



RICK SNYDER
GOVERNOR

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

MICHAEL ZIMMER
DIRECTOR

September 2, 2015

Dear Tax Tribunal Practitioner:

2015 Small Claims Appeals

Updating information provided in our August GovDelivery, approximately 4,200 small claims appeals were filed for the 2015 tax year, down from approximately 5,100 last year. As we indicated previously, a few Small Claims hearings will be held during September; a normal schedule of Small Claims hearings will begin in October and continue through July 2016. Because of the reduced number of small claims appeals, it is likely that the Tribunal will not schedule Small Claims hearings during the first three weeks of March 2016 (in prior years, the Tribunal has not scheduled hearings during the second and third weeks of March.)

Exhibits in ET Cases

The Tribunal's Summary of Prehearing Conference and Scheduling Order provides, among other things, that when a hearing is going forward:

the parties shall bring two (2) copies of all proposed exhibits (i.e. file copy and Judge's copy) to the hearing. Each exhibit must display the docket number, and exhibit number (i.e., P1, P2, R1, R2, etc.) in the upper right hand corner of the first page of each copy of each proposed exhibit. The proposed exhibits must be separated into numerical order sets for easy reference and an index shall be provided for each set.

The Tribunal reminds parties that although the Tribunal's Summary of Prehearing Conference and Scheduling Order provides a date certain for the parties to exchange exhibit lists and provide exhibit lists to the Tribunal, the Tribunal does not require, or desire, that copies of the exhibits be provided to the Tribunal prior to the hearing. Further, a form Exhibit List is included on the Tribunal's website (www.michigan.gov/taxtrib) on the Entire Tribunal webpage, and the Tribunal expects parties to submit that form as their requisite index of exhibits.

Further, effective immediately, the Tribunal will dispose of all exhibits provided to the Tribunal that were not offered by a party, or were offered and withdrawn.

Finally, exhibits offered by a party, but not admitted, will be retained by the Tribunal with the file in a sealed envelope.



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Attachments to e-filed Petitions and Answers

In the Small Claims division, both the petitioner and the respondent are required to file a copy of the notice giving rise to the appeal (e.g. Board of Review decision, notice of denial, final notice of assessment, etc . . .) with the petition and answer forms. See TTR 277 and TTR 279. When electronically filing these forms, there is no option to upload this document before submitting the petition or answer. As a result, please electronically file the pleading (i.e. petition form or answer form) first and then submit a copy of the notice giving rise to the appeal separately by using the submission type of "Attachments to Answer" or "Attachments to Petition." When filing multiple pleadings, the Tribunal recommends you file the pleading, then the attachment, rather than filing all pleadings, then filing all attachments to ensure you are not placed in default between the time the pleading and attachment is filed.

Requests for Hear on File or Telephonic Hearings

As we discussed in our October 7, 2014 GovDelivery, the Tribunal requires parties to request a hearing to be held "On The File" or telephonic at least 28 days prior to the date of the hearing, with opposing parties currently required to file a response to the request within 14 days of the date of the hearing. Because that policy failed to consider that a party could file a request for "hear on file" or a telephonic hearing several days before the 28 day limitation imposed, the Tribunal is revising its policy to require responses to the request for "hear on file" or telephonic within 14 days of the date of the filing of such requests.

Court of Appeals Decisions

Cambridge Development Group v City of Ann Arbor, unpublished opinion per curiam of the Court of Appeals, issued August 13, 2015 (Docket No. 321897).

Respondent challenges the Tribunal's Final Opinion and Judgment which assumed jurisdiction over Petitioner's parcels 40, 41, 42, and 43, and the Tribunal's finding "that the City's assessor intended to halve the adjustment factor shown on the property cards for the parent parcels rather than the 150% modifier the assessor actually applied." Regarding the parcels at issue, the Court of Appeals held that although "[t]here is record evidence that Cambridge Development or one of its principles had an interest in parcels 40, 41, and 42 during the 2013 tax year," neither Petitioner nor its principles held an ownership interest in parcel 43 in that year and, thus, the Tribunal had no authority to provide any relief regarding that parcel. The Court of Appeals also held that the Tribunal exceeded its jurisdiction in considering prior years under MCL 211.53a because "[t]he failure to properly invoke the Tax Tribunal's jurisdiction in an assessment dispute precludes the Tax Tribunal from asserting its jurisdiction to hear the petition other than to dismiss it. See *Leahy v Orion Twp*, 269 Mich App 527, 532; 711 NW2d 438 (2006)." Regarding the adjustment factor used for property zoned R2A, the Tribunal "found that the assessor halved



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the wrong adjustment factor,” because the record cards for the parent parcels reflected a different adjustment factor in the past. Although the Court of Appeals found some support for this finding, it declined to affirm the Tribunal’s finding, stating that “although there was evidence that might support an inference that the City’s assessor used the wrong base adjustment factor . . . and that the use was inadvertent, [] the Tax Tribunal did not give the City an adequate opportunity to argue and present evidence on this issue” Accordingly, the Court remanded for reconsideration of the petition as it applied to parcels 40, 41, and 42, with instructions to dismiss all prior tax years and parcel 43 from the appeal for lack of jurisdiction.