

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

Summit Development Group, Inc,
Petitioner,

v

MTT Docket No. 355793

City of Battle Creek,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT ON REMAND

On December 1, 2011, the Tribunal entered an Order granting Respondent's Motion for Summary Disposition pursuant to MCR 2.116(C)(4) for the 2007 tax year and MCR 2.116(C)(10) for the 2008 and 2009 tax years. In granting Respondent's Motion for Summary Disposition, the Tribunal found that

. . . there is no genuine issue with respect to any material fact with regard to whether the Tribunal has jurisdiction over this appeal. Specifically, although Petitioner timely filed an appeal for the 2008 and 2009 tax years, Petitioner's appeal of the 2007 tax year is not properly pending before this Tribunal as Respondent properly issued and sent Petitioner the Notices of Assessment and Petitioner failed to timely appeal pursuant to MCL 205.735a, and because Petitioner has failed to prove that a 'qualified error' under MCL 211.53b has occurred.

As a result, the Tribunal affirmed the properties' taxable values, as confirmed by the Board of Review, for the 2008 and 2009 tax years. See *Summit Development Group, Inc v City of Battle Creek*, 21 MTTR 53 (Docket No. 355793, December 1, 2011).

On December 19, 2011, Petitioner filed a claim of appeal with the Michigan Court of Appeals. On October 23, 2012, the Michigan Court of Appeals issued an opinion which affirmed the Tribunal's decision in part, reversed in part, and remanded the case for further proceedings consistent with its opinion. See *Summit Development Group, Inc v City of Battle Creek*, unpublished opinion per curiam of the Court of Appeals, issued October 23, 2012 (Docket No. 307773).

The Tribunal, having given due consideration to the Court of Appeals' Order and the file in the above-captioned case, finds that, although Petitioner failed to properly invoke the Tribunal's jurisdiction over the 2007 tax year, in consideration of (i) the Michigan Supreme Court's decision in *Michigan Properties, LLC v Meridian Twp*, 491 Mich 518, 545-546; 817 NW2d 548 (2012), which held that the Tribunal "does have the authority to reduce an unconstitutional previous increase in taxable value for purposes of adjusting a taxable value that was timely challenged in a subsequent year;" (ii) the value of the public service improvements, in the amount of \$15,950, that was added to the subject properties in preparing the assessments for the subject properties for the 2007 tax year; and (iii) Petitioner properly invoking the Tribunal's jurisdiction over the 2008 and 2009 tax years, the subject properties' taxable values (TV) for the tax years at issue shall be as follows:

Parcel No.	2008	2009
002-0	\$4,987	\$5,206
003-0	\$4,987	\$5,206
004-0	\$4,987	\$5,206
005-0	\$140,406	N/A - Sold
006-0	N/A - Sold	N/A - Sold
007-0	\$4,987	\$5,206
008-0	\$4,987	\$5,206
009-0	\$4,987	\$5,206
010-0	\$4,987	\$5,206
011-0	\$4,987	\$5,206
012-0	\$4,987	\$5,206
013-0	\$4,987	\$5,206
014-0	N/A - Sold	N/A - Sold
015-0	\$4,987	\$5,206
017-0	\$4,987	\$5,206
018-0	\$4,987	\$5,206
019-0	\$4,987	\$5,206
020-0	\$4,987	\$5,206
021-0	\$4,987	\$5,206
022-0	\$4,987	\$5,206
023-0	\$4,987	\$5,206
024-0	\$4,987	\$5,206
025-0	\$4,987	\$5,206
026-0	\$4,987	\$5,206
027-0	\$4,987	\$5,206

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 true cash and 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, 2007, at a rate of 5.81% for calendar year 2008, (ii) after December 31, 2008, at a rate of 3.31% for calendar year 2009, (iii) 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, (iv) after June 30, 2012, and prior to January 1, 2013, at the rate of 4.25%, and (v) after December 31, 2012, and prior to July 1, 2013, at the rate of 4.25%.

This Opinion resolves the last pending claim and closes this case.

MICHIGAN TAX TRIBUNAL

By: Steven H. Lasher

Entered: February 06, 2013