STATE OF MICHIGAN
RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

April 5, 2017

Dear Tax Tribunal Practitioner:

Unredacted Documents

The Tribunal continues to receive exhibits, discovery, and related documents that contain social security and federal identification numbers. The Tribunal lacks the resources to review lengthy documents submitted by the parties to determine if social security and federal identification numbers have been redacted by the submitting party. Effective immediately, the Tribunal will return any lengthy documents in need of redacting to the submitting party, to be resubmitted to the Tribunal once all required redacting has been completed.

Court of Appeals Decisions

Welcome Missionary Baptist Church v City of Pontiac, unpublished opinion per curiam of the Court of Appeals, issued March 7, 2017 (Docket No. 330487).

Respondent appealed the Tribunal's decision denying Petitioner a property tax exemption under MCL 211.7s, and instead granting Petitioner a completely different exemption under MCL 211.7o, which Petitioner had not previously requested. Respondent argued that the Tribunal was not permitted to consider granting the exemption under MCL 211.7o, and the Tribunal erred in determining that the premises were "occupied." Respondent argued that Petitioner never requested the exemption under MCL 211.7o, as such, Respondent did not have notice to defend against the claimed exemption. The Court held that the "plain reading of the petition" indicated that MCL 211.7s only needed to be addressed; however, the Tribunal made it explicitly clear to the parties, prior to the hearing, that a claim for the exemption under MCL 211.7o would be considered. The Court found that Respondent was provided actual notice and an effective opportunity to defend against the exemption. As such, any error committed by the Tribunal was harmless. The Court further found that the Tribunal's factual findings that Petitioner's physical presence on the subject property were supported by competent, material, and substantial evidence.

Fifarek House Trust v Long Lake Township, unpublished opinion per curiam of the Court of Appeals, issued March 7, 2017 (Docket No. 330489).

Petitioner appealed from a final opinion and judgment issued by the Tribunal denying its appeal of the uncapping of the subject property's taxable value. On appeal, Petitioner argued that a transfer of ownership did not occur in 2014 because the property could not be distributed from the Trust until January 11, 2015. Further, MCL 211.27a(6)(e) did not apply because there was no change in sole present beneficiaries. The Court of Appeals held that the Tribunal correctly concluded that there was a change in sole present beneficiaries, because the language of the Trust

indicated that Robert and Dorothy were the initial beneficiaries and upon the death of the surviving spouse, the children became the beneficiaries. Further, the exception in MCL 211.27a(7)(u) did not apply as there were two different types of conveyances at issue. The Court reasoned that the "transfer of residential real estate" was a separate provision from a trust beneficiary change, otherwise, the Legislature would not have enacted both statutes. Lastly, the Court upheld the Tribunal's determination that MCL 211.27a(6)(e)(ii) did not apply since it was not in effect at the time of the conveyance. The dissent argued that even if the transfer did occur, MCL 211.27a(7)(s) should apply as Petitioner would be excluded as a transferee related by blood or affinity to the first degree to the transferor. Further, a conveyance of present interest did not occur upon Robert's death, because the trustee had no real beneficial interest, and as beneficiaries there was no present interest until distribution.

Amvent Holdings, LLC v City of Southfield, unpublished opinion per curiam of the Court of Appeals, issued March 23, 2017 (Docket No. 329699).

Petitioner appealed the Tribunal's decision dismissing its appeal for failure to appear at a duly-noticed prehearing conference. Petitioner argued that the Tribunal erred in dismissing its appeal, as its failure to appear was not willful, and the Tribunal should have considered less drastic action. Petitioner also argued that the Tribunal improperly considered Petitioner's motion to set aside the dismissal as a motion for reconsideration. Distinguishing prior case law, the Court of Appeals held that the Tribunal did not abuse its discretion in dismissing the appeal because TTR 247 specifically grants it authority to dismiss for failure to appear at a prehearing conference. There was no default or finding of prejudice, as such, the Tribunal had no obligation to consider a less drastic action. The Court further held that the Tribunal did not err in treating Petitioner's motion to set aside the dismissal as a motion for reconsideration. The Court reasoned that while TTR 231 allows the Tribunal to set aside an order of dismissal based on "reasons it considers sufficient," and TTR 257 allows the Tribunal to reconsider a decision based on palpable error, Petitioner's arguments were already considered and rejected by the Tribunal. Thus, the Tribunal would likely have denied Petitioner's motion to set aside the dismissal, even if it did not apply MCR 2.119(F).