



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

John D Morris,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 21-002551

White River Township,
Respondent.

Presiding Judge
Peter M. Kopke

SCHEDULING ORDER

NOTICE OF VIDEO CONFERENCE HEARING

SUMMARY OF PREHEARING CONFERENCE

A Prehearing Conference was held on July 12, 2022. James M. Rose, Esq. appeared by telephone on behalf of Petitioner and Donna VanderVries, Esq. and Justin George, Esq. appeared by telephone on behalf of Respondent. Based on the discussions, a scheduling order has been established and a video conference hearing, via **Microsoft Teams**, has been set for:

HEARING DATE:	August 9, 2022
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting +1 248-509-0316,,81392657# United States, Pontiac Phone Conference ID: 813 926 57#
PARTICIPANTS' GUIDE:	https://bit.ly/34fBXnN

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

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 • P.O. BOX 30232 • LANSING, MICHIGAN 48909-8195 • 517-335-9760

PREHEARING CONFERENCE SUMMARY

I. SHOW CAUSE HEARING: N/A

II. 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	Year	TCV	AV	TV
01-135-100-0006-00	2021	\$751,200	\$375,600	\$360,730

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

Parcel Number: 01-135-100-0006-00

	Petitioner's Contentions			Respondent's Contentions		
Year	TCV	SEV	TV	TCV	SEV	TV
2021	\$624,000	\$312,000	\$312,000	\$680,000	\$340,000	\$340,000

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

Parcel Number	Year	SEV	TV
01-135-100-0006-00	2021	\$28,000	\$28,000

D. TAX INFORMATION: Both parties claim that the property's taxes for the 2021 tax year have been paid.

III. FACTUAL STATEMENT OF CLAIMS:

A. Classification of property for the tax years at issue:

Parcel Number	Classification
01-135-100-0006-00	Residential Real

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

Parcel Number	H&BU
01-135-100-0006-00	Residential Improved

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

D. Petitioner's claims or counterclaims:

“This property lies along the shore of Lake Michigan. By late 2019, the beach protecting the toe of the high bluff on the West side of Petitioner’s property had been completely removed by increasing lake levels and storm waves. In October and November of 2019, the storm waves washed away the lower portions of the high bluff above the lake. This in turn caused the rest of the bluff to slide down towards the shore, taking out substantial portions of the property’s stairs. This made it impossible to get from the top of the bluff (where Petitioner’s dwelling is located) down to the shore. In other words, the loss of the lower portions of the bluff caused the bluff to adopt a steeper angle, which has resulted in portions of the bluff to continue to erode and slide down towards the shore. At the top of the bluff, there now is a practically vertical drop off of approximately feet.¹ The continuing instability of the bluff makes repair of the stairs unfeasible. (If and when reconstruction of the stairs to the lake becomes feasible, that will be expensive. Petitioner has a very reasonable bid for \$18,514 – which is not plausible to undertake at this time.) Portions of the bluff continue to slide down towards the lake. Thus, although Petitioner owns Lake Michigan frontage, he can’t access the Lake. Indeed, he hasn’t been able to access Lake Michigan since late fall of 2019. This reduces the value of Petitioner’s property, a fact which Respondent apparently rejects. Bluff erosion along the shore of Lake Michigan is not a consistent event. Some properties have been completely unaffected, whereas others have lost their stairs, trees, and substantial portions of their bluff. Thus, when making comparisons to Petitioner’s property, from other sales, care must be taken to compare apples to apples; i.e., properties with erosion problems similar to Petitioner’s property. Or, if a property without erosion is used as a comparable sale, an adjustment must be made as to comparable values.

Finally, the roof and gutters on Petitioner's roof need replacement, which will cost approximately \$35,000.”

E. Respondent’s claims or counterclaims: “Valuation disclosure and assessing records.”

IV. PENDING MOTIONS OR DISCOVERY:

A. Motions: None pending. Petitioner’s March 21, 2022 Prehearing Statement did, however, provide that “Petitioner requests the following amendments, to be incorporated in the Prehearing Order . . . Amendment of the Petition to include tax year 2022.” No motion to amend was, however, filed and no fee paid for the filing of that required motion.² A proper Motion to Amend with required filing fee

¹ The statement is a direct quote from Petitioner’s Prehearing Statement and the approximate number of feet was not provided.

² See TTR 219(2) and 217(b). See also TTR 221(2)(d) and 225.

is, pursuant to prehearing discussions, being filed on July 13, 2022 and, if filed, by July 13, 2022, will be considered.

B. Discovery: Discovery is closed unless otherwise stated herein.

SCHEDULING ORDER

The Tribunal has determined the hearing in the above-captioned case shall be conducted as a video conference proceeding. Although video conference proceedings via *Microsoft Teams* are generally set up using email addresses, the Tribunal has provided a “Teams Hearing Link” that can be utilized by participants (i.e., attorneys or agents, witnesses, the court reporter, etc.) to “join” the hearing **and the parties or their attorneys or agents are required to provide that link to their participants so that they can timely “join the hearing.”**

The Tribunal has also provided a link to *MOAHR MTT Guide for Participants for the Conducting of Entire Tribunal Video Conference Hearings*. Participants **should review** the Guide **prior to the hearing**, as participants **are required to comply** with the requirements of the *Guide*, as said requirements will facilitate the conducting and transcription of the scheduled hearing. The **parties or their attorneys or agents** are also **required** to provide the link to the *MOAHR MTT Guide for Participants to their participants* so that they are **aware of and can comply with** those requirements.

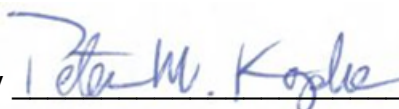
- I. **July 26, 2022** is the final date for the parties to submit their witness and exhibit lists **and** exhibits, with the exception of rebuttal witnesses and exhibits, to the Tribunal by **e-filing or email** and the opposing party or parties by **email**. For the exhibit list, the parties **must use** the form prescribed by the Tribunal. The exhibit list and exhibits **shall be submitted** as provided in the **MOAHR MTT Guide for Participants**. 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. The exhibits may be submitted separately or in a single document **provided** that the single document or PDF is **bookmarked** so that each exhibit can be easily accessed.
- II. **July 26, 2022** is the final 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, as provided in the **MOAHR MTT Guide for Participants**.

IT IS SO ORDERED.

Failure to comply with this Order may result in the dismissal of the case or the conducting of a show cause or default hearing.³

³ See TTR 231(1) and (4). See also *Grimm v Dep't of Treasury*, 291 Mich App 140, 149-150; 810 NW2d 65 (2010) and MCL 205.732(c).

Entered: July 12, 2022
pmk

By 

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. 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.⁴

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

⁴ See TTR 321.

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 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_464_017_7.doc within five (5) days of receipt of the Notice of Hearing to ensure availability of accommodation.

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

U.S. Postal Mailing Address: 611 W. Ottawa St., Lansing, MI 48933

Overnight Carrier Address (UPS, FedEx, DHL Deliveries):

2nd Floor MOAHR, 2407 N. Grand River Avenue, Lansing, MI 48906

Phone: (517) 335-9760

E-Mail: taxtrib@michigan.gov

Website: 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.