



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Centerpoint Owner LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 18-002499

City of Grand Rapids,
Respondent.

Presiding Judge
Victoria L. Enyart

ORDER GRANTING RESPONDENT'S MOTION FOR RECONSIDERATION

ORDER PARTIALLY GRANTING PETITIONER'S MOTION FOR RECONSIDERATION

ORDER DENYING PETITIONER'S AMENDED MOTION FOR RECONSIDERATION

ORDER DENYING RESPONDENT'S MOTION FOR COSTS

CORRECTED FINAL OPINION AND JUDGMENT

The Tribunal issued a Final Opinion and Judgment (FOJ) in this case on June 1, 2020.

On June 17, 2020, Respondent filed a Motion for Reconsideration.¹ In the Motion, Respondent states that the FOJ sets values for some of the subject parcels in violation of Const 1963, Art IX, Sec 9, and MCL 211.27a. Although the Tribunal determined that the subject property's value should increase, three parcels were ordered taxable values in excess of 50% of the ordered true cash values.

On June 17, 2020, Respondent filed a Motion for Costs. In the Motion, Respondent contends that Petitioner has long squandered Respondent's resources in

¹ Respondent's Motion is titled as a Motion to Correct. However, the Tribunal shall treat the Motion as Motion for Reconsideration because the relief sought is a correction of the FOJ.

contesting the value of the property for a long period of time despite evidence that the assessment was sound.

On June 23, 2020, Petitioner filed a Motion for Reconsideration.² In the Motion, Petitioner states that the FOJ sets values for some of the subject parcels in violation of Const 1963, Art IX, Sec 9, and MCL 211.27a.

On June 26, 2020, Petitioner filed an Amended Motion for Reconsideration.

On July 8, 2020, Petitioner filed a response to the Motion for Costs. In the response, Petitioner states that there is no basis for an award of costs.

The Tribunal has considered the motions, response, and the case file and finds that it has no authority under law to reconsider Petitioner's Amended Motion for Reconsideration. The tribunal may order a rehearing or reconsideration of any decision or order upon its own initiative or the motion of any party filed within 21 days of the entry of the decision or order sought to be reheard or reconsidered.³ The Tribunal must look to the postmark date to determine the date the filing was made for jurisdictional purposes.⁴ Here, the Amended Motion was filed more than 21 days after the FOJ was issued.⁵ Further, a Motion for Reconsideration is limited to "the motion," which the Tribunal finds to mean a single filing, and as a result, an amended motion for reconsideration cannot be considered.

² The motion would typically be excluded from consideration as it was postmarked more than 21 days after the date of the FOJ. See TTR 219(5). However, the Motion was timely filed under the revised deadlines established in MTT Newsletter 2020-1. Specifically, "[i]f a Final Opinion and Judgment was issued during the 'Stay Home, Stay Safe' order, the parties now have 21 days from June 2, 2020, to file a Motion for Reconsideration. As a result, Petitioner's Motion is properly pending and shall be considered in the rendering of the Corrected FOJ.

³ TTR 257(1).

⁴ TTR 219(5).

⁵ Unlike the June 23, 2020 Motion, the timing of the Amended Motion is not affected by MTT Newsletter 2020-1.

With respect to the Motion for Costs, the Tribunal finds that Respondent has not shown good cause for the awarding of costs. An award of costs is at the discretion of the Tribunal.⁶ Although Respondent has demonstrated that it has been forced to expense resources to defend the assessment of the property for many years, several factors weigh against its Motion. Although appeals have continued for many years, there have been changes both in the subject property's ownership and in representation during that time, and Petitioner cannot be held responsible for the subject property's appeal history dating to 2008. Petitioner in its current iteration has appealed every year, but proceedings never reached the hearing stage prior to this case. Further, Respondent in part mischaracterizes the tenor of the FOJ with respect to Petitioner's valuation expert, and while the conclusions of value speak for themselves, the Tribunal is not convinced that Respondent has shown cause to justify its request for costs.

The Tribunal agrees with the parties that the FOJ contains errors in violation of Article IX, Section 3 of the Michigan Constitution and MCL 211.27a. Although the Conclusions of Law were well supported and are adopted in this Corrected FOJ, the FOJ nevertheless included errors in the Introduction with respect to the values of the individual parcels.

For Parcel No. 41-18-11-376-037, the values indicated in the FOJ do not comply with law. Specifically, because the Tribunal correctly listed the TCV of the parcel as \$600,000, the resulting SEV and TV are each \$300,000.

For Parcel 41-18-11-376-038, the TV indicated in the FOJ does not comply with law. Specifically, while the FOJ correctly stated that the respective TCV and SEV of the

⁶ TTR 209(1).

property shall be \$55,214,900 and \$27,607,450, the Tribunal erred in the calculation of the TV. The prior-year TV was \$25,028,744, the inflation rate multiplier was 1.021, and the additions to taxable value equal \$467,013, resulting in a TV of \$26,021,360.

For Parcel 41-18-11-376-039, while the FOJ correctly stated that the respective TCV and SEV of the property shall be \$1,250,000 and \$625,000, the Tribunal erred in the calculation of the TV. The prior-year TV was \$385,086, and the additions to taxable value equal \$390,000. As a result, the TV is set equal to the SEV.

For Parcel 41-18-11-376-040, the FOJ erred in stating the values for this parcel. The evidence reconciles a TCV of \$1,115,000, with SEV and TV each set at \$557,500.

For Parcel 41-18-11-376-041, the FOJ erred in stating the values for this parcel. The evidence reconciles a TCV of \$1,220,000, and the SEV therefore is \$610,000. The TV is \$523,349, which is the prior year's TV multiplied the rate of inflation.

For Parcel 41-18-11-452-017, while the FOJ correctly stated that the TCV of the property shall be \$100, the Tribunal erred in respect to the listed SEV and TV. Because the TCV is \$100, the SEV must be set at \$50, and the TV shall equal the SEV for this tax year.

The Tribunal finds there was no error in the FOJ with respect to Parcel Nos. 41-18-11-376-029 or 41-18-11-451-002.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash value (TCV), state equalized value (SEV), and taxable value (TV) of the subject property for the 2018 tax year is as follows:

Parcel No.	TCV	SEV	TV
Total	\$67,100,000	\$33,550,000	\$31,649,051
41-18-11-376-029	\$4,000,000	\$2,000,000	\$1,883,234
41-18-11-376-037	\$600,000	\$300,000	\$300,000
41-18-11-376-038	\$55,214,900	\$27,607,450	\$26,021,360
41-18-11-376-039	\$1,250,000	\$625,000	\$625,000
41-18-11-376-040	\$1,115,000	\$557,500	\$557,500
41-18-11-376-041	\$1,220,000	\$610,000	\$523,349
41-18-11-451-002	\$3,700,000	\$1,850,000	\$1,738,558
41-18-11-452-017	\$100	\$50	\$50

JUDGMENT

IT IS ORDERED that Respondent's Motion for Reconsideration is GRANTED.

IT IS FURTHER ORDERED that Petitioner's Motion for Reconsideration is PARTIALLY GRANTED as indicated herein.

IT IS FURTHER ORDERED that Petitioner's Amended Motion for Reconsideration is DENIED.

IT IS FURTHER ORDERED that Respondent's Motion for Costs is DENIED.

IT IS FURTHER ORDERED that the properties' TCV, SEV, and TV for the tax year at issue are MODIFIED as set forth in this Order.

IT IS FURTHER ORDERED that all other portions of the FOJ not modified herein are incorporated by reference and adopted in this Corrected 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 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%, (xii) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, and (xiii) after June 30 2020, through December 31, 2020, at the rate of 5.63%.

This Corrected 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.⁷ Because the final decision closes the

⁷ See TTR 261 and 257.

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.⁸ 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.⁹ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.¹⁰

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 more than 21 days after the entry of the final decision, it is an "appeal by leave."¹¹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.¹² The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.¹³

By *Victoria H. Emjart*

Entered: July 22, 2020
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⁸ See TTR 217 and 267.

⁹ See TTR 261 and 225.

¹⁰ See TTR 261 and 257.

¹¹ See MCL 205.753 and MCR 7.204.

¹² See TTR 213.

¹³ See TTR 217 and 267.