



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

Old National Bank,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 18-001374

Ada Township,  
Respondent.

Presiding Judge  
Marcus L Abood

### FINAL OPINION AND JUDGMENT

#### INTRODUCTION

Petitioner, Old National Bank, appeals ad valorem property tax assessments levied by Respondent, Ada Township, against Parcel No. 41-15-31-376-018 for the 2018 and 2019 tax years. Ellen G. Berkshire, Attorney, represented Petitioner, and Robert W. O'Brien, Attorney, represented Respondent.

A hearing on this matter was held on November 25, 2019. Petitioner's witness was Kern G. Slucter, real estate appraiser. Respondent's witness was John Meyer, real estate appraiser.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values ("TCV"), state equalized values ("SEV"), and taxable values ("TV") of the subject property for the 2018 and 2019 tax years are as follows:

Parcel No.	Year	TCV	SEV	TV
41-15-31-376-018	2018	\$3,396,000	\$1,698,000	\$1,698,000
41-15-31-376-018	2019	\$3,396,000	\$1,698,000	\$1,698,000

## PETITIONER'S CONTENTIONS

Petitioner contends the subject property's design and characteristics are not conducive to the immediate office market. Specifically, the subject's layout and improvements suffer from functional and external obsolescence. The subject's lower level area does not have reasonable access for tenants, customers and clients. Creating a tenant use in the lower level would impact drive patterns and parking due to the wetland pond at the front of the property.<sup>1</sup>

Petitioner's appraiser described the subject property and analyzed the subject market. Petitioner's data sources include CPIX and Co-Star for the analysis of the office market. In addition, Petitioner's appraiser consulted with assessors and commercial real estate brokers in the area.

The former owner, Founders Bank, developed the corner site in the affluent community of Ada. The location carries a high-profile presence and the building creates a rock-solid image.<sup>2</sup> Petitioner's appraiser contends the building is too large to function just as a branch bank. In other words, the building size (and drive-thru lanes) are restrictive to its marketability.<sup>3</sup> Likewise, the subject's garden lower level has only two access points which are not conducive for potential tenants or clients.<sup>4</sup> One building access point enters to a landing area which splits into two levels of the building. The second entrance point is primarily used for service and deliveries. This entrance would require extensive remodeling for public use.

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<sup>1</sup> Tr, 32.

<sup>2</sup> Tr, 16-17.

<sup>3</sup> Tr, 21.

<sup>4</sup> Tr, 24.

In addition, Petitioner contends the building's atrium and main entrance are wasted space due to the difficulty in heating the open 2-story lobby. Overall traditional banking space has been changing.<sup>5</sup>

Petitioner's highest and best use analysis concludes that the subject is best suited as a professional office building.

Petitioner's cost approach developed land sales, cost figures (from Marshall Valuation Service) and determined overall depreciation for the subject property to conclude to an indication of value. This approach to value was given minimal weight in the final reconciliation.

Petitioner's income approach analyzed leased properties to determine a \$/SF for the subject property. From potential gross income, expenses were deducted to arrive at a net operating income. Capitalization rates were analyzed to then calculate an indication of value for this approach.

Petitioner's comparative analysis developed sales of office buildings in the subject market area with adjustments to arrive at an indication of value for this approach.

Petitioner considered and developed all three approaches to value and reconciled with most weight given to the sales comparison approach because it best reflects the actions of market participants.

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<sup>5</sup> Tr, 37.

### PETITIONER'S ADMITTED EXHIBITS

In support of its value contentions, Petitioner offered the following exhibits, which were admitted into evidence:

P-1: Appraisal Report prepared by Kern G. Slucter.

### PETITIONER'S WITNESS

Petitioner's witness was Kern G. Slucter who is a real estate appraiser in the state of Michigan. The parties jointly stipulated to each other's expert witness at the beginning of the hearing. Based on the parties' joint stipulation, Mr. Slucter was acknowledged and admitted as an expert in real estate appraisal.

### RESPONDENT'S CONTENTIONS

Respondent contends the primary issue in this case is the value applied to the subject's lower level of the building. The finished areas in the lower level contribute to the overall market value of the subject property.

Respondent asserts the subject is located in a prime location and developed with a high profile building.

Respondent's highest and best use analysis concluded that the subject is properly suited as a commercial office/bank building.

Respondent considered all three approaches to value but only developed the income and sales comparison approaches. Respondent reasoned that the cost approach was not applicable due to the subject's age and because investors typically do not rely on this approach for commercial office buildings.

Respondent's income approach analyzed rental properties in the subject market area to derive potential gross income for the subject's first and second floors (\$16/SF) and lower level (\$11/SF). Further analysis included expenses to derive a net operating income which was then applied to a reasonable capitalization rate for a conclusion of value.

Respondent's sales comparison approach was based on comparable sales in the west Michigan market. Comparable sales adjustments were made including differences in GBA with consideration to functional obsolescence.<sup>6</sup>

Respondent reconciled the two approaches and gave slightly more weight to its income approach for final conclusions of value for 2018 and 2019.

#### RESPONDENT'S ADMITTED EXHIBITS

In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

- R-1: Appraisal Report prepared by John Meyer.
- R-2: Ada Township Tax Record Card.
- R-3: Ada Township Valuation Report.

#### RESPONDENT'S WITNESS

Respondent's witness was John Meyer who is a real estate appraiser in the state of Michigan. The parties jointly stipulated to each other's expert witness at the beginning of the hearing. Based on the parties' joint stipulation, Mr. Meyer was acknowledged and admitted as an expert in real estate appraisal.

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<sup>6</sup> Tr, 149.

## FINDINGS OF FACT

1. The subject property is located at 5200 Cascade Road SE and is located in Kent County.
2. The subject was originally developed by Founders Bank as corporate headquarters and branch bank.
3. The former owner, Founders Bank, owned and occupied the entire building. In other words, the building was not tenant occupied.
4. The subject property 2.5 acres and is developed with a commercial office building having gross building area (GBA) of 27,837 square feet.
5. The subject property is located on a corner lot at the southwest corner of Cascade Road SE and Spaulding Avenue SE.
6. The subject property is zoned PO, Professional Office.
7. The subject building was constructed in 2001.
8. The subject market area is a “high profile” and “prime” location in the general Grand Rapids area.<sup>7</sup>
9. Petitioner purchased the subject property on January 21, 2015 from Founders Bank.
10. Lower level or basement spaces are typical within office buildings in the subject market area.<sup>8</sup>
11. Petitioner occupies the subject building including all three floors (1<sup>st</sup> floor, 2<sup>nd</sup> floor and lower level).
12. Petitioner occupies the subject building as a commercial office and banking operation.
13. The highest and best use of the subject (as vacant, as improved) is its current use as a commercial office building.<sup>9</sup>
14. The highest and best use of the subject is not as a tenant-occupied income producing property.
15. The subject’s lower level is accessible and usable for Petitioner’s business operations.
16. Petitioner’s business banking operation promotes customer and client access through the large 2-story atrium at the front of the building. In other words, the lower access points were not designed for customers and clients.
17. The subject’s lower level has a conference room, training room, break room with kitchen, mail room, exercise room, storage room, utility room, men’s/women’s restrooms, open office area (with cubicles) and record storage room (with fire suppression system). The lower level has two stairwells and an elevator access.
18. The subject’s lower level is approximately 70% finished.<sup>10</sup>
19. Petitioner submitted a valuation disclosure in the form of a narrative appraisal report prepared by Kern G. Slucter.
20. Petitioner’s appraiser developed the cost, income and sales comparison approaches to reconcile to a conclusion of market value for the subject property.

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<sup>7</sup> Tr, 16 and 124.

<sup>8</sup> Tr, 128.

<sup>9</sup> Tr, 42 and 136.

<sup>10</sup> Tr, 31.

21. Petitioner's appraiser did not include the subject's lower level in the GBA.
22. Respondent submitted a valuation disclosure in the form of a narrative appraisal report prepared by John Meyer.
23. Respondent's appraiser developed the income and sales comparison approaches to reconcile to a conclusion of market value for the subject property.
24. Respondent's appraiser did include the subject's lower level in the GBA.
25. The parties' appraisers developed and analyzed a common comparable sale located at 5537 Glenwood Hills Parkway SE, Grand Rapids, Michigan. This property sold to Lake Michigan Credit Union in February 2017 for \$4,000,000. The GBA for this building is 39,820 square feet which includes lower level area.
26. Petitioner's adjusted \$/SF for the common comparable sale is \$121.55 for 2018 and 2019. Respondent's adjusted \$/SF for the common comparable sale is \$125.57 for 2018 and \$133.80 for 2019.

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusion and has rejected evidence contrary to those findings.

#### CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.<sup>11</sup>

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . .<sup>12</sup>

The Michigan Legislature has defined "true cash value" to mean:

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<sup>11</sup> See MCL 211.27a.

<sup>12</sup> Const 1963, art 9, sec 3.

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.<sup>13</sup>

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”<sup>14</sup>

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”<sup>15</sup> The Tribunal is not bound to accept either of the parties' theories of valuation.<sup>16</sup> “It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”<sup>17</sup> In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”<sup>18</sup>

A proceeding before the Tax Tribunal is original, independent, and de novo.<sup>19</sup> The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”<sup>20</sup> “Substantial evidence must be more than a scintilla of

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<sup>13</sup> MCL 211.27(1).

<sup>14</sup> *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

<sup>15</sup> *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

<sup>16</sup> *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

<sup>17</sup> *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

<sup>18</sup> *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

<sup>19</sup> MCL 205.735a(2).

<sup>20</sup> *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

evidence, although it may be substantially less than a preponderance of the evidence.”<sup>21</sup>

“The petitioner has the burden of proof in establishing the true cash value of the property.”<sup>22</sup> “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party.”<sup>23</sup> However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”<sup>24</sup>

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation approach.<sup>25</sup> “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”<sup>26</sup> The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances.<sup>27</sup>

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<sup>21</sup> *Jones & Laughlin Steel Corp*, *supra* at 352-353.

<sup>22</sup> MCL 205.737(3).

<sup>23</sup> *Jones & Laughlin Steel Corp*, *supra* at 354-355.

<sup>24</sup> MCL 205.737(3).

<sup>25</sup> *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), aff’d 380 Mich 390 (1968).

<sup>26</sup> *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

<sup>27</sup> *Antisdale*, *supra* at 277.

Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.<sup>28</sup>

Regarding the cost approach to value, Petitioner's analysis is a conventional framework for the development of this approach. However, there are limitations from certain elements of this analysis. One, physical depreciation was derived from an age/life methodology.<sup>29</sup> The subject building is 18 years old with an expected life of 50 years which results in a lump sum depreciation of 36%. However, Petitioner's determination of total depreciation is 35% (physical deterioration of 14%, functional obsolescence of 16% and 5% depreciation for the subject's atrium) for just floors one and two. A separate 75% factor for functional and physical depreciation was allocated to the subject's lower level area. The Tribunal is unable to ascertain or assume how the depreciation percentage was determined for the lower level area based on Petitioner's appraiser's statement "to make this area rentable, several hundred thousand dollars would be required to provide an entrance that would be attractive to professionals."<sup>30</sup> The separate depreciations are inconsistent and infer that the subject's lower level is treated as tenant space which contradicts the highest and best use analysis from both parties. Second, the subject's lower level is in use as part of Petitioner's banking operations. The various areas of the lower level indicate employees' uses. In other words, Petitioner is not using the lower level spaces for separate tenancy. Lastly, Petitioner's appraiser placed very little weight on this approach to value. Therefore,

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<sup>28</sup> See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

<sup>29</sup> Appraisal Institute, *The Dictionary of Real Estate Appraisal*, (Chicago: 6<sup>th</sup> ed, 2015) p 71.

<sup>30</sup> Petitioner's Exh. P-1, 106. Petitioner's alleged difficulties in reconstructing lower access points for leasing is manifested by the fact that the subject was built and continues to be used as an owner-occupied bank/office building.

Petitioner's cost approach is given no weight or credibility in the independent determination of market value for the subject property.

Regarding the income approach to value, the parties' respective income analyses consider the subject's viability for tenant occupancy. As noted, the subject property is owner-occupied, but this fact does not automatically preclude the development of this approach to value in valuation practice and theory. The parties' rental data indicates the existence of office rental space in the subject market. However, each party's analysis of the subject's lower level space is insufficient to arrive at an indication of value from the income approach. First, Respondent's determination of \$11 per square foot for the lower level space was not supported by any market evidence. Giving credence to this space did not include a cost analysis to convert the area for adequate tenant access. Respondent's rental adjustment grids analyze the subject's GBA (including the lower level) but did not consider the lower level area in light of the \$11/SF determination. On the other hand, Petitioner included a line-item entry for basement area in its rental adjustment grids. However, Petitioner's 15% adjustment for its comparables' lack of lower level space was not supported by any market evidence. Petitioner's lower level adjustment indicates that the market does recognize the subject's lower level finish and use.<sup>31</sup> Further, Petitioner's determination of \$14 per square foot for rental space includes the lower level space (without including the lower level area in its GBA). Overall, the parties' conflicting and inconsistent analyses of the subject's lower level area as lease space is not persuasive. The subject building

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<sup>31</sup> Petitioner's appraiser stated, "We considered all of these rates that we calculated and we decided that the property was really a pretty nice property overall, so we opined down to a lower capitalization rate which would produce a higher value . . ." (Tr. 76-77)

optimally functions for the owner occupant and not for tenant use. The total use of the building includes the lower level area<sup>32</sup> which was amply photographed and described in each party's appraisal report. Again, this fact is supported by the parties' highest and best use determinations. Therefore, the parties' respective income approaches are given no weight or credibility in the independent determination of market value for the subject property.

The parties' respective sales comparison approaches to value are presented in a conventional framework for analysis. First, Respondent's gross building area (GBA) analysis is consistent with its comparable sales data. Said differently, Respondent's sales prove the existence of commercial lower level space in the subject market area. On the other hand, Petitioner separates the lower level area from the building GBA. Petitioner's 15% adjustment to its comparable sales appears to be understated given the extensive features of the subject's lower level. Respondent's questions regarding lower level space for each of Petitioner's comparable sales were noteworthy.<sup>33</sup> The subject market's acknowledgement and use of lower level space was presented within Respondent's data and questioned within Petitioner's sales data. Based on the evidence for this appeal matter, a comparative analysis is the most reasonable methodology.

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<sup>32</sup> The subject's lower level area or basement area was not differentiated by either party. Moreover, neither party referenced GBA in the context of the Building Owners and Managers Association (BOMA). See Appraisal Institute, *The Appraisal of Real Estate* (Chicago, 14<sup>th</sup> ed, 2013), pp 225-226.

<sup>33</sup> Tr, 100-104. If Petitioner had record cards for its sales data (which didn't visibly show lower level area) then Petitioner would have performed due diligence over suspected lower level areas especially if exterior observations showed such lower level areas. Given a market's acceptance of building GBA, an appraiser would be compelled to research comparable MLS data sheets and record cards to delineate the marketability and appeal for all levels of a building.

Appropriately, the parties' common comparable sale located at 5537 Glenwood Hills Parkway SE provides a reasonable basis for the independent determination of market value for the subject property. This comparable sale was formerly a multi-tenant office building but is now utilized as an owner-occupied building. This sale is utilized as a bank/office building which has lower level space similar to the subject. Petitioner analyzed this sale by separating above-grade building area from the lower level. Separating the lower level space from the GBA and marginalizing its effect on the office/banking operations is not supported by market evidence. On the other hand, Respondent analyzed the subject's GBA by including the lower level area. As noted in the Findings of Fact, the subject's lower level is significantly finished with numerous areas. The lower level space was constructed specifically for the former owner's office and banking operations. Likewise, this lower level space continues in the same manner for the current owner. There is no evidence showing this lower level space was constructed in contemplation for tenant occupancy. The subject property was designed and is continued for use as an owner-occupied commercial bank/office building. The parties' treatment of this sale resulted in a relatively close adjusted \$/SF. A reasoned and reconciled determination of market value is attainable from the parties' adjusted prices per square feet for this common comparable sale. Therefore, the common comparable sale's inclusion of lower level space supports the analysis of the subject's GBA including the lower level space.

Overall, Petitioner's valuation evidence is not more convincing than Respondent's approaches to value. Petitioner's representation of the subject's lower level does not signify area that is functionally obsolete in the context of an owner-

occupant (especially given Petitioner's use of the lower level space). Respondent's valuation evidence is the most credible and reliable to the independent determination of market value for the subject property.<sup>34</sup> With a reasoned application, Respondent's analysis of the common comparable sale provides supported indication of market value for the subject property at \$122/SF.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property was over-assessed for 2018 and 2019. The subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

#### JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and

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<sup>34</sup> Respondent's appraiser's description of GBA market office space was presented with greater articulation and demonstrated geographical competency in the Grand Rapids metropolitan area.

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, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (xi) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, and (xii) after December 31, 2019, through June 30, 2020, at the rate of 6.40%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

#### 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 required filing fee within 21 days from the date of entry of the final decision.<sup>35</sup> 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.<sup>36</sup> A copy of the motion must be served 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.<sup>37</sup> Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.<sup>38</sup> A claim of appeal must be filed 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

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<sup>35</sup> See TTR 261 and 257.

<sup>36</sup> See TTR 217 and 267.

<sup>37</sup> See TTR 261 and 225.

<sup>38</sup> See TTR 261 and 257.

more than 21 days after the entry of the final decision, it is an "appeal by leave."<sup>39</sup> A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.<sup>40</sup> The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.<sup>41</sup>

Entered: February 28, 2020

By Wanda Ellwood

<sup>39</sup> See MCL 205.753 and MCR 7.204.

<sup>40</sup> See TTR 213.

<sup>41</sup> See TTR 217 and 267.