



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

GV LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-002874

Ypsilanti Township,
Respondent.

Presiding Judge
Peter M. Kopke

NOTICE OF VIDEO CONFERENCE HEARING

SUMMARY OF PREHEARING CONFERENCE

**ORDER PRECLUDING PETITIONER FROM OFFERING THEIR VALUATION
DISCLOSURES FOR ADMISSION OR WITNESSES TO TESTIFY**

ORDER DENYING RESPONDENT’S MOTION TO STRIKE

SCHEDULING ORDER

A Prehearing Conference on this matter was held on December 20, 2021. Robert E. Hull, Agent and Ronald Reynolds, Esq. appeared by telephone on behalf of Petitioner and Angela B. King, Esq. appeared by telephone on behalf of Respondent. Based on the discussions, a video conference hearing, via **Microsoft Teams**, has been set for:

HEARING DATE:	January 21, 2022
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting Or call in (audio only) +1 248-509-0316,,811449023# United States, Pontiac Phone Conference ID: 811 449 023#
PARTICIPANTS’ GUIDE:	https://bit.ly/34fBXnN

This hearing is open to the public and this notice is provided under the Open Meetings Act. Any participant or member of the public wishing to attend this hearing **must** click on the “Teams Hearing Link” provided above to gain access to the hearing.

This is an important legal document. Please have someone translate the document.

Este es un documento legal importante. Por favor, haga traducir este documento.

এটি একটি গুরুত্বপূর্ণ আইনি দলিল, অনুগ্রহ করে কেউ দলিলটিকে অনুবাদ করুন।

هذا هو وثيقة قانونية هامة يرجى لديك شخص تترجم الوثيقة.

Ito ay isang mahalagang legal na dokumento. Mangyari lamang na magkaroon ng isang tao isalin ang dokumento.

PREHEARING CONFERENCE SUMMARY

I. SHOW CAUSE HEARING:

- A. The prehearing conference commenced as a Show Cause Hearing given Petitioner's failure to file and exchange their valuation disclosure and prehearing statement by September 19, 2021.¹
- B. Petitioner indicated that they failed to timely file and exchange their valuation disclosure and prehearing statement because Mr. Hull was, despite the March 1, 2021 Prehearing Order, unfamiliar with the Tribunal's requirement for the filing of valuation disclosures and prehearing statements and was relying on emails from Respondent's assessor regarding the submission of valuation evidence.²
- C. The Tribunal finds that Petitioner has failed to show good cause to justify their failure to timely file and exchange their valuation disclosure and prehearing statement because Petitioner had notice regarding the required filing of their valuation disclosure and prehearing statement and a sufficient opportunity to prepare their valuation disclosure and prehearing statement for timely filing. In that regard, Petitioner did not contact the Tribunal or, more importantly, file a motion requesting an extension of the time for the filing and exchange of valuation disclosures and prehearing statements.³ Further, the March 1, 2021

¹ See the March 1, 2021 Prehearing General Call and Order of Procedure ("Prehearing Order").

² Petitioner also indicated that they had an appraisal prepared in December 2021 and submitted that appraisal to Respondent's assessor. The appraisal has not, however, been submitted to the Tribunal. Further, no explanation was provided to indicate why Petitioner was communicating with Respondent's assessor and not Ms. King regarding settlement of the case.

³ See the unpublished opinion *per curiam* issued by the Michigan Court of Appeals in *Iris LLC v City of Royal Oak* on April 4, 2019 (COA Docket No. 342812) *appeal denied*, 505 Mich 949; 936 NW2d 688 (2020), which provides that:

Vicencio and *Grimm* apply where there has been a dismissal. Here, **there was no dismissal and those cases have no application**. We **reject** petitioner's attempt to categorize the sanction **as the functional equivalent of a dismissal**. As discussed in greater length below, unlike most civil proceedings, the tribunal has an independent duty "to apply its expertise to the facts of a case to determine the appropriate method of

Prehearing Order also clearly indicated the consequences of failing to comply with that Order.

Based on the above, Petitioner has **not** shown good cause to justify the offering their October 5, 2021 valuation disclosure or their December 2021 appraisal for admission or their October 5, 2021 listed witnesses for testimony. Petitioner may, however, offer rebuttal witnesses for testimony.

II. VALUATION INFORMATION:

A. The true cash value (TCV), assessed value (AV), and taxable value (TV) for each parcel and tax year at issue as established by the Board of Review:

Parcel Number	Year	TCV	AV	TV
K-11-15-205-017	2020	\$1,433,200	\$716,600	\$680,386

B. The parties' contentions of TCV, state equalized value (SEV), and TV for each parcel and tax year at issue:

Parcel Number: K-11-15-205-017

Year	Petitioner's Contentions			Respondent's Contentions		
	TCV	SEV	TV	TCV	SEV	TV
2020	\$315,000	\$157,500	\$157,500	\$1,000,000	\$500,000	\$500,000

C. Amounts in dispute for the tax years at issue:

arriving at the true cash value of property, utilizing an approach that provides the most accurate valuation under the circumstances." *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992). "The tribunal may not automatically accept a respondent's assessment[] but must make its own findings of fact and arrive at a legally supportable true cash value." *Id.* at 355. Therefore, even though petitioner was precluded from presenting valuation evidence, the tribunal's independent duty prevents the sanction from being the functional equivalent of a dismissal. And, as discussed at length, the tribunal did just that – accepting and rejecting respondent's evidence to arrive at its own conclusions. Additionally, petitioner was not precluded from attacking respondent's valuations, which it did to a limited degree. Such limitation was, as discussed below, of its own making. [Emphasis added.]

Rather than look to the *Vicencio* and *Grimm* factors, the tribunal was required to determine whether there was good cause for petitioner's failure to timely file its valuations. The tribunal clearly considered both petitioner's attorney's health and the sensitive lease negotiations and determined that petitioner had other means of protecting its interests, including simply apprising the tribunal of what was happening, having the valuations filed under seal, or taking other actions beyond simply refusing to comply with the tribunal's order. **Given petitioner's actions were willful**, the tribunal did **not** abuse its discretion when it refused to allow petitioner to present valuation evidence at the hearing. [Emphasis added.]

Parcel Number	Year	SEV	TV
K-11-15-205-017	2020	\$342,500	\$342,500

D. TAX INFORMATION: Respondent claims that the ad valorem taxes at issue have not been paid.

III. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property for the tax years at issue:

Parcel Number	Classification
K-11-15-205-017	Commercial

B. Proposed highest and best use (“H&BU”) for the tax years at issue:

Parcel Number	H&BU
K-11-15-205-017	Commercial Improved

C. The property’s TCV and TV are at issue for each tax year under appeal.

D. Petitioner’s claims or counterclaims: “Purchase Agreement, Proof of tenant loss, Supplemental Data Report produced by Respondent.”

E. Respondent’s claims or counterclaims: “See Respondent’s valuation disclosure.”

IV. PENDING MOTIONS OR DISCOVERY:

A. Motions:

The Tribunal issued an Order on November 29, 2021, placing Respondent’s October 27, 2021 Motion to Strike in abeyance pending the commencement of the Prehearing Conference as a show cause hearing to determine whether good cause exists to justify Petitioner’s failure to timely file and exchange their valuation disclosure and prehearing statement by September 19, 2021.⁴ Based on the Prehearing Conference discussions, Petitioner is precluded from offering its valuation disclosure for admission and, as such, the Motion is moot. Good cause exists to justify the denying of the Motion to Strike.

B. Discovery: Discovery is closed unless otherwise stated below.

SCHEDULING ORDER

The parties and the Tribunal have determined the hearing in the above-captioned case shall be conducted as a video conference proceeding. Although video conference proceedings via *Microsoft Teams* are generally set up using email addresses, the

⁴ See the March 1, 2021 Prehearing General Call and Order of Procedure.

Tribunal has provided a “Teams Hearing Link” that can be utilized by participants (i.e., attorneys or agents, witnesses, the court reporter, etc.) to “join” the hearing **and the parties or their attorneys or agents are required** to provide that link **to their participants** so that they can **timely** “join the hearing.”


The Tribunal has also provided a link to *MOAHR MTT Guide for Participants for the Conducting of Entire Tribunal Video Conference Hearings*. Participants **should review** the Guide **prior to the hearing**, as participants **are required to comply** with the requirements of the *Guide*, as said requirements will facilitate the conducting and transcription of the scheduled hearing. The **parties or their attorneys or agents** are also **required** to provide the link to the *MOAHR MTT Guide for Participants to their participants* so that they are **aware of and can comply with** those requirements.

- I. **January 7, 2022**, is the final date for the parties to submit their witness and exhibit lists **and** exhibits, with the exception of rebuttal witnesses and exhibits, to the Tribunal by **e-filing or email** and the opposing party or parties by **email**. For the exhibit list, the parties **must use** the form prescribed by the Tribunal. The exhibit list and exhibits **shall be submitted** as provided in the **MOAHR MTT Guide for Participants**. An exhibit will **not** be admitted into evidence unless the exhibit is disclosed and furnished in accordance with this Order (even though admissible) **except** upon a finding of good cause by the Tribunal. The exhibits may be submitted separately or in a single document **provided** that the single document or PDF is **bookmarked** so that each exhibit can be easily accessed.
- II. **January 7, 2022**, is the final date for Petitioner to notify the Tribunal **by e-filing or email** of the name and telephone number of the court reporter retained by the parties to transcribe the hearing, as provided in the **MOAHR MTT Guide for Participants**.

IT IS SO ORDERED.

Failure to comply with this Order may result in the dismissal of the case or the conducting of a show cause or default hearing.⁵

Entered: December 21, 2021
pmk

By 

⁵ See TTR 231(1) and (4). See also *Grimm v Dep't of Treasury*, 291 Mich App 140, 149-150; 810 NW2d 65 (2010) and MCL 205.732(c).

HEARING INFORMATION – PLEASE READ IMMEDIATELY

GENERAL INFORMATION: An impartial hearing will be conducted in accordance with the Michigan Administrative Hearing Rules (R 792.10101-R 792.11289) and the Michigan Administrative Procedures Act, MCL 24.201 *et seq.* The Michigan Rules of Evidence and the Michigan Court Rules may be applicable. A party is expected to exercise proper respect and courtesy toward other parties, witnesses, and administrative law judges, which includes attending the hearing on time, silencing cell phones, and dressing in appropriate clothing for in-person hearings.

REPRESENTATION: A party may be represented by an attorney or other authorized representative of the party's own choosing and at the party's own expense. The Michigan Office of Administrative Hearings and Rules does not recommend or appoint attorneys.

WITNESSES: Parties may present witnesses, if any, identified in the Prehearing Statements, to testify under oath or affirmation at the hearing, subject to cross-examination by the opposing party, and questions by the administrative law judge.

EXHIBITS: 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. If an exhibit contains multiple pages, each page shall be numbered. The proposed exhibits must be separated into numerical order sets and indexed for easy reference.

COURT REPORTER: The parties shall not only provide a court reporter to transcribe the hearing but shall also provide an electronic copy of the hearing transcript to the Tribunal by e-mailing it to taxtrib@michigan.gov. The costs attributable to the court reporter shall be shared equally by the parties. If the parties fail to pay the costs of the transcript to the court report prior to the submission of the transcript to the Tribunal, the court reporter may report this to the Tribunal with the submission of the transcript. As a result, the party or parties who failed to pay the costs associated with the transcript may be held in default.⁶

WITHDRAWAL: If Petitioner no longer wants to continue with the appeal, Petitioner may submit a written request to withdraw the case. Respondent must concur with the withdrawal. The request must be submitted to the Tribunal and served on Respondent at least 14 days before the hearing. Respondent may file a concurrence or objection to the request within 7 days of the service of the request on that party. If Respondent does not timely submit a concurrence or objection to the request will be deemed to be a concurrence to the request. If the request is granted, the case will be dismissed. If a request is not granted or the Tribunal has not notified you that it has been granted, you are required to attend the hearing.

SETTLEMENT: Parties may submit a written agreement settling a case (i.e., stipulation). The stipulation must be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form and be signed by the parties' attorneys or authorized representatives, if they have attorneys or

⁶ See TTR 321.

authorized representatives, or by the parties, if they do not have attorneys or authorized representatives. There is a \$50 fee for the filing of the stipulation. If the stipulation with appropriate filing fee is received by the Tribunal or the parties email a copy of the signed stipulation to the Tribunal by 4:30 p.m. on the business day immediately preceding the day of the scheduled hearing, the hearing may be adjourned. Parties that email a copy of a signed stipulation to the Tribunal for purposes of adjourning a hearing are also required to submit the original signed stipulation with appropriate filing fee. The stipulation, once submitted, will be reviewed and, if accepted, the Tribunal will issue a consent judgment.

FAILURE TO APPEAR: The failure of a party to timely appear or otherwise participate in a hearing will result in adjournment of the hearing and the holding of that party in default. The defaulted party will be given an opportunity to show good cause for the failure to appear. Failure to respond or show good cause may result in dismissal of the case or the conducting of a default hearing.

REASONABLE ACCOMMODATION: All hearings are conducted in a barrier-free location in compliance with the Americans with Disabilities Act. An individual requiring reasonable accommodation for effective participation in a hearing, including accessible documentation such as braille, large print, electronic or audio reader, should contact the MOAHR by telephone at (517) 335-9760, or complete and submit an accommodation request form at

https://www.michigan.gov/documents/lara/Disability_Accommodation_FORM_v1_2_464017_7.doc within five (5) days of receipt of the Notice of Hearing to ensure availability of accommodation.

PRIVACY OF INFORMATION: In order to conduct a comprehensive and fair hearing, a party's private or confidential information, such as health or financial information, may be disclosed to the Tribunal and other parties and their attorneys or representatives. The MOAHR will use the private information solely for purposes related to the hearings process. A party may file a motion to request that a public hearing be closed in part or file a motion for protective order to deem certain information private and confidential in order to afford that information special protection.

CONTACT INFORMATION:

Michigan Tax Tribunal

Mailing Address: P.O. Box 30232, Lansing, MI 48909

Phone: (517) 335-9760

E-Mail: taxtrib@michigan.gov

Website: www.michigan.gov/taxtrib

E-Filing: <https://eFiling.apps.lara.state.mi.us>

Office Hours: 8:00 a.m. – 5:00 p.m., our office is closed from 12:00 p.m. – 1:00 p.m.