



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

The Moorings of Leelanau LLC,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 19-001535

City of Traverse City,  
Respondent.

Presiding Judge  
Steven M. Bieda

ORDER GRANTING RESPONDENT'S MOTION FOR RECONSIDERATION

CORRECTED FINAL OPINION AND JUDGMENT

On May 6, 2020, Respondent filed a Motion requesting that the Tribunal reconsider the Final Opinion and Judgment ("FOJ") entered in the above-captioned case on April 20, 2020. In the Motion, Respondent states that, although the Tribunal correctly determined that an uncapping occurred, it erred in determining without authoritative support that the uncapping is partial. Respondent relies upon the plain language of MCL 211.27a(3) as well as guidance from the State Tax Commission ("STC").

The Tribunal has considered the Motion and the case file and finds that Respondent has identified a palpable error relative to the FOJ which must be corrected by the Tribunal. Specifically, the Tribunal agrees with the contentions in Respondent's Motion that, in the year following a transfer of ownership, a property's taxable value is equal to its state equalized value.<sup>1</sup> Further, it agrees that a transfer of ownership includes a conveyance of more than 50% of the ownership interest in certain legal entities.<sup>2</sup> The FOJ correctly found that both of those legal determinations were present in this case. However, it erred in its determination that a partial uncapping is appropriate based upon the partial transfer of ownership in the business entity. The FOJ did not rely upon any support in the statute or case law for such a determination. The Tribunal agrees with the arguments in Respondent's brief supporting its Motion that no partial uncapping is appropriate here and further finds that the plain language of MCL 211.27a(6)(h) necessarily contemplates that a transfer of ownership is a conveyance of more than 50% of a business entity, and therefore can include transfers of less than 100% of the entity. Nevertheless, the statute does nothing to limit its requirement that a conveyance of more than 50% of the entity is a transfer.

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<sup>1</sup> MCL 211.27a(3).

<sup>2</sup> MCL 211.27a(6)(h).

Given the above, Respondent has demonstrated a palpable error in the FOJ that misled the Tribunal and that would have resulted in a different disposition if the error was corrected.<sup>3</sup>

Therefore,

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

IT IS FURTHER ORDERED that the subject property's taxable value shall be set as required by MCL 211.27a(3) for tax year 2019.

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 Tribunal with the required filing fee within 21 days from the date of entry of the final decision.<sup>4</sup> Because the final decision closes the 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.<sup>5</sup> You are required to serve a copy of the motion 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.<sup>6</sup> Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.<sup>7</sup>

A claim of appeal must be filed with the Michigan Court of Appeals 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."<sup>8</sup> You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal.<sup>9</sup> The fee

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<sup>3</sup> See MCR 2.119.

<sup>4</sup> See TTR 261 and 257.

<sup>5</sup> See TTR 217 and 267.

<sup>6</sup> See TTR 261 and 225.

<sup>7</sup> See TTR 261 and 257.

<sup>8</sup> See MCL 205.753 and MCR 7.204.

<sup>9</sup> See TTR 213.

for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.<sup>10</sup>

By Edna Gh. Stein \_\_\_\_\_

Date Entered: June 3, 2020

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<sup>10</sup> See TTR 217 and 267.