



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Wal-Mart Real Estate Business Trust,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-000725

City Of Bad Axe,
Respondent.

Presiding Judge
Marcus L. Abood

ORDER DENYING JOINT STIPULATION FOR ENTRY OF CONSENT JUDGMENT

ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

ORDER OF PARTIAL DISMISSAL

FINAL OPINION AND JUDGMENT

On January 25, 2023, Petitioner filed a motion requesting that the Tribunal enter summary judgment in its favor in the above-captioned case. More specifically, Petitioner contends that because the taxable value (TV) for the subject property for the 2019 tax year has been established, and because there were no additions or losses to the subject property from 2019-2021, the TV of the subject property can only be increased for the subsequent tax years by the statutory rate of inflation. As such, Petitioner requested that the Tribunal reduce the TV of the subject property as follows: \$2,175,565 for 2020, to \$2,206,022 for 2021, and to \$2,278,821 for 2022. Petitioner further indicated that if the motion is granted, it would withdraw its appeal of the assessed value (AV) of the subject property for 2020, 2021, and 2022. Respondent did not file a response to Petitioner's motion.

On March 22, 2023, the parties filed a motion requesting that the Tribunal enter their Joint Stipulation for Entry of Consent Judgment (Stipulation).

The Tribunal has reviewed the motions and case file and finds that the stipulation must be denied due to a technical error. The STC specifies in its Bulletin 3 of 1995 that "[t]he answer from the capped value formula must not be rounded up." Here, the parties stipulated to a rounded TV for the subject property for the 2021 tax year. Although not statutorily binding, the Court of Appeals has held that agency interpretations are granted 'respectful consideration,' and if persuasive, should not be overruled without 'cogent

reasons.”¹ As such, the Tribunal finds that denying the stipulation is appropriate at this time.

A careful review of the case file, however, indicates that granting Petitioner’s Motion for Summary Disposition is appropriate under MCR 2.116(C)(10). Here, Petitioner correctly indicates that under Article IX, Sec. 3 of the Michigan Constitution,

The taxable value of each parcel of property adjusted for additions and losses, shall not increase each year by more than the increase in the immediately preceding year in the general price level, as defined in section 33 of this article, or 5 percent, whichever is less until ownership of the parcel of property is transferred.²

Further, under MCL 211.27a(1)(a), TV is calculated as follows: “[t]he property’s taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions.” Given that the TV of the subject property was set at \$2,135,000 for 2019, and that Respondent did not file a response or any evidence establishing a genuine issue of material fact as to additions or losses to the subject property from 2019-2021, the Tribunal finds that summary disposition in favor of Petitioner is appropriate. In light of Petitioner’s agreement to withdraw its appeal of the subject property’s AV for the 2020, 2021, and 2022 tax years pending the Tribunal’s granting of summary disposition in its favor, the Tribunal also finds that partial dismissal of the same is appropriate.

The property’s TV, as established by the Board of Review for the tax year at issue, is:

Parcel Number: 3251-724-002-91

Year	TV
2020	\$4,411,760
2021	\$4,455,100
2022	\$4,366,400

The property’s final TV, as determined by the Tribunal for the tax years at issue, is:

Parcel Number: 3251-724-002-91

Year	TV
2020	\$2,175,565
2021	\$2,206,022
2022	\$2,278,821

¹ *CMS Energy Corp v Dep’t of Treasury*, unpublished opinion per curiam of the Court of Appeals, issued October 15, 2013 (Docket No. 309172) at 4. See also *In re Complaint of Rovas Against SBC Mich*, 482 Mich 90, 117-118; 754 NW2d 259 (2008).

² Michigan Constitution 1963, Article 9, Section 3.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Joint Stipulation for Entry of Consent Judgment is DENIED.

IT IS FURTHER ORDERED that Petitioner's Motion for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that Petitioner's appeal is PARTIALLY DISMISSED with respect to the AV of the subject property for the 2020, 2021, and 2022 tax years.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year(s) at issue shall correct or cause the assessment rolls to be corrected to reflect the property's taxable values as provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.³ To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2013, through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, (xii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, and (xiii) after December 31, 2022, through June 30, 2023, at the rate of 5.65%.

This Final Opinion and Judgment resolves the last pending claim and closes the case.

³ See MCL 205.755.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By 

Entered: April 12, 2023

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk