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MICHIGAN TAX TRIBUNAL

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Small Claims Decision Designated as Precedent

MCL 205.765 provides that a small claims decision is not a precedent unless the Tribunal designates it as such. On November 14, 2024, Chairperson Halm signed an Order Designating Decision as Precedent in *Helinski v Alpena Twp*, MTT Docket No. 23-002928. In this case, a parcel of property was transferred from Thomas Cadorette (father) to Thomas Helinski (son) and Rose Helinski (wife of Thomas Helinski) by quitclaim deed. The respondent uncapped the property's taxable value at a rate of 50%, arguing that the MCL 211.27a(7)(u) exemption does not apply to in-laws. The Final Opinion and Judgment adopted the Proposed Opinion and Judgment, wherein it was determined that even though the quitclaim deed was silent as to the type of tenancy created, common law provides that when a deed is conveyed to a husband and wife a tenancy by the entireties is created. Therefore, Thomas Helinski and Rose Helinski held an undivided share of the subject property with a right of survivorship. Given that Thomas Helinski owned the entire property through his undivided share, the transfer of ownership was not a transfer under MCL 211.27a(7)(u).

Changes to Notices of Show Cause Hearings and Default for Noncompliance with PHGC

Beginning in December, if one or both parties fail to file or fail to timely file a prehearing statement or valuation disclosure, the Tribunal will place the party or parties in default. The Notice of Prehearing Conference will also include a separate Notice of Show Cause Hearing along with the order of default. The order will specify that in lieu of filing a Motion to Set Aside Default, the defaulted party shall appear at the Show Case Hearing and show good cause why they did not comply with the Prehearing General Call and Order of Procedure.

New PHGC for Exemption and Non-Property Cases

Currently, the Tribunal conducts a status conference in Entire Tribunal exemption and non-property cases. The Tribunal has reviewed this process and has determined that placing these cases on their own Prehearing General Call (PHGC) will be beneficial and more efficient. The new PHGC will include a scheduling order for discovery, the filing and exchange of prehearing statements, and Motions for Summary Disposition. The PHGC will also provide a two-week time period during which the Prehearing Conference will be held. The Tribunal plans to begin using the new PHGC in January 2025. Email taxtrib@michigan.gov with any comments or suggestions for this new process.

Recent Case Law of Interest

- *Knier, Powers, Martin, & Smith LLC v City of Bay City,* __ Mich App __; __ NW3d __; (2024) (Docket No. 366114).

The issue in this case was whether the installation of a new roof on a commercial building was "new construction" under MCL 211.34d(1)(b)(iii), or "replacement construction" under MCL 211.34d(1)(b)(v). If the new roof is "new construction," it is an "addition" as defined by Const. 1963, art. 9, § 3, and the property's taxable value may be adjusted under MCL 211.27a(2). The petitioner argued that the new roof was not "new construction" because the property had a roof before and after the previous roof was replaced. The Tribunal disagreed and held that the new roof was "new construction." Relying on the statutory definition of "new construction" as "property not in existence on the immediately preceding tax day," the Court agreed. The Court held that the new roof met the statutory definition as "[i]t was an entirely new roof that was not in exist- ence on the immediately preceding tax day."

- *Dicastal North America Inc v City of Greenville*, unpublished per curiam opinion of the Court of Appeals, issued August 22, 2024 (Docket No. 365333).

At issue in this case is the assessment of seven parcels of property, one of which was included on the respondent's ad valorem tax roll. The remaining six parcels of property were assessed on an Industrial Facility Tax (IFT) Roll. The petitioner's appraiser valued the subject property in its entirety and did not provide values for the seven parcels individually. Further, the appraiser did not provide evidence as to the improvements on each parcel of property. For numerous reasons, the Tribunal affirmed the assessment of the property on the ad valorem roll and held that the petitioner did not meet its burden of proof of going forward with the evidence as to the six IFT parcels. As a result, the Tribunal dismissed the appeal of these parcels. The Court explained that:

> [A]lthough petitioner complains that it met its burden by merely presenting *some* evidence to show that the true cash value of the property may have been lower than the IFT tax assessments, the tribunal did not have sufficient competent and material evidence from petitioner to accept the valuation or to make an independent determination of the true cash value of each of the six IFT parcels.

The Court reiterated that "when a party fails to come forward with competent evidence to challenge the assessed values of the properties at issue, the tribunal's duty to make an independent evaluation of taxable value is not triggered." Because the petitioner had not provided competent evidence, any value reached by the Tribunal would have been "merely speculative."