

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

Miller-Bradford & Riseberg, Inc.,
Petitioner,

v

MTT Docket No. 357742

Township of Negaunee and
County of Marquette,
Respondents.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT ON REMAND

On March 28, 2012, the Tribunal entered a Final Opinion and Judgment, granting Respondent's Motion for Summary Disposition and denying Petitioner's Motion for Summary Disposition. The Final Opinion and Judgment determined that the 1996 deed which was recorded in 2008 was an uncapping event as it was the passing of legal title pursuant to a land contract entered into prior to 1994.

On April 12, 2012, Petitioner filed a claim of appeal with the Michigan Court of Appeals. On October 10, 2013, the Michigan Court of Appeals entered its Opinion remanding the case to the Tribunal "for issuance of an order consistent with this opinion." *Miller-Bradford & Riseberg, Inc v Negaunee Twp*, unpublished opinion per curiam of the Court of Appeals, issued October 10, 2013 (Docket No. 309726) Additionally, the Court of Appeals held that the Tribunal erred in finding that MCL 211.27a(6)(b) pertained only to land contracts entered into after 1994.

Given the Court of Appeals decision, the Tribunal finds that it erred in the March 28, 2012 Final Opinion and Judgment. More specifically, the Tribunal erroneously held that the doctrine of *expression unius est exclusio alterius* required that the Tribunal read MCL 211.27a(6)(b) to specifically exclude land contracts entered into prior to December 31, 1994. The Court held that the beneficial use of the property transferred in 1989 at the entering of the land contract. Moreover, the statutory language regarding 1994 was “simply an explanatory provision” which was not necessary for land contracts entered into before 1994, as there was no uncapping prior to 1994.

Thus, the Tribunal finds that the taxable value of the subject property was improperly uncapped by Respondent. The transfer of ownership occurred in 1989, upon the conveyance of “beneficial use of the property” when the land contract was originally entered into. See MCL 211.27a(6). Thus, the taxable value shall be lowered to the capped value for the 1997 tax year. For the following tax years, Respondents values prior to the uncapping suggest there may have been an addition. However, the recalculated values after the uncapping do not suggest that there were any additions or losses for any of the tax years at issue. As such, the Tribunal finds that the values shall be recalculated utilizing the inflation rate multiplier only as Respondent did in the uncapped values.

The property's TV as established by Respondent, *after* the uncapping, for the tax years at issue is as follows:

Parcel Number: 52-10-128-022-10

Year	SEV	TV
1997	\$500,624	\$500,624
1998	\$550,624	\$514,140
1999	\$600,000	\$522,366
2000	\$600,000	\$532,290
2001	\$500,000	\$500,000
2002	\$515,000	\$515,000
2003	\$530,000	\$522,725
2004	\$546,400	\$534,747
2005	\$510,000	\$510,000
2006	\$543,000	\$526,830
2007	\$591,900	\$546,322
2008	\$603,400	\$558,887

The property's final TV for the tax years at issue is as follows:

Parcel Number: 52-10-128-022-10

Year	SEV	TV
1997	\$500,624	\$286,316
1998	\$550,624	\$294,046
1999	\$600,000	\$298,750
2000	\$600,000	\$304,426
2001	\$500,000	\$314,167
2002	\$515,000	\$324,220
2003	\$530,000	\$329,083
2004	\$546,400	\$336,651
2005	\$510,000	\$344,393
2006	\$543,000	\$355,757
2007	\$591,900	\$368,920
2008	\$603,400	\$377,405

IT IS SO ORDERED.

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 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 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 Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. 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 FOJ. 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 Opinion resolves the last pending claim and closes this case.

By: Steven H. Lasher

Entered: December 12, 2013

krb