



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

June 1, 2017

Dear Tax Tribunal Practitioner:

Small Claims Decisions as Precedent

MCL 205.765 provides that a small claims decision is not a precedent unless the Tribunal designates it as such. A recent request by a party to a small claims case to declare the Final Opinion and Judgment in that case precedential led to research by Tribunal staff that revealed the Tribunal has exercised this option sparingly, with just fourteen small claims decisions designated as precedent since 1992. Because the Tribunal has, over the past two years, taken positions regarding the disabled veteran's exemption (MCL 211.7b) contrary to direction given by the State Tax Commission, the Tribunal has decided to designate four of its prior veteran's exemption decisions as precedent. In instances where future cases present the same facts as those outlined below, the Tribunal will rule according to the binding decisions.

Small Claims decisions designated as precedent by the Tribunal on May 31, 2017 are:

Deborah E. Rabun v City of Farmington Hills, MTT Docket No. 16-004780.

The Tribunal held that a surviving spouse cannot qualify for the exemption when the deceased disabled veteran never owned or occupied the subject property as a homestead.

James R. Loshaw v Richfield Township, MTT Docket No. 14-000197.

Gregory H. Videan v Norwich Township, MTT Docket No. 15-000143.

The Tribunal held that an otherwise qualified disabled veteran will qualify for the exemption if he or she is an owner of the subject property. The Tribunal finds that joint ownership of the subject property does not disqualify the veteran from receiving the exemption.

Jack Turner v Egelston Township, MTT Docket No. 14-005728.

The Tribunal held that the exemption applies only to a parcel used as a homestead by the otherwise qualified veteran. Concluding that "homestead" means dwelling under the General Property Tax Act, and the plain meaning of "dwelling" is a residence or abode, the Tribunal concluded that parcels contiguous to the parcel containing the residence do not qualify for the exemption.

Court of Appeals Decisions

City of Monroe v Richard Janssens, unpublished opinion per curiam of the Court of Appeals, issued May 9, 2017 (Docket No. 329527).

The City appealed the Tribunal's determination that it could not appeal the State Tax Commission's decision denying its MCL 211.154 petition because it was not the person to whom



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

the property was assessed as provided by MCL 211.154(7). The City argued that the Tribunal had jurisdiction, and its interpretation of the statute only provided taxpayers with the ability to appeal. Citing prior case law, the Court held that based on the unambiguous language of the statute, the Tribunal correctly determined that the Legislature intended to limit the appeal to taxpayers. The Court rejected the City's argument that MCL 211.154(7) should be read along with MCL 205.735a(6), to provide a similar right to appeal. The Court reasoned that MCL 205.735a(6) only pertains to assessment disputes and requires protest to the Board of Review, which the City did not do. The Court further reasoned that even if the two statutes conflicted regarding invoking the Tribunal's jurisdiction, MCL 211.154(7) would govern as it provides a more specific provision which governs appealing State Tax Commission decisions pertaining to omitted or incorrectly reported property. The City argued that the Tribunal's application of MCL 211.154(7) violates its constitutional right to appeal State Tax Commission's decisions. The Court stated that article 6, § 28 provides a direct review of final decisions that affect a private right. However, here, the City was a taxing authority which represented a public interest, as such article 6, § 28 does not apply, and there were other remedies available.