



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

Silence Lines, LLC,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MAHS Docket No. 17-001522

City of Warren,  
Respondent.

Presiding Judge  
Marcus L Abood

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Silence Lines LLC, appeals ad valorem property tax assessment levied by Respondent, City of Warren, against Parcel No. 99-03-421-510 for the 2017 and 2018 tax years. Jay A. Schwartz, Attorney, represented Petitioner. Seth A. O’Loughlin, Attorney, represented Respondent.

A hearing on this matter was held on December 6, 2018. Petitioner’s witnesses were Romana Cean, Florin Sebastian Cean and Mihaela Kirsch. Respondent’s witness was Michael Fontana.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property are as follows:

Parcel No.	Year	TCV	SEV	TV
99-03-421-510	2017	\$100,000	\$50,000	\$50,000
99-03-421-510	2018	\$100,000	\$50,000	\$50,000

### PETITIONER'S CONTENTIONS

Petitioner contends the key issue in this case is the tarps/curtains affixed to its trailers. The tarps are permanently attached to the tractor and motor vehicle registration taxes are paid.

Petitioner engaged in discussions with Respondent over the small business application over the subsequent personal property exemption denial. Petitioner argues Respondent's inspection and reconstructed asset list includes personal property not at Petitioner's site as of the relevant tax days.

Petitioner contends its permanently affixed tarp systems are necessary for interstate commerce as loads must be covered. In other words, the tarp systems are designed for operation while the vehicle is moving on the highway.

Petitioner's witnesses and exhibits further pinpoint personal property items that were either exempt, were purchased after the relevant tax days or are no longer in service.

### PETITIONER'S ADMITTED EXHIBITS

In support of its value contentions, Petitioner offered the following exhibits, which were admitted into evidence:

- P-1: Petitioner's Valuation Disclosure.
- P-2: Photograph.
- P-3: Photograph.
- P-4: Photograph.
- P-5: Photograph.
- P-6: Photograph.
- P-7: Photograph.
- P-8: Photograph.
- P-9: Photograph.
- P-10: Photograph.
- P-11: Photograph.
- P-12: Photograph.

P-13: Photograph.  
P-14: Photograph.  
P-15: Photograph.  
P-16: Rebuttal Spreadsheet.  
P-17: Rebuttal Spreadsheet.

#### PETITIONER'S WITNESSES

Petitioner's first witness, Ramona Cean, described the trucking operation in terms of number of trucks, trailers, curtain systems, employees, clients etc. She oversees the bookkeeping and works with a Certified Public Accountant (CPA). She referenced the fixed asset list and believes the denoted personal property is complete and accurate. Such items as a couch and chairs have minimal value and were brought to the business from the owner's home.

Petitioner's second witness, Florin Sebastian Cean, is the owner of Silence Lines trucking company. He also described the trucking operation in terms of number of trucks, trailers, curtain systems etc. The trucks are purchased separately from the tarp systems. He described various photographs of trucks, trailers, and tarp systems. The tarp systems are welded or bolted permanently to customized trailer frames.

Petitioner's third witness, Mihaela Kirsch, described her bookkeeping responsibility to gather personal property data to give to the CPA. She referenced the different entries and sub-headings of the fixed asset list for the subject's personal property.

#### RESPONDENT'S CONTENTIONS

Respondent contends Petitioner has not fully accounted for all of its personal property for the relevant tax days. Since Petitioner has failed in this regard, then it is impossible for Petitioner to prove that its personal property is under the threshold

amount of \$80,000. Further, Petitioner's claim of exempt curtains/tarps includes entire exempted asset categories. Petitioner has mis-applied Michigan statutory law in this regard. Lastly, Petitioner has failed to present valuation evidence to meet the \$80,000 small business threshold.

Respondent asserts that the purpose of its reconstructed asset list was to disclose omitted personal property and not to recalculate a total true cash value.<sup>1</sup>

### RESPONDENT'S ADMITTED EXHIBITS

In support of its value contentions, Respondent offered the following exhibits, which were admitted into evidence:

- R-1: Respondent's revised asset listing.
- R-2: Photographs of furniture.
- R-3: Photograph of jack.
- R-4: Photograph of crane.
- R-5: Photograph of crane.
- R-6: Photograph of printer.
- R-7: Photograph of kitchen equipment.
- R-8: Photograph of kitchen equipment.
- R-9: Photograph of office furnishings.
- R-10: Photograph of fuel storage.
- R-11: Photograph of fuel storage.
- R-12: Photograph of ramps.
- R-13: Photograph of machine.
- R-14: Photograph of safe.
- R-15: Photograph of kitchen shelves.
- R-16: Photograph of television.
- R-17: Photograph of television.
- R-18: Photograph of liquid storage.
- R-19: Photograph of office furnishings.
- R-20: Photograph of printer.
- R-21: Photograph of trailer.
- R-22: Photograph of trailer.
- R-23: Photograph of trailer.
- R-24: Photograph of trailer.

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<sup>1</sup> Tr, 140.

- R-26: Photograph of trailer.
- R-27: Photograph of trailer.
- R-28: Photograph of trailer and other items.
- R-29: Photograph of forklift.
- R-30: Photograph of GPS.
- R-31: Photograph of oil storage.
- R-32: Photograph of oil storage.
- R-33: Photograph of oil storage.
- R-34: Photograph of water dispenser.
- R-35: Photograph of various supplies.
- R-36: Photograph of air compressor.
- R-37: Photograph of washer and dryer.
- R-38: Photograph of other water dispenser.
- R-39: Photograph of general supplies.
- R-40: Articles of Incorporation (Glovalval LLC)
- R-41: Articles of Incorporation (Silence Lines Brokerage LLC)

#### RESPONDENT'S WITNESS

Respondent presented testimony from Michael Fontana. He has worked in the area of personal property taxation for almost 5 years. He is a licensed Michigan Certified Assessing Officer and is a designated Personal Property Examiner. He is the assessing auditor for the city of Warren and fulfills annual requirements for continuing education. Based on his background, education and experience, the Tribunal accepted Mr. Fontana as an expert in personal property assessments.

#### FINDINGS OF FACT

1. The subject property is located at 23170 Schoenherr Road, in the city of Warren and located within Macomb County.
2. The subject is classified as Commercial Personal Property.
3. Petitioner submitted the Small Business Property Tax Exemption Claims under MCL 211.9o (form 5076) for 2017 and 2018. In addition, fixed asset lists were submitted for calendar years 2016 and 2017.
4. Petitioner's documentary evidence includes photographs of its trucks, trailers, tarps and tarp systems.
5. Petitioner's CPA did not testify and was not present at the hearing.
6. Petitioner's rebuttal evidence (P-16, P-17) are selective lists and do not comprise a complete list of Petitioner's personal property.

7. Respondent submitted a reconstructed asset list identifying omitted personal property.
8. Respondent's reconstructed asset list was not developed to re-calculate the TCV of Petitioner's asset list.
9. Respondent's documentary evidence includes photographs of omitted personal property from Petitioner's fixed asset lists.
10. Respondent's assessor inspected the subject property on July 10, 2018.
11. Respondent's assessor was accompanied by Ramona and Sebastian Cean on the inspection of the subject property.<sup>2</sup>
12. Neither party submitted historical personal property tax statements (form 632).<sup>3</sup>

### CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.<sup>4</sup>

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . . .<sup>5</sup>

The Michigan Legislature has defined "true cash value" to mean:

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.<sup>6</sup>

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<sup>2</sup> Tr, 99.

<sup>3</sup> Such documentary evidence may have given clarity to personal property identified by Petitioner for years leading up to 2017 and 2018.

<sup>4</sup> See MCL 211.27a.

<sup>5</sup> Const 1963, art 9, sec 3.

<sup>6</sup> MCL 211.27(1).

The Michigan Supreme Court has determined that “[t]he concepts of ‘true cash value’ and ‘fair market value’ . . . are synonymous.”<sup>7</sup>

“By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment.”<sup>8</sup> The Tribunal is not bound to accept either of the parties’ theories of valuation.<sup>9</sup> “It is the Tax Tribunal’s duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”<sup>10</sup> In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”<sup>11</sup>

A proceeding before the Tax Tribunal is original, independent, and de novo.<sup>12</sup> The Tribunal’s factual findings must be supported “by competent, material, and substantial evidence.”<sup>13</sup> “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”<sup>14</sup>

“The petitioner has the burden of proof in establishing the true cash value of the property.”<sup>15</sup> “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of

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<sup>7</sup> *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

<sup>8</sup> *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

<sup>9</sup> *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

<sup>10</sup> *Meadowlanes Ltd Dividend Housing Ass’n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

<sup>11</sup> *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

<sup>12</sup> MCL 205.735a(2).

<sup>13</sup> *Dow Chemical Co v Dep’t of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

<sup>14</sup> *Jones & Laughlin Steel Corp*, *supra* at 352-353.

<sup>15</sup> MCL 205.737(3).

going forward with the evidence, which may shift to the opposing party.”<sup>16</sup> However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”<sup>17</sup>

The parties disagree as to whether the personal property at issue is exempt from ad valorem property taxes as small business personal property under \$80,000. “In general, tax exemption statutes are to be strictly construed in favor of the taxing authority.”<sup>18</sup> The petitioner must prove, by a preponderance of the evidence, that it is entitled to an exemption.<sup>19</sup>

MCL 211.9o(2) provides in pertinent part, that “An owner of eligible personal property shall claim the exemption under this section by filing a statement with the local tax collecting unit in which the eligible personal property is located not later than February 20 of the first year the exemption is claimed. . . . The statement shall require the owner to attest that the combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of that owner or a related entity on December 31 of the immediately preceding year is less than \$80,000.00.”

If the taxpayer claims this exemption “the owner of that eligible personal property is not required to file a statement under section 19.

MCL 211.9o(8) as used in this section:

(a) "Commercial personal property" means personal property that is classified as commercial personal property under section 34c or would be classified as commercial personal property under section 34c if not

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<sup>16</sup> *Jones & Laughlin Steel Corp*, *supra* at 354-355.

<sup>17</sup> MCL 205.737(3).

<sup>18</sup> *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 664; 378 NW2d 737 (1985); *Ladies Literary Club v Grand Rapids*, 409 Mich 748, 753-754; 298 NW2d 422 (1980).

<sup>19</sup> *ProMed Healthcare v Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002).



exempt from the collection of taxes under this act under this section or section 9m or 9n.

(b) "Control", "controlled by", and "under common control with" mean the possession of the power to direct or cause the direction of the management and policies of a related entity, directly or indirectly, whether derived from a management position, official office, or corporate office held by an individual; by an ownership interest, beneficial interest, or equitable interest; or by contractual agreement or other similar arrangement. There is a rebuttable presumption that control exists if any person, directly or indirectly, owns, controls, or holds the power to vote, directly or by proxy, 10% or more of the ownership interest of any other person or has contributed more than 10% of the capital of the other person. Indirect ownership includes ownership through attribution or through 1 or more intermediary entities.

(c) "Eligible personal property" means property that meets all of the following conditions:

(i) Is industrial personal property or commercial personal property.

(ii) The combined true cash value of all industrial personal property and commercial personal property in that local tax collecting unit owned by, leased to, or in the possession of the person claiming an exemption under this section or a related entity on December 31 of the immediately preceding year is less than \$80,000.00.

(iii) Is not leased to or used by a person that previously owned the property or a person that, directly or indirectly, controls, is controlled by, or is under common control with the person that previously owned the property.

(d) "Industrial personal property" means personal property that is classified as industrial personal property under section 34c or would be classified as industrial personal property under section 34c if not exempt from the collection of taxes under this act under this section or section 9m or 9n.

In order to reach the conclusion that the personal property at issue qualified for the ad valorem tax exemption in this case, Petitioner must prove that all commercial and/or industrial personal property is less than \$80,000 in true cash value.<sup>20</sup> The

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<sup>20</sup> Contrary to any offhand belief, the determination of the specific TCV of the personal property is necessary relative to the \$80,000 benchmark.

Tribunal finds that Petitioner did not meet its burden of proof to qualify for a personal property tax exemption under MCL 211.9o for the 2017 and 2018 tax years due to its failure to establish a complete asset list for the personal property by a preponderance of the evidence.

To begin, the testimony provided by Petitioner's first witness was not consistent or cohesive. Specifically, questions regarding development and control of the company asset list did not result in persuasive answers. Ms. Cean claims to work with the CPA on the personal property tax statements and the tax returns. While testifying to her bookkeeping oversight role, Ms. Cean did not know how often the asset list is created. She also testified that the asset list for Silence Lines LLC did include leased personal property.<sup>21</sup> Further, she pointed out that the bookkeeper maintains and updates the list of personal property items.<sup>22</sup> On the other hand, she claimed not to have any involvement with the Petitioner's asset list and did not make handwritten notations to the asset list.<sup>23</sup> In addition, Ms. Cean claims not to have any personal knowledge regarding the operation of the tarps on the trailers.<sup>24</sup> This testimony coincides with the lack of clarity for the purchase and review of personal property between Sebastian and Ramona Cean especially in terms of the number of trucks owned by Petitioner.<sup>25</sup> Lastly, Ms. Cean acknowledged the existence of Terraval LLC which owns the subject building but is not quite sure if this entity owned any personal property. For these reasons, this witness's testimony is given no weight or credibility in the determination for the exemption.

In turn, Mr. Cean, was unable to further illuminate gaps in Petitioner's evidence. Initially knowing of no other related entities, Mr. Cean acknowledged the existence of Terraval LLC and Globalval LLC when questioned. Likewise, inconsistent recollections including Silence Lines Brokerage LLC did not bolster persuasion and credibility.<sup>26</sup> While Respondent admitted that it could not find any personal property through

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<sup>21</sup> Tr, 29.

<sup>22</sup> Tr, 26-28.

<sup>23</sup> Tr, 32.

<sup>24</sup> Tr, 32.

<sup>25</sup> Ramona Cean states the company has 25-30 trucks (Tr, 14) while Sebastian Cean testifies to 40 company trucks (Tr, 35 and 62).

<sup>26</sup> Tr, 47-52, 56.

Petitioner's other entities, the Tribunal is less than convinced by Mr. Cean's testimony to those related entities. Next, he also claimed to assist in the preparation of the asset list but also testified that Mr. Kirsch creates the asset list.<sup>27</sup> The admission of 40 company trucks with 10 trucks having tarp systems and 4 trucks having trailers with solid walls<sup>28</sup> leaves a curious gap of 26 trucks and unspecified throw-tarps or cover systems. Petitioner's asset list (as well as rebuttal spreadsheets) do not appear to properly represent specific trucks, trailers or tarps. Lastly, Mr. Cean's recollections involving Respondent's inspection on July 10, 2018 conflict with Ms. Cean's and Ms. Kirsch's testimony.<sup>29</sup> The Tribunal is unable to discern what is Petitioner's complete asset list even with Petitioner's affidavit to claim the small business exemption. For these reasons, this witness's testimony is given no weight or credibility in the determination for the subject's exemption.

Finally, Ms. Kirsch's testimony was neither lucid or assuring. The role of bookkeeper carries an expectation of basic management skills as well as internal financial responsibilities. Ms. Kirsch's purported responsibility over all personal property assets was not bolstered by convincing testimony. For example, on one hand, she admits the Ceans have control over the company's personal property. Yet, she does not make determinations regarding exempted personal property and is not sure about leased personal property.<sup>30</sup> Kirsch admitted Petitioner's asset list was prepared by Petitioner's CPA and that the asset list improperly omitted certain personal property.<sup>31</sup> She assumed that handwritten notations on the asset list were made by the CPA. Confoundingly, Kirsch claimed Respondent couldn't have missed items that were omitted on the asset list when Kirsch was not present for Respondent's inspection.<sup>32</sup>

Next, the bookkeeper's lack of recollection is not limited to her control of personal property assets but also extends to her limited duties regarding Petitioner's personal property acquisitions. Kirsch was not offered as a valuation expert and could not

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<sup>27</sup> Tr, 53-54.

<sup>28</sup> Tr, 62 and 65.

<sup>29</sup> Tr, 55, 63, 81 and 149.

<sup>30</sup> Tr, 77-80 and 83.

<sup>31</sup> Tr, 166.

<sup>32</sup> Tr, 167.

elaborate about such things as original costs, re-booked costs, or depreciation methods. Second, Kirsch admits descriptions given to the personal property assets are broad or vague. For example, certain asset entries lacked clarity between personal property items (i.e. shelving units, televisions, “garage equipment” and “furnace – garage”) including Respondent’s identification of omitted items.<sup>33</sup>

Regarding other noted items, Kirsch admits that a six-ton crane (as part of the purchase price for the subject real property) should have been included in the asset list.<sup>34</sup> Kirsch does not know how refrigerant is recovered from the trucks before the new air conditioning units are purchased.<sup>35</sup> Petitioner’s shop mechanic may use his own tools and equipment but Kirsch is not sure about this personal property.<sup>36</sup> Foster oil property is not leased but used by Petitioner in 2016 and 2017.<sup>37</sup>

Kirsch admitted that Petitioner’s rebuttal evidence (Petitioner’s Exhibits P-16 and P-17) are selective lists and not necessarily reflective of the entire personal property at issue in this case.<sup>38</sup>

The sum result of the foregoing is that no individual is sufficiently in control, or no controlled process is sufficiently implemented within Petitioner’s chain of command, to ensure that assets are accounted for in a manner sufficient to determine Petitioner’s personal property. The bookkeeper is responsible for reporting property costs to the CPA but these actions did not convey a complete picture for Petitioner’s personal property. Moreover, Petitioner’s exemption claim form was not signed but included an ink stamped label “Heiss & Leib CPA’s PC, Client Copy, Retain For Your Records”. Petitioner’s alleged valuation disclosure was not authenticated by Petitioner’s CPA. Again, these gaps in reporting and maintaining the information necessary to precisely determine the purported personal property are Petitioner’s burden.

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<sup>33</sup> Tr, 168-169 and 176.

<sup>34</sup> Tr, 169-70.

<sup>35</sup> Tr, 171.

<sup>36</sup> Tr, 172.

<sup>37</sup> Tr, 173-174.

<sup>38</sup> Tr, 179.

Regarding Respondent's contentions, Respondent was not able to conclude what personal property was owned by Petitioner.<sup>39</sup> Respondent cited and photographed numerous personal property that was omitted from Petitioner's asset list.<sup>40</sup> Respondent refuted Petitioner's 2016 and 2017 personal property statements as being incomplete.<sup>41</sup>

Respondent's list of omitted personal property does not absolve Petitioner of its responsibility to make a consistent and transparent accounting of all commercial and industrial personal property for the small business exemption. Clarity of Petitioner's asset list is paramount for the understanding of each item and thus a total true cash value determination.<sup>42</sup> Petitioner's rebuttal spreadsheets for noted assets only beg for a complete asset list with consistent acknowledgment from company personnel.<sup>43</sup> In other words, Rebuttal documents (spreadsheets) showing partial asset listings do not solve the puzzle of a complete asset list necessary to successfully receive a 9o exemption. An alleged recalculation of Petitioner's asset list is without merit. Impeaching Respondent's list of omitted personal property does not deflect from Petitioner's responsibilities for this exemption. Respondent cannot shoulder the burden of delineating personal property acquisitions before and after the relevant tax days without Petitioner's accounting of the personal property. There is more at issue than just the tarps and whether or not they are affixed to a particular trailer. The issue of permanently affixed tarp systems opened up the question of any and all personal property located at the subject property.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property does not qualify for a tax exemption under MCL 211.9o for the tax years at issue. The subject property's TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

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<sup>39</sup> Tr, 101.

<sup>40</sup> Tr, 107-113.

<sup>41</sup> Tr, 117-118.

<sup>42</sup> Tr, 134.

<sup>43</sup> Pet's Exhibits P-16 and P-17.

## JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are AFFIRMED as set forth in the Introduction section of this 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%, and (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%.

This 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.<sup>44</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>45</sup> 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.<sup>46</sup> Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.<sup>47</sup> 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."<sup>48</sup> A copy of the claim must be filed with the Tribunal with the filing fee required for

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<sup>44</sup> See TTR 261 and 257.

<sup>45</sup> See TTR 217 and 267.

<sup>46</sup> See TTR 261 and 225.

<sup>47</sup> See TTR 261 and 257.

<sup>48</sup> See MCL 205.753 and MCR 7.204.

certification of the record on appeal.<sup>49</sup> The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.<sup>50</sup>

By Marcus L. Abood

Entered: March 1, 2019

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<sup>49</sup> See TTR 213.

<sup>50</sup> See TTR 217 and 267.