STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Tri-County Bank,
Petitioner,

v

MTT Docket No. 431804

Township of Davison,
Respondent.

Tribunal Judge Presiding
Kimbal R. Smith III

ORDER GRANTING PETITIONER'S MOTION
FOR SUMMARY DISPOSITION

On June 7, 2013, Petitioner filed a Motion for Summary Disposition, stating that it is the owner of the subject property pursuant to a deed in lieu of foreclosure executed on November 21, 2008. Petitioner contends that "[b]y statute, Respondent could have uncapped the taxable value of properties as of November 21, 2009, but Respondent admittedly did not do so at that time." Petitioner asserts that Respondent's 2011 December Board of Review uncapped the taxable value for 2010 and 2011 and checked the box indicating "clerical error including the reversal of a taxable value uncapping." Petitioner further states that "[i]n additional communications, Respondent has indicated that it tracks uncapping with a calendar reminder system, but the calendar system failed to remind the Township in 2009 that it could uncap the taxable value . . . ." Petitioner asserts that this type of error is not a clerical error within the meaning of MCL 211.53(b) and therefore the uncapping by the December Board of Review was improper and should be reversed.

Respondent has not filed a response to Petitioner's Motion.

After considering Petitioner's Motion and the case file, the Tribunal concludes that summary disposition is appropriate under MCR 2.116(C)(8). Motions under (C)(8) are appropriate when the opposing party has failed to state a claim on which relief can be granted. Dismissal should be granted when the claim, based solely on the pleadings, is so clearly unenforceable that no factual development could possibly justify a right to recovery. *Transamerica Ins Group v Michigan Catastrophic Claims Ass'n*, 202 Mich App 514, 516; 509 NW2d 540 (1993). In

reviewing a motion under this subsection, the court must accept as true all factual allegations in support of a claim, as well as all inferences which can fairly be drawn from the facts. *Meyerhoff v Turner Construction Co*, 202 Mich App 499, 502; 509 NW2d 847 (1993).

Respondent has not filed a response to the present Motion, and the answer submitted merely states "Petitioner did not protest these uncappings. They were put before the December Board of Review by the Township Assessor as *a clerical error occurred* which resulted in these parcels not being uncapped timely." (Emphasis added). Petitioner alleges that in additional communications Respondent has stated this clerical error was due to a failure of its calendar reminder system. A clerical error is one of a "typographical, transpositional, or mathematical nature" and relates to the "use of the correct assessment figures, the taxation rate, and the mathematical computation relating to the assessment of taxes." See *International Place Apartments – IV v Ypsilanti Township*, 216 Mich App 104, 109; 548 NW2d 668, 670 (1996). There is no indication that the failure of Respondent to uncap the taxable value of the subject properties in 2010 was the result of a typographical, transpositional, or mathematical error. Rather, it appears that Respondent's computer system failed to alert Respondent at the time when the properties could have been uncapped. The failure to uncap in 2010 is a "ministerial mistake" that is not correctable under MCL 211.53b as a qualified error. Because the failure of a computer reminder system does not meet the definition of "clerical error", Respondent has failed to state a claim on which relief can be granted. Therefore, under MCR 2.116(C)(8), the Tribunal finds that Petitioner is entitled to summary disposition in its favor.

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

IT IS FURTHER ORDERED that the taxable value of the subject properties' shall be as follows:

Parcel Number: 05-04-551-027

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-028

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-029

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-030

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-031

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-032

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-034

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-036

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-050

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-051

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-052

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-053

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-054

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-055

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-056

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-057

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-058

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-059

Year	TV
2010	$2,677
2011	$2,722

Parcel Number: 05-04-551-060

Year	TV
2010	$2,677
2011	$2,722

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 taxable values as finally provided in this Order within 20 days of the entry of the Order, 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 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 as required by the Order within 28 days of the entry of the Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of 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 Order. 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, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012, and (iv) after June 30, 2012, through December 31, 2013, at the rate of 4.25%.

This Order resolves all pending claims in this matter and closes this case.

By: Kimbal R. Smith III

Entered: July 17, 2013