



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

Zabel Holdings LLC,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-003769

City of St Clair Shores,  
Respondent.

Presiding Judge  
Jason C. Grinnell

### **SUMMARY OF PREHEARING CONFERENCE**

### **SCHEDULING ORDER**

### **NOTICE OF VIDEO CONFERENCE HEARING**

A Prehearing Conference on this matter was held on June 16, 2022. Attorney Jason Conti appeared on behalf of Petitioner. Attorney Eric D. Shepherd appeared on behalf of Respondent. A scheduling order was discussed and agreed upon by respective counsel and a video conference hearing, to be held via Microsoft Teams, was scheduled for the following dates and time:

HEARING DATES:	Wednesday, September 21, 2022, and Thursday, September 22, 2022
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	<a href="#">Click here to join the meeting</a> <a href="tel:+12485090316">+1 248-509-0316</a> , <a href="tel:+1294833501">294833501#</a> United States, Pontiac Phone Conference ID: 294 833 501#
PARTICIPANTS' GUIDE:	<a href="https://bit.ly/34fBXnN">https://bit.ly/34fBXnN</a>

This is an important legal document. Please have someone translate the document.

Este es un documento legal importante. Por favor, haga traducir este documento.

এটি একটি গুরুত্বপূর্ণ আইনি দলিল, অনুগ্রহ করে কেউ দলিলটিকে অনুবাদ করুন।

هذا هو وثيقة قانونية هامة يرجى لديك شخص تترجم الوثيقة.

Ito ay isang mahalagang legal na dokumento. Mangyari lamang na magkaroon ng isang tao isalin ang dokumento.

MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
MICHIGAN TAX TRIBUNAL

611 W. OTTAWA ST., LANSING, MI 48933 · P.O. BOX 30232, LANSING, MI 48909 · 517-335-9760

This hearing is open to the public and this notice is provided under the Open Meetings Act. Any participant in the hearing or member of the public wishing to attend this hearing must click on the link above to gain access to the hearing.

**PREHEARING CONFERENCE SUMMARY**

I. VALUATION INFORMATION:

A. The true cash value (TCV), assessed value (AV), and taxable value (TV) for each parcel and tax year at issue as established by the Board of Review:

Parcel Number: 5009-14-34-353-003

Year	TCV	AV	TV
2020	\$325,600	\$162,800	\$162,800
2021	\$371,800*	\$185,900*	\$165,079

**\*Revised 2021 TCV and AV based on on-line property record information.**

B. The parties' contentions of TCV, state equalized value (SEV), and TV for each parcel and tax year at issue:

Parcel Number: 5009-14-34-353-003

Year	Petitioner			Respondent		
	TCV	SEV	TV	TCV	SEV	TV
2020	\$210,000	\$105,000	\$105,000	\$800,000	\$400,000	\$162,800
2021	\$160,000	\$80,000	\$80,000	\$704,000	\$352,000	\$165,079

C. Amounts in dispute for the tax years at issue:

Parcel Number: 5009-14-34-353-003

Year	SEV	TV
2020	\$295,000	\$57,800
2021	\$272,000	\$85,079

II. TAX INFORMATION

The property's taxes have been paid for the tax years at issue.

III. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property:

Parcel Number	Classification
5009-14-34-353-003	Commercial

B. Highest and best use (H&BU) for the tax years at issue:

Tax Year	H&BU
2020	Commercial Shopping Center
2021	Commercial Shopping Center

C. The property's TCV and TV are at issue for each tax year under appeal.

D. Petitioner's claims or counterclaims: Petitioner contends that the subject property is over assessed and a reduction in TCV and TV is warranted. Petitioner did not disclose the purchase price of the subject property and suggests the COVID-19 pandemic caused difficulties in collecting rent and procuring tenants. Petitioner provides five (5) comparable sales and after making adjustments, concludes a sales comparison approach value of \$245,000 or \$20/SF for tax year 2020 and \$215,000 or \$18/SF for tax year 2021. Petitioner also provides an income approach using three (3) rent comparables, a capitalization rate of 11% in addition to an effective tax rate of 3.36%, resulting in a loaded capitalization rate of 14.31%, a 35% vacancy and credit loss, and after deducting \$60,000 for stabilization costs for tax year 2020 and \$70,000 for stabilization costs for tax year 2021, concludes a value of \$229,000 for tax year 2020 and \$169,000 value for tax year 2021. After analysis of the sales comparison approach and income approach, Petitioner concludes a true cash value of \$210,000 or \$17/SF for tax year 2020 and \$160,000 or \$13/SF for tax year 2021.

E. Respondent's claims or counterclaims: Respondent contends the subject property is under assessed. Respondent notes that although the property transfer affidavit did not disclose the purchase price, Respondent's appraiser confirmed via CoStar that the subject property sold for \$850,000 or \$69/SF on May 1, 2019. Respondent notes that the owner of the subject property did not permit inspection of the interior of the building or provide any information about the condition of the improvements. Respondent provides a sales comparison approach using five (5) sales comparables which are similar to the subject property and located in close proximity, and after making adjustments, concludes a sales comparison approach of \$860,000 or \$70/GSF. Additionally, Respondent provides an income approach using six (6) rent comparables, a capitalization rate of 9.5%, a stabilized income analysis, and concludes a complete and stabilized value for the subject property of \$900,000. After deducting \$84,000 for rent losses, leasing commissions, and carrying costs to achieve stabilization, Respondent concludes a true cash value for the subject property of \$800,000 or \$65/GSF as of December 31, 2019.

IV. PENDING MOTIONS OR DISCOVERY:

F. Motions: None pending at this time.

G. Discovery: At the pre-hearing conference Petitioner's counsel raised an outstanding issue concerning lack of discovery from Respondent. Although respective counsel anticipate that the discovery issues will be resolved amicably, the Tribunal notes that on September 17, 2021, the Tribunal issued an Order placing the instant appeal on the June 16-30 Prehearing General Call and further ordered that "Pre-Valuation Disclosure" discovery is closed on March 21, 2022, and "Post-Valuation Discovery" is closed on June 16, 2022. Given the above, the Tribunal finds that discovery is closed.

#### V. VIDEO CONFERENCE HEARING INFORMATION

The parties and the Tribunal have determined the above-captioned case shall be conducted via video conference.

A link to the **MOAHR MTT Guide for Participants for the Conducting of Entire Tribunal Hearings as Video Conference Proceedings** is provided above. Participants are encouraged to review this Guide prior to hearing and are **required** to comply with the requirements of the Guide, as said requirements will facilitate the conducting of the scheduled hearing.

#### SCHEDULING ORDER

- I. September 9, 2022 is the final date to file and serve upon the opposing party(ies) and the Tribunal a final exhibit list and to furnish the opposing party(ies) with a copy of each exhibit. **The parties must use the form prescribed by the Tribunal.** An exhibit will not be admitted into evidence unless the exhibit is disclosed and furnished in accordance with this Order (even though admissible) except upon a finding of good cause by the Tribunal.
- II. September 9, 2022 is the date for Petitioner to notify the Tribunal in writing of the name and telephone number of the court reporter retained by the parties to transcribe the hearing.

Failure to comply with this Order may result in the dismissal of the case or the conducting of a show cause or default hearing, as provided by TTR 231.<sup>1</sup>

Date Entered: June 22, 2022  
jcg

By 

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<sup>1</sup> See also MCL 205.732.

### HEARING INFORMATION – PLEASE READ IMMEDIATELY

**GENERAL INFORMATION:** An impartial hearing will be conducted in accordance with the Michigan Administrative Hearing Rules (R 792.10101-R 792.11289) and the Michigan Administrative Procedures Act, MCL 24.201 *et seq.* The Michigan Rules of Evidence and the Michigan Court Rules may be applicable. A party is expected to exercise proper respect and courtesy toward other parties, witnesses and administrative law judges, which includes attending the hearing on time, silencing cell phones, and dressing in appropriate clothing for in-person hearings.

**REPRESENTATION:** A party may be represented by an attorney or other authorized representative of the party's own choosing and at the party's own expense. The Michigan Office of Administrative Hearings and Rules does not recommend or appoint attorneys.

**WITNESSES:** Parties may present witnesses, if any, identified in the Prehearing Statements, to testify under oath or affirmation at the hearing, subject to cross-examination by the opposing party, and questions by the administrative law judge.

**EXHIBITS:** The parties shall submit exhibits pursuant to the Guide for Participants.

**COURT REPORTER:** The parties shall not only provide a court reporter to transcribe the hearing but shall also provide an electronic copy of the hearing transcript to the Tribunal by e-mailing it to [taxtrib@michigan.gov](mailto:taxtrib@michigan.gov). The costs attributable to the court reporter shall be shared equally by the parties. If the parties fail to pay the costs of the transcript to the court report prior to the submission of the transcript to the Tribunal, the court reporter may report this to the Tribunal with the submission of the transcript. As a result, the party or parties who failed to pay the costs associated with the transcript may be held in default.<sup>2</sup>

**WITHDRAWAL:** If Petitioner no longer wants to continue with the appeal, Petitioner may submit a written request to withdraw the case. Respondent must concur with the withdrawal. The request must be submitted to the Tribunal and served on Respondent at least 14 days before the hearing. Respondent may file a concurrence or objection to the request within 7 days of the service of the request on that party. If Respondent does not timely submit a concurrence or objection to the request will be deemed to be a concurrence to the request. If the request is granted, the case will be dismissed. If a request is not granted or the Tribunal has not notified you that it has been granted, you are required to attend the hearing.

**SETTLEMENT:** Parties may submit a written agreement settling a case (i.e., stipulation). The stipulation must be on a form made available by the tribunal or shall be in a written form that is in substantial compliance with the tribunal's form and be signed by the parties' attorneys or authorized representatives, if they have attorneys or authorized representatives, or by the parties, if they do not have attorneys or authorized representatives. There is a \$50 fee for the filing of the stipulation. If the stipulation with appropriate filing fee is received by the Tribunal or the parties email a copy of the signed stipulation to the Tribunal by 4:30 p.m. on the business day immediately preceding the day of the scheduled hearing, the hearing may be adjourned. Parties that email a copy of a signed stipulation to the Tribunal for purposes of adjourning a hearing are also required to submit the original signed stipulation with appropriate filing fee. The

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<sup>2</sup> See TTR 321.

stipulation, once submitted, will be reviewed and, if accepted, the Tribunal will issue a consent judgment.

**FAILURE TO APPEAR:** The failure of a party to timely appear or otherwise participate in a hearing will result in adjournment of the hearing and the holding of that party in default. The defaulted party will be given an opportunity to show good cause for the failure to appear. Failure to respond or show good cause may result in dismissal of the case or the conducting of a default hearing.

**REASONABLE ACCOMMODATION:** All hearings are conducted in a barrier-free location in compliance with the Americans with Disabilities Act. An individual requiring reasonable accommodation for effective participation in a hearing, including accessible documentation such as braille, large print, electronic or audio reader, should contact the MOAHR by telephone at (517) 335-9760, or complete and submit an accommodation request form at [https://www.michigan.gov/documents/lara/Disability\\_Accommodation\\_FORM\\_v1\\_2\\_464017\\_7.d](https://www.michigan.gov/documents/lara/Disability_Accommodation_FORM_v1_2_464017_7.d) [oc](#) within five (5) days of receipt of the Notice of Hearing to ensure availability of accommodation.

Hearing participants and observing members of the public who need assistance with speech or hearing may also participate in a telephonic or virtual hearing by dialing 7-1-1 and using the Michigan Relay service. More information about this service may be found at [https://www.michigan.gov/mpsc/0,9535,7-395-93308\\_93325\\_93425\\_94040\\_94041---,00.html](https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93425_94040_94041---,00.html).

**PRIVACY OF INFORMATION:** In order to conduct a comprehensive and fair hearing, a party's private or confidential information, such as health or financial information, may be disclosed to the Tribunal and other parties and their attorneys or representatives. The MOAHR will use the private information solely for purposes related to the hearings process. A party may file a motion to request that a public hearing be closed in part or file a motion for protective order to deem certain information private and confidential in order to afford that information special protection.

**CONTACT INFORMATION:**

**Michigan Tax Tribunal**  
Mailing Address: P.O. Box 30232, Lansing, MI 48909  
Phone: (517) 335-9760  
E-Mail: [taxtrib@michigan.gov](mailto:taxtrib@michigan.gov)  
Website: [www.michigan.gov/taxtrib](http://www.michigan.gov/taxtrib)  
E-Filing: <https://eFiling.apps.lara.state.mi.us>  
Office Hours: 8:00 a.m. – 5:00 p.m., our office is closed from 12:00 p.m. – 1:00 p.m.