



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Penn Tenant III,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 20-000560

Cons/20-001570

City of Detroit,
Respondent,

Presiding Judges

Victoria L. Enyart

Patricia L. Halm

and

Michigan Department of Treasury,
Intervenor-Respondent.

SUMMARY OF PREHEARING CONFERENCE

SCHEDULING ORDER

NOTICE OF IN PERSON HEARING

A Prehearing Conference was held in this matter on September 14, 2022. Michael B. Shapiro, Stewart L. Mandell, and Daniel L. Stanley, attorneys, appeared on behalf of Petitioner. Charles Raimi, Perry Yun, and Kevin Richards, attorneys, appeared on behalf of Respondent. James Ziehmer, attorney, appeared on behalf of Intervenor-Respondent. A scheduling order has been established and a hearing has been set for:

HEARING DATE:	January 9, 2023
*The hearing shall continue until January 27, 2023 as necessary.	
HEARING TIME:	9:00 a.m.
HEARING LOCATION:	611 W. Ottawa, 2 nd Floor, Lansing, Michigan 48933.

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.

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 (BOR):

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	\$172,672,600	\$86,336,300	\$86,336,300
03000229-37	\$21,824,400	\$10,912,200	\$10,912,200
3000238	\$109,400	\$54,700	\$54,700
TOTALS	\$172,782,000	\$97,303,200	\$97,303,200

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	\$169,825,600	\$84,912,800	\$84,912,800
03000229-37	\$21,442,000	\$10,721,000	\$10,721,000
3000238	\$109,400	\$54,700	\$54,700
Totals	\$191,377,000	\$95,688,500	\$95,688,500

Petitioner's TCV, AV, and TV for each parcel and tax year at issue:

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	\$150,200,000	\$75,100,000	\$75,100,000
03000229-37 & 03000238	\$22,000,000	\$11,000,000	\$11,000,000
TOTALS	\$172,200,000	\$86,100,000	\$86,100,000

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	\$119,300,000	\$59,650,000	\$59,650,000
03000229-37 & 03000238	\$20,000,000	\$10,000,000	\$10,000,000
Totals	\$139,300,000	\$69,650,000	\$69,650,000

Respondent's and Intervenor-Respondent's TCV, AV, and TV for each parcel and tax year at issue:

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	\$282,499,855	\$141,249,928	\$141,249,928
03000229-37	\$39,436,508	\$19,718,254	\$19,718,254

03000238	\$193,387	\$96,694	\$96,694
TOTALS	\$322,129,750	\$161,064,876	\$161,064,876

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	\$246,344,640	\$123,172,320	\$123,172,320
03000229-37	\$33,746,803	\$16,873,402	\$16,876,402
03000238	\$146,726	\$73,363	\$73,363
TOTALS	\$280,238,169	\$140,119,085	\$140,119,085

Differences in values between Petitioner's Appraisal and the Assessment Roll:

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	-\$22,472,600	-\$11,236,300	-\$11,236,300
03000229-37 & 03000238	\$22,000,000	\$33,100	\$33,100
TOTALS	-\$472,600	-\$11,203,200	-\$11,203,200

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	-\$50,525,600	-\$25,262,800	-\$25,262,800
03000229-37 & 03000238	-\$1,442,000	-\$721,000	-\$721,000
TOTALS	-\$51,967,600	-\$25,983,800	-\$25,983,800

Difference between Respondent's Appraisal and the Assessment Roll:

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	\$109,827,255	\$54,913,628	\$54,913,628
03000229-37 & 03000238	\$39,436,508	\$8,806,054	\$8,819,000
TOTALS	\$149,263,763	\$63,719,682	\$63,732,628

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	\$76,519,040	\$38,259,520	\$38,259,520
03000229-37 & 03000238	\$12,304,803	\$6,152,402	\$6,155,402
TOTALS	\$88,823,843	\$44,411,922	\$44,414,922

Differences in value between Respondent's Appraisal and Petitioner's Appraisal:

2020			
Parcel Nos.	TCV	AV	TV
03000204-28	\$132,299,855	\$66,149,928	\$66,149,928
03000229-37 & 03000238	\$17,436,508	\$8,718,254	\$8,718,254
TOTALS	\$149,736,363	\$74,868,182	\$74,868,182

2021			
Parcel Nos.	TCV	AV	TV
03000204-28	\$127,044,640	\$63,522,320	\$63,522,320
03000229-37 & 03000238	\$13,746,803	\$6,873,402	\$6,876,402
TOTALS	\$140,791,443	\$70,395,722	\$70,398,722

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
All	Commercial

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

Tax Years	H&BU
All	Commercial

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

D. Petitioner's claims or counterclaims: On the subject tax days, one subject tax parcel had a hotel and a parking garage, and the other tax parcels had a valet garage. On the subject tax days, each parcel was used for, or available for use for such purposes.

Petitioner contends that, for the 2020 and 2021 tax years, each value at issue is unlawful.

E. Respondent's claims or counterclaims: The current level of assessment for the subject properties do not exceed 50% of true cash value for the tax years at

issue. The proposed assessment values also do not exceed 50% of the true cash value for the tax years at issue.

Respondent further contends subject properties are part and parcel of one economic entity which is a casino-hotel complex. City's appraiser has valued the entire complex and allocated the values among the component parcels. City understands that Penn has valued the subject properties as "stand alone" properties. This is a fundamental dispute in the case.

IV. PENDING MOTIONS OR DISCOVERY:

A. Motions: None pending at this time.

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

SCHEDULING ORDER

- I. **December 27, 2022**, is the final date for the parties to submit their exhibit lists **and** exhibits, with the exception of rebuttal exhibits, to the Tribunal by **e-filing or email** and the opposing party or parties by **email**. The parties **must use** the exhibit list form provided by the Tribunal. The 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.
- II. **December 27, 2022**, is the final date for Petitioner to notify the Tribunal **by e-filing or email** 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**.
- III. **December 27, 2022**, is the date for each party to submit to the Tribunal a list of every individual expected to attend the in-person hearing, including counsel, witnesses, and observers. The lists may be emailed to taxtrib@michigan.gov.

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 231.¹

By Victoria H. Emhart

By Patricia L. Haem

Date Entered: October 18, 2022

¹ 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 bring two (2) copies of all proposed exhibits (i.e. file copy and Judge's copy) to the hearing. Each exhibit must display the docket number and exhibit number (i.e., P1, P2, R1, R2, etc.) in the upper right hand corner of the first page of each copy of each proposed exhibit. If an exhibit contains multiple pages, each page shall be numbered. The proposed exhibits must be separated into numerical order sets and indexed for easy reference.

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.²

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

² See TTR 321.

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_for_MOAHR_Internet_5-2.web_654057_7.pdf 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.

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.