

October 20, 2006

Dear Tax Tribunal Practitioner,

The Tribunal is pleased to announce the reappointment of Richard A. Southern and the appointment of Rachel Asbury as Tribunal members. The Tribunal is also pleased to announce the hiring of a new receptionist, Jill Andreau; the designation of Lisa Reimbold as Executive Assistant to the Chair; the promotion of Cindy Maurer to Legal Secretary; and the hiring of eight new law students and one new accounting student to assist our efforts in further reducing the time to issue orders on motions.

The Tribunal has conducted several continuing education classes – one in Troy on September 6, 7, and 8 and one in Traverse City on September 15. The classes were well-attended and addressed procedural issues and changes, case law, depositions, expert testimony, and settlement tips. Instructors included Judge Jack Van Coevering, Judge Patricia L. Halm, Judge Judith R. Trepeck, Former Judges Kimbal R. Smith III and Victoria L. Enyart, Attorney Christine A. Dardarian, and Chief Clerk Peter M. Kopke. Additionally, Judge Halm, Judge Lee, Judge Trepeck, and Chief Clerk Kopke participated in the National Conference of State Tax Judges held by the Lincoln Land Institute in Indianapolis, IN on September 28, 29, and 30 to discuss property and non-property tax issues being addressed throughout the United States.

We are issuing today three (3) new *Tribunal Notices*. Tribunal Notice 2006-1 addresses service of Entire Tribunal petitions on the Michigan Department of Treasury and the Michigan State Tax Commission. Tribunal Notice 2006-2 addresses the use of scheduling orders in non-property tax appeals and certain “large dollar” property valuation appeals. Tribunal Notice 2006-3 addresses prehearing conferences and the designation of prehearing conference days. Copies of the notice are attached for your convenience. The notices are also available on our website.

In addition to the above-noted designation of “prehearing conference days,” the Tribunal has decided to allow the conducting of prehearing conferences as telephonic prehearing conferences to be initiated by petitioners. To request the conducting of a prehearing conference by telephone, the request must be received at least seven (7) days in advance of the scheduled prehearing conference and, unless joint, advise the Tribunal that the non-requesting party or parties have been personally contacted and notified that the requesting party or parties were requesting a telephonic prehearing conference. The request must also provide the name of the person or persons contacted, indicate when they were contacted, and advise the Tribunal of the non-requesting party’s position on the request or, if contact was not possible, state what contact attempts were made. The Tribunal will inform the parties, orally or in writing, whether the request is granted or denied. The request is not considered a motion and no filing fee is required.

Non-property tax appeals, unlike property tax appeals, will be assigned to a judge once the scheduling order discussed in Tribunal Notice 2006-2 has been completed and returned. Further, all Small Claims non-property tax cases are being scheduled for

hearing as soon as the answer has been filed. These cases are being assigned to Judges Asbury, Halm, Trepeck, and Van Coevering.

There are currently a significant number of appeals that have been placed in abeyance at the request of the parties. The bulk of these cases are utility personal property “multiplier” appeals. The Tribunal has, over the last several years, worked with the parties in these appeals to facilitate their resolution. As a result of these efforts, the petitioners in these appeals and a number of respondents reached a “Global Settlement” framework. The Tribunal estimates that roughly half of these appeals have settled. The time period for local taxing units to accept the terms of the Global Settlement is set to expire at the end of 2006. The utility personal property “multiplier” appeals that are not settled by the end of 2006 will be placed on a hearing track and scheduled for prehearing conferences to be held in late spring of 2007. Other appeals in abeyance are also being reviewed to determine their status given the resolution of *Wexford Medical Group v City of Cadillac*, 474 Mich 192; 713 NW2d 734 (2006), and several other lead appeals. Based on the outcome of this review one of three orders will be issued to the parties – an order scheduling the appeal for a date certain prehearing conference, an order placing the parties in default for failing to notify the Tribunal as to the need for further proceedings within 21 days of the resolution of the condition (i.e., lead case) justifying the original placement of the appeal in abeyance, or an order requesting the parties to provide a status report on the condition justifying the original placement of the appeal in abeyance.

As for administrative issues, the Tribunal has legislation pending in the Michigan House of Representatives – HB 6168, HB 6169, HB 6170, and HB 6171. The legislation addresses mediation as a voluntary process in the Tribunal, the rendering of proposed decisions by hearing officers and referees, the deposit of fees and charges in an interest bearing account with the proceeds dedicated to the Tribunal’s operation, increasing the Small Claims jurisdictional limitations for non-property tax and special assessment matters from \$6,000 to \$20,000, and the appointment of Tribunal members. It is anticipated that action on the legislation will occur after the upcoming gubernatorial election. In the meantime, the Tribunal is working on finalizing administrative rule changes based on the comments received over the last two years.

Recent decisions of interest include *Ryba Properties v Mackinac Island*, MTT Docket Nos. 300882, 300883, and 300884; *Michigan Basic Property Insurance v Michigan State Tax Commission*, MTT Docket No. 296251; *Freels v Treasury*, MTT Docket No. 307091; *LEM, LLC v Durand*, MTT Docket No. 301977; *Fegert v Treasury*, MTT Docket No. 313942; *Priebe-Marzke Development, LLC v Covert Township*, MTT Docket No. 317303; *Alpha Gen Power, LLC v Jackson*, MTT Docket No. 319506; *Kinder Morgan Michigan, LLC v Jackson*, MTT Docket No. 319505; *Pighin & Buchner v Ida Township*, MTT Docket No. 308411; *Strathmore Finance Company, Inc v Treasury*, MTT Docket No. 311682; *Kohl’s Department Stores v Northville Township*, MTT Docket No. 268318; *Earl’s Spray Service, Inc v Treasury*, MTT Docket No. 308804; *JC Penney Company, Inc v Ann Arbor*, MTT Docket No. 301999; *Sage Terrace Apartments, LLC v Kalamazoo Township*, MTT Docket No. 310526; *Father Murray Nursing Center v Center Line*, MTT Docket No. 293280; *Kohnert v Bagley Township*, MTT Docket No.

312290; *Jennie F. Johnson Trust v Mullett Township*, MTT Docket No. 313214; *Barroncast, Inc v Oxford Township*, MTT Docket No. 301895; *Ferndale Laboratories v Ferndale*, MTT Docket No. 301900; *Nachi Machining Tech Co v Macomb Township*, MTT Docket No. 301998; and *Bolden v Treasury*, MTT Docket No. 313745. The *Bolden* decision addresses the garnishing of wages by Treasury after the filing of an appeal with the Tribunal. The Tribunal ordered the Department to cease its garnishment activities and refund the wages already garnished. Copies of these decisions can be found on the Tribunal's website.

If you have members, colleagues or acquaintances that would benefit from keeping up-to-date with Tribunal developments, simply send an e-mail message to Marijo Wakley at [wakleym1@michigan.gov](mailto:wakleym1@michigan.gov) with "SUBSCRIBE" in the subject line. To unsubscribe, simply reply to this e-mail with the word "UNSUBSCRIBE" in the subject line.