheduled hearing, any evidence submitted by Respondent prior to that hearing, will be excluded by the Tribunal in rendering its opinion, unless a 'hear on file' request from Respondent that has been granted.

Answers to Petitions

In its October 7, 2014 GovDelivery, the Tribunal reminded Respondents that they are required to file an Answer to a Petition, that the Answer should be on a form prescribed by the Tribunal or in a form consistent with the Tribunal's Answer form, and that the Answer must be signed. The Tribunal now realizes that this discussion did not address the failure of assessors or others representing the municipality to complete section two of the Answer form. In this regard, the Tribunal has recently begun auditing the answer form to determine whether an attorney or authorized representative is identified (beyond the signature on the answer form) for a local unit of government. Respondents are required to fill out section two so we can update our system to

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reflect the appropriate agent (e.g. assessor, attorney, other representative) and the agent's contact information for the local unit. A failure by Respondent to file an Answer, to file a proper Answer (including the failure to complete section two), or to sign the Answer, will result in Respondent being held in default and required to cure the default with a motion to set aside the default and the payment of a \$25 motion fee, if applicable.

Small Claims Filing Fees

An issue was recently raised regarding the payment of Small Claims filing fees in cases in which the petitioner has a PRE of at least 50%. The applicable Tribunal rule is TTR 267, which states that "[t]here is no fee for the filing of a property tax appeal petition, a motion, or a stipulation for entry of consent judgment in a small claims division proceeding contesting a property's state equalized or taxable value, if the property has, at the time of the filing of the petition, a principal residence exemption of at least 50% for all tax years at issue."

The Tribunal's view is that where a Petitioner's property possesses a PRE of 50% or more at the time the Small Claims petition is filed there are no fees for appeals involving valuation (SEV, TV) or the denial of a PRE. However, where a property did not have a PRE of at least 50% at the time the Small Claims petition was filed and the Petitioner is appealing the denial of a PRE, or where the parties are filing a stipulation granting a denied PRE, a filing fee of \$25 is required. As always, filing fees are required for appeals involving qualified agricultural exemptions, special assessment, and non-property taxes.

Subsequent Year Denials

Each year the Tribunal receives appeals of actions taken by assessors in a current year that relate to a subsequent year. (e.g., denials of PRE, Ag exemption, Poverty exemption issued by assessors in 2014 for the 2015 tax year.) Further, the Tribunal continues to receive stipulations that include a subsequent year. The Tribunal again reminds Respondents that applicable statutes simply do not allow the parties to settle issues for future years, or deny an exemption for future years.

Scheduling – March Board of Review

The Tribunal will be taking our annual scheduling hiatus to allow local units of government time to focus on the 2015 March Board of Review. As such, we will *not* be scheduling any small claims hearings the weeks beginning March 9th and March 16th of 2015.