



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

November 21, 2017

Dear Tax Tribunal Practitioner:

Menard, Inc. v City of Escanaba

On October 20, 2017, the record in this case was returned to the Tribunal after the Michigan Supreme Court denied Respondent's application for leave to appeal the Court of Appeals' decision. The Court of Appeals Ordered as follows:

[O]n remand, the tribunal shall take additional evidence with regard to the market effect of the deed restrictions. If the data is insufficient to reliably adjust the value of the comparable properties if sold for the subject property's HBU, then the comparables should not be used. The tribunal shall also allow the parties to submit additional evidence regarding the cost-less-depreciation approach. After allowing the parties the opportunity to present additional testimony in light of the deficiencies identified in this opinion, the tribunal shall make an independent determination of the property's TCV using correct legal principles.

As such, the Tribunal intends to proceed with this case in accordance with the Court of Appeals' published decision. Considering the significance of this case, the Tribunal has ordered that, under the authority of MCL 205.734(1), a three-judge panel shall be convened to preside over the remainder of this appeal. The assigned judges are: Judge Marcus L. Abood, Judge Preeti P. Gadola, and Judge David B. Marmon.

Witness Lists

In ET cases, Tribunal Rule 237(3) provides that the prehearing statement shall provide the name and address of any person who may testify, and include a general summary of the subject area of the testimony. The Tribunal has experienced an increase in the number of prehearing statements that list generic witnesses (e.g., a member of the Board of Directors of xyz company) and/or fail to provide the addresses of the witnesses and provide a summary of the subject area of testimony. Effective immediately, in such instances, the Tribunal will hold the offending party in default and give that party seven days to submit an amended prehearing statement correctly identifying its witnesses. A failure of said party to timely cure the default will result in the exclusion of such witnesses from testifying at hearing.

Court Reporter Costs

The Tribunal has become aware that there is some confusion regarding the payment of court reporter costs. Please be advised that even though the Tribunal orders the Petitioner to secure the services of a court reporter, the Tribunal expects the parties to share the costs of the court reporter. Effective immediately, prehearing orders will be revised to reflect that expectation.



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Contact Information

Although the Tribunal requires that changes in a party's (or representative's) contact information be made in writing, the Tribunal wants to clarify that such written notification can be made by fax (517-373-4493), email (taxtrib@michigan.gov), or by regular mail (P.O. Box 30232, Lansing, MI 48909).

Court of Appeals Decisions

Dismissal of Appeal

The Joanne L. Evangelista Revocable Trust, Joanne L. Evangelista, and Michael Evangelista v City of Farmington Hills, unpublished opinion per curiam of the Court of Appeals, issued November 14, 2017 (Docket No. 334263).

Petitioners appealed the Tribunal's determination on reconsideration that the property did not qualify for an exemption under MCL 211.7b because it was not owned by a disabled veteran. Petitioners argued that the property was owned by a disabled veteran by virtue of its ownership by the Joanne L Evangelista Revocable Trust ("Trust") because the GPTA's principal residence exemption allows for ownership by a trust, and that the issuance of a refund by the County Treasurer in response to the original final opinion and judgment rendered Respondent's motion for reconsideration moot. The Court of Appeals held that the relevant definition is found in MCL 211.7a, and therefore an "owner" for purposes of the disabled veteran's exemption is "the holder of legal title." Noting that there was no dispute that the Trust held legal title to the property, the Court held that Michael Evangelista, the disabled veteran, was not entitled to the exemption under the plain language of the statute because he was not the owner. The Court further held that satisfaction of the judgment did not render the appeal moot because the County Treasurer was obligated to correct the rolls and issue a refund after entry of the original final opinion and judgment—it lacked the voluntary choice characteristic of the rule.

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