



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Harbor Village at Harbor Shores LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-002918

City of Benton Harbor,
Respondent.

Presiding Judge
Marcus L. Abood

SUMMARY OF PREHEARING CONFERENCE

ORDER SETTING ASIDE PETITIONER'S DEFAULT

**ORDER DENYING PETITIONER'S MOTION FOR LEAVE TO FILE VALUATION
DISCLOSURE AND PREHEARING STATEMENT**

SCHEDULING ORDER

NOTICE OF VIDEO CONFERENCE HEARING

A Prehearing Conference on this matter was held on October 4, 2021. Petitioner failed to appear for the scheduled hearing. Ingrid A. Jensen appeared on behalf of Respondent. A scheduling order has been established and a video conference hearing, held via Microsoft Teams, has been set for:

HEARING DATE:	December 20, 2021
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Microsoft Teams meeting Click here to join the meeting +1 248-509-0316.,92578200# United States, Pontiac Phone Conference ID: 925 782 00#
PARTICIPANTS' GUIDE:	https://bit.ly/34fBXnN

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.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
MICHIGAN TAX TRIBUNAL

611 W. OTTAWA ST., LANSING MI 48933 • P.O. BOX 30232, LANSING, MI 48909-8195 • 517-335-9760

This hearing is open to the public and this notice is provided under the Open Meetings Act. Any participant in the hearing or member of the public wishing to attend this hearing must click on the link above to gain access to the hearing.

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 his valuation disclosure and prehearing statement, as required by the Tribunal. Further, Petitioner failed to appear for the scheduled hearing on October 4, 2021.
- B. On October 18, 2021, Petitioner filed a motion to set aside the default with the submission of information and/or documentation. Petitioner states, "Any and all deemed violations were an oversight by the Petitioner, thereby accidental." In addition, Petitioner contends 1) there is no history of refusing to comply, 2) there will be no prejudice to Respondent, 3) there has been no history of deliberate delay, 4) Petitioner has attempted to amicably resolve all issues through contact with Respondent, and 5) Petitioner attempts to cure any and deficiencies through an appraisal report. Petitioner requests the opportunity to substantiate a claim of error to Respondent's appraisal report.
- C. On October 21, 2021, Respondent filed a response to the motion. In the response, Respondent states that the exchange date to secure, submit, and exchange its valuation disclosure and prehearing statement was over 3 ½ months ago. Respondent further states, "The City denies that Petitioner's appraisal is an attempt to cure defaults." The assessment of the parking lot is at issue and any alleged error to Respondent's appraisal should be addressed to the Board of Review for correction of an error. Respondent also ". . . contends that in no event should Petitioner be permitted to enter or refer in this appeal to any appraisal, valuation disclosure, or evidence of value."
- D. The Tribunal has considered the motion, response, and the case file and finds that Petitioner was held in default because it failed to appear for the scheduled show cause hearing. Petitioner's timely response to cure this default is noted. Petitioner's timely response to the default order does not indicate history of delay. The Tribunal shall set aside Petitioner's default for its failure to appear at the scheduled show cause hearing.

However, to date, Petitioner has not filed any prehearing statement and valuation disclosure for this tax appeal matter. Petitioner's offering of a future valuation disclosure, as a way to cure its default, is unacceptable. Petitioner has failed to

show good cause for its failure to timely file the required documents and its motion for leave shall be denied. For example, Petitioner failed to request an extension of time prior to the filing deadline and waited more than 3 ½ months to file the instant motion. Moreover, Respondent would be prejudiced by admission of a valuation disclosure given that Petitioner has been in possession of Respondent’s valuation disclosure since the filing deadline.

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: 11-54-9425-3415-00-0

Year	TCV	AV	TV
2020	\$8,402,600	\$4,201,300	\$4,130,210

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

Parcel Number: 11-54-9425-3415-00-0

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2020	\$6,400,000	\$3,200,000	\$3,200,000	\$8,402,600	\$4,201,300	\$4,130,210

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

Parcel Number: 11-54-9425-3415-00-0

Year	SEV	TV
2020	\$1,001,300	\$930,210

III. TAX INFORMATION:

The property’s taxes have been paid for the tax year(s) at issue.

IV. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property **(by parcel number)**:

Parcel Number	Classification
11-54-9425-3415-00-0	Commercial

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

Tax Year	H&BU
2020	Commercial

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

D. Petitioner’s claims or counterclaims:

“The Assessed, State Equalized and Taxable Values exceed 50% of the True Cash Value.”

E. Respondent’s claims or counterclaims:

“The value submitted by the Assessor is fully supported by market data.”

V. PENDING MOTIONS OR DISCOVERY:

A. Motions: None pending at this time.

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

VI. VIDEO CONFERENCE HEARING INFORMATION:

The parties and the Tribunal have determined the above-captioned case shall be conducted via video conference. Video conference proceedings via Microsoft Teams are set up using the parties or, if represented, their Attorneys or Authorized Representative’s email addresses.

A link to the **MOAHR MTT Guide for Participants for the Conducting of Entire Tribunal Hearings as Video Conference Proceedings** is provided above. Participants are encouraged to review this Guide prior to hearing and are **required** to comply with the requirements of the Guide, as said requirements will facilitate the conducting of the scheduled hearing.

SCHEDULING ORDER

- I. December 6, 2021 is the final date to file and serve upon the opposing party(ies) and the Tribunal a final exhibit list and to furnish the opposing party(ies) with a copy of each exhibit. **The parties must use the form prescribed by the Tribunal.** 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.

II. December 6, 2021

is the date for Petitioner to notify the Tribunal in writing of the name and telephone number of the court reporter retained by the parties to transcribe the hearing.

IT IS FURTHER ORDERED that Petitioner's default for its failure to appear at the scheduled show cause/prehearing conference is SET ASIDE.

IT IS FURTHER ORDERED that Petitioner's Motion for Leave to File Valuation Disclosure and Prehearing Statement is DENIED. Petitioner is precluded from filing and submitting a valuation disclosure and prehearing statement. However, Petitioner will be permitted to submit and file rebuttal documents and call rebuttal witnesses at the hearing.

Failure to comply with this Order may result in the dismissal of the case or the conducting of a show cause or default hearing, as provided by TTR 231.¹

By 

Date Entered: November 9, 2021

¹ See also MCL 205.732.

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 submit exhibits pursuant to the Guide for Participants.

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.²

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 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

² See TTR 321.

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.d [oc](#) within five (5) days of receipt of the Notice of Hearing to ensure availability of accommodation.

Hearing participants and observing members of the public who need assistance with speech or hearing may also participate in a telephonic or virtual hearing by dialing 7-1-1 and using the Michigan Relay service. More information about this service may be found at https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93425_94040_94041---,00.html.

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.