



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Inново TC Garland, LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 21-001272

City of Traverse City,
Respondent.

Presiding Judge
Patricia L. Halm

SCHEDULING ORDER

NOTICE OF VIDEO CONFERENCE HEARING

SUMMARY OF PREHEARING CONFERENCE

A Prehearing Conference was held on October 3, 2022. Mr. John P. Lynch, Esq., and Mr. Brian Mullally appeared on behalf of Petitioner. Ms. Stephanie Simon Morita, Esq. appeared 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:	January 30, 2023, through February 2, 2023.
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting Or call in (audio only) +1 248-509-0316,,779104173# United States, Pontiac
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.

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	Year	TCV	AV	TV
28-51-103-014-15	2021	\$16,871,200	\$8,435,600	\$7,634,451

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

Parcel Number: 28-51-103-014-15

Year	Petitioner's Contentions			Respondent's Contentions		
	TCV	SEV	TV	TCV	SEV	TV
2021	\$12,750,000	\$6,375,000	\$5,032,425	\$16,630,000	\$8,315,000	\$7,634,451

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

Parcel Number	Year	SEV	TV
28-51-103-014-15	2021	\$1,940,000	\$2,602,026

D. TAX INFORMATION: The property taxes for the tax year at issue have been paid.

II. FACTUAL STATEMENT OF CLAIMS:

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

Parcel Number	Classification
28-51-103-014-15	Commercial Real

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

Parcel Number	H&BU
28-51-103-014-15	Mixed use apartment and retail

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

D. Petitioner's claims or counterclaims:

"Subject property is a mixed use development, consisting of seventy-eight (78) residential units, and three (3) commercial/retail units. In the previous tax year,

2020, the parcel was still under construction, but a real estate tax increase for the partial construction was completed. Tax year 2021, is the first full stabilized assessment year for the subject property. However, for 2020 tax year, the initial SEV was \$10,079,300, significantly above market value and comparables at the time of initial assessment. Ownership appealed this assessment in 2020 on the subject property and the SEV was reduced to \$3,360,000, for a 66.7% reduction.

In the tax year in question, 2021, substantially all the construction was complete on the residential units, and build out had yet to begin on the 'white box' commercial units. Respondent improperly increased the assessed True Cash Value of the property from \$6,720,800 to \$16,871,200 in their assessment. Petitioner contends:

1. That, the True Cash Value of the Property is less that assessment roll;
2. That, Petitioner continues to operate the Property at a cash loss because the tax burden is excessive of the True Cash Value of the Property. The flawed appraisal method did not account for specific economic factors that would greatly support a Capitalization of Income method for determining the True Cash Value;
3. That, the per unit tax burden is excessive relative to comparable and substantially similar properties;
4. That, the assessment method applied to the Property is not being uniformly applied to Petitioner's property peers; and
5. The taxable value exceeds the permissible amounts allowable under MCL 211.27a.”

E. Respondent's claims or counterclaims: "Petitioner claims that the subject property has been assessed at more than 50% of its true cash value for the year(s) in question. Respondent, City of Traverse City, maintains the property has been properly assessed and the true cash value of the property is that as set forth in its valuation disclosure."

III. PENDING MOTIONS OR DISCOVERY:

- A. Motions: None pending.
- 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. **January 17, 2023** 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. **January 17, 2023** 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.¹

Entered: October 4, 2022
plh

By Patricia L. Haem

¹ 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).

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.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 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

² See TTR 321.

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.