



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

Locust Fund Properties LLC,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 21-001215

City of Detroit,  
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 Kevin C. Richard 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:	Monday, October 17, 2022, and Tuesday, October 18, 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:+187196246">87196246#</a> United States, Pontiac Phone Conference ID: 871 962 46#
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.

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: 22030050.001

Year	TCV	AV	TV
2021	\$1,812,200	\$906,100	\$906,100

Parcel Number: 22030051

Year	TCV	AV	TV
2021	\$547,400	\$273,700	\$273,700

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

Parcel Number: 22030050.001

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2021	\$1,067,381	\$533,690	\$533,690	\$1,708,000	\$854,000	\$854,000

Parcel Number: 22030051

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2021	\$322,619	\$161,309	\$161,309	\$592,000	\$296,000	\$273,700

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

Parcel Number: 22030050.001

Year	SEV	TV
2021	\$320,310	\$320,310

Parcel Number: 22030051

Year	SEV	TV
2021	\$134,691	\$112,391

II. TAX INFORMATION

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

III. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property:

Parcel Number	Classification
22030050.001	Commercial
22030051	Commercial

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

Tax Year	H&BU
2021 (for both parcels)	Commercial – Neighborhood 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. The Tribunal notes that Petitioner's appraiser did not disclose the purchase price of the subject property and suggests the COVID-19 pandemic allegedly caused some in-place tenants to not pay the contractually agreed upon monthly rent. Petitioner submits that the subject property is a 38,883 SF neighborhood shopping center consisting of two (2) buildings and configured for eight (8) tenants. As of tax day for 2021, the subject property was 91% occupied. Petitioner provides five (5) comparable sales and after making adjustments, concludes a sales comparison approach value for the subject property of \$1,399,000 or \$36/SF. Petitioner also provided an income approach analysis using six (6) rental comparables broken into "small unit size" and "large unit size" and concluded a market rent rate of \$12.25/SF for the smaller units and a \$11.75/SF for the larger units, a capitalization rate of 11.50% in addition to an effective tax rate of 4.38%, resulting in a loaded capitalization rate of 15.88%, and after deducting a 25% vacancy and credit loss (\$114,881), Petitioner determined the net income for the subject property to be \$219,423. Petitioner's income approach valued the subject property at \$1,381,000. After analysis of the sales comparison approach and income approach, Petitioner concluded an overall true cash value of \$1,390,000 or \$36/SF and allocated \$1,078,900 to Parcel No. 22030050.001 and \$326,100 to Parcel No. 22030051.

E. Respondent's claims or counterclaims: Respondent contends the subject property is under assessed. Respondent submits that the subject property is a multi-tenant shopping center, consisting of two (2) buildings with a total of eight

(8) rental units, a total gross building area of 38,883 SF, and total net rental area of 38,638 SF. Respondent submits that the subject property is 90.83% occupied and is considered stabilized. Respondent notes that the subject property sold in an arms-length transaction for \$2,200,000 or \$56.58/SF on January 5, 2021. Petitioner provides an income approach using 12 rental comparables and concluded a market rent rate of \$8.45/SF NNN, a capitalization rate of 10% in addition to an effective tax rate of .43%, resulting in a loaded capitalization rate of 10.43%, and after deducting an 8% vacancy loss (\$35,743) for the one rental unit that was not occupied and 2% collection loss (\$8,936), Petitioner determined the net income for the subject property to be \$239,641. Respondent's income approach concludes a true cash value for the subject property of \$2,297,128, which Petitioner rounded to \$2,300,000 or \$59.15/SF. Lastly, Respondent submits that due to an overall lack of comparable sales a "test of reasonableness" could support its opinion of value. Respondent submits 10 recent improved shopping center sales in Detroit and determined a maximum and minimum range of \$140/SF to \$15.44/SF, with a mean of \$82.89/SF. Respondent concludes a revised true cash value of \$2,300,000 or \$59.15/SF and allocated \$1,708,000 to Parcel No. 22030050.001 and \$592,000 to Parcel No. 22030051, which amounts to an overall reduction of \$52,100 in the assessed value and taxable value of Parcel No. 22030050.001.

IV. PENDING MOTIONS OR DISCOVERY:

F. Motions: None pending at this time.

G. Discovery: Discovery is closed unless otherwise stated below.

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 28, 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 28, 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.