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LIMIT ON INTERROGATORIES CONSISTENT WITH MICHIGAN COURT RULES RECENT CASE LAW OF INTEREST

Limit on Interrogatories Consistent with Michigan Court Rules

Effective January 1, 2020, MCR 2.309(A)(2) was amended to set a presumptive limit of 20 interrogatories for each separately represented party. Because the Court Rule addresses a matter not covered by the applicable Entire Tribunal rule, the Tribunal has determined that it governs practice and procedure in all contested cases pending in the Entire Tribunal. See TTR 239 & TTR 215.

Therefore, **effective December 1, 2022**, interrogatories will be limited to 20 in Entire Tribunal proceedings and Small Claims proceedings in which leave to conduct discovery is granted. Please note that the rule specifically states that **“a discrete subpart of an interrogatory counts as a separate interrogatory.”** *Id.* (emphasis added). Because the Tribunal’s discovery process is bifurcated into pre-valuation and post-valuation disclosure discovery, parties may serve and compel responses to a maximum of 20 interrogatories in each phase of the discovery process. Parties may change these limits by written stipulation or court order pursuant to MCR 2.302(F). As such, **a party wishing to compel responses to more than 20 interrogatories must include a copy of the written stipulation between the affected parties, or in the alternative, file a motion requesting leave and showing good cause for the excess interrogatories. If a party fails to include a written stipulation or show good cause, the Tribunal will not compel responses beyond the first 20 interrogatories included in the discovery request(s).**

Recent Case Law of Interest

Clarissa Karling v. St. Clair Township, unpublished per curiam opinion of the Court of Appeals, July 21, 2022 (Docket No. 358513). (AFFIRMED).

Clarissa Karling (“Petitioner”) appealed from the Tribunal’s denial of a poverty tax exemption in favor of St. Clair Township (“Respondent”). Petitioner argued that the Tax Tribunal erred in denying her appeal as untimely. Petitioner’s application for the poverty tax exemption was denied by the Board of Review on December 16, 2020. Petitioner sent a letter to the Tax Tribunal on January 11, 2021, but did not file a petition disputing the decision until February 2, 2021. The Tax Tribunal found that it lacked jurisdiction to consider the appeal. The Court of Appeals (“the Court”) affirmed the Tribunal’s decision.

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The Court looked at MCL 205.735(a)(6) which states that the Tribunal's jurisdiction is invoked when the petitioner files "a written petition with 35 days after the final decision, ruling, or determination" therefore, the Tribunal correctly determined that it lacked jurisdiction.

Kathleen Vander Roest v Lowell Township, unpublished opinion per curiam of the Court of Appeals, issued August 11, 2022 (Docket No. 358249).

Kathleen Vander Roest ("Petitioner") appealed from the Tribunal's decision upholding Respondent's valuation determinations for the subject property. Petitioner presented several arguments as follows: the Tribunal erred by accepting Respondent's valuation method, the Tribunal erred in failing to address errors that exist on the property record card, and the Tribunal erred in failing to reduce the taxable value (TV) of the subject property, given the reduction in true cash value (TCV) and state equalized value (SEV). Petitioner submitted market analysis evidence to determine the subject property's TCV, while Respondent submitted valuation reports utilizing depreciated costs and an ECF to determine the value of the subject property. The Tribunal accepted Respondent's approach to value. The Court of Appeals ("the Court") upheld the Tribunal's decision. The Court found that the Tribunal is not required to follow Petitioner's market approach, instead it was for the Tribunal to weigh the evidence to determine what approach to use. See *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 389; 576 NW2d 667 (1998). Further, the Court held that the Tribunal is not required to consider every possible factor affecting value, and that a reduction in SEV and TCV does not necessitate a reduction in TV. The Tribunal's determination of value was supported by competent, material, and substantial evidence, and was without error.

As we enjoy the last days of Summer, I hope this newsletter finds you in good health and spirits.

Sincerely,



Steven M. Bieda
Chairperson, Michigan Tax Tribunal