STATE OF MICHIGAN
RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

May 9, 2017

Dear Tax Tribunal Practitioner:

Filing Dates for Petitions

The Tribunal would like to remind property owners and/or their representatives that Tuesday, May 31, 2017, is the deadline for filing valuation appeals involving commercial real property, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property valuation appeals.

July 31, 2017, is the statutory deadline for filing 2017 petitions with the Tribunal for property classified as agricultural real property, residential real property, timber-cutover real property, or agricultural personal property.

E-Mail Submissions

Because the Tribunal continues to receive filings by email, we remind you that the Tribunal does not accept the filing of pleadings, motions or other documentation by e-mail. To properly file your document, please either file a hard copy by mail or electronically file the document via the Tribunal's e-filing system (https://www.etaxappeal.lara.state.mi.us/).

Court of Appeals Decisions

SBC Health Midwest, Inc v City of Kentwood, __Mich__; __NW2d__ (2017).

The Supreme Court granted the City's application for leave to appeal the judgment of the Court of Appeals, which reversed the Tribunal and held that the personal property exemption found in MCL 211.9(1)(a) is not limited to nonprofit institutions. In affirming the Court of Appeals, the Court concluded that the language of MCL 211.9(1)(a) is unambiguous and does not require nonprofit status to claim the exemption. The Court noted that MCL 211.7n excluded for-profit institutions, while that same exclusionary language was not found within MCL 211.9(1)(a) and reasoned that the exclusion must be intentional. Further, the City's argument that the nonprofit requirement of MCL 211.7n must be read into MCL 211.9(1)(a) was rejected by the Court. While the statutes both provide exemptions of personal property for educational institutions, they vary regarding the ownership of the property and the entities entitled to the exemption. The Legislature's intent was not to limit the scope of MCL 211.9(1)(a) by enacting MCL 211.7n; rather, examining the two statutes concurrently only demonstrates that nonprofit educational institutions have two options when pursuing a tax exemption for personal property. The Court also rejected the City's argument that the *Wexford* decision was applicable, reasoning that the characteristics of a charitable institution differ from the characteristics of an educational institution. Lastly, the Court rejected the City's argument that excluding a nonprofit

requirement from MCL 211.9(1)(a) violated the Michigan Constitution, because the provision only mandates exemption for nonprofits, it does not limit exemptions available for other organizations.

Isabella County Treasurer v Estate of Timothy Scott Pung, unpublished opinion per curiam of the Court of Appeals, issued April 18, 2017 (Docket No. 329858).

The County issued a 2012 tax bill indicating that the property had a principal residence exemption ("PRE"), but a revised tax bill denying a PRE was issued shortly thereafter. When the Estate's representative paid the original tax amount, but refused to pay the revised bill, the County pursued foreclosure. Over a period of several months, the County sent a variety of notices to the Estate's representative, and the subject property, physically posted notice at the subject property, published notice in the newspaper, and received no response. After a judgment of foreclosure was entered, the Estate filed suit to cancel the foreclosure. The circuit court held that although the County complied with the GPTA's statutory notice requirements, the Estate was deprived of its due process rights, as the County had constructive knowledge that the Estate did not receive the notice, since the Estate had responded to past notices, yet failed to respond to the foreclosure notices. As such, the County should have taken additional steps to inform the Estate of the deficiencies and foreclosure proceeding. The Court of Appeals reversed and remanded holding in the County's favor. The Court stated under due process, notice requires reasonable measures to inform the party of the pending action and to provide the party with an opportunity to present their objections. Further, the government is required to consider the information that is known to it, for instance, if notice is returned as undeliverable, then the government must take reasonable additional steps to inform the party. Reasonable steps are dependent upon the information available; however, the government is not required to search for a party's new address. Further, the government cannot be faulted if no reasonable steps exist. The Court disagreed with the lower court's determination that the County had constructive notice that the Estate was not receiving notice. Additionally, the Court could not identify any additional steps that the County could have taken. The Court noted that notice is constitutionally valid if it is sent and the government receives no indication that something has gone wrong. The Estate's past conduct was not indicative of whether notice was provided in this case, nor was the County required to inform the Estate of the pending foreclosure during oral arguments of other tax years.

Half Pipe, LLC v Livingston Township, unpublished opinion per curiam of the Court of Appeals, issued April 25, 2017 (Docket No. 329197).

Petitioner filed a stipulation that included the 2013, 2014 and 2015 tax years, and the Tribunal only granted the stipulation for the 2014 and 2015 tax years, stating that it lacked jurisdiction over the 2013 tax year. Petitioner appealed the Tribunal's decision excluding the 2013 tax year from the consent judgment. The Court of Appeals reversed and remanded holding that the Tribunal erred in refusing to fully enter the parties' consent judgment, because it had subject-

matter jurisdiction. The Court stated that pursuant to *Clohset v No Name Corp*,[1] courts are authorized to enter a consent judgment if the case is properly before it, even if some aspects of the consent judgment are outside of the court's jurisdiction. The Court acknowledged that the timing requirements under MCL 205.735a are jurisdictional and speak to perfecting an appeal, but subject-matter jurisdiction refers to whether a court has the authority to adjudicate that type of legal matter. The Court reasoned that it was unnecessary to address whether Petitioner complied with the procedural requirements under MCL 205.735a, because the Tribunal had subject-matter jurisdiction over the case pursuant to MCL 205.731.

[1] *Clohset v No Name Corp*, 302 Mich App 550, 563-564; 840 NW2d 375 (2013)