



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Penney Property Sub Holdings LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket Nos. 21-001708
& 22-000513

City of Kentwood,
Respondent.

Presiding Judge
Patricia L. Halm

SUMMARY OF PREHEARING CONFERENCE

AMENDED SCHEDULING ORDER

NOTICE OF VIDEO CONFERENCE HEARING

A Prehearing Conference was held in this matter on March 27, 2023. Seth O'Loughlin, attorney, appeared on behalf of Petitioner. Christine Blum, attorney, appeared on behalf of Respondent. A scheduling order has been established and a video conference hearing, held via Microsoft Teams, has been set for:

HEARING DATE:	September 11, 2023, through September 14, 2023, as necessary.
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting Download Teams Join on the web Or call in (audio only) +1 248-509-0316, 204468862# United States, Pontiac
PARTICIPANTS' GUIDE:	https://bit.ly/34fBXnN

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 · 517-335-9760
PO BOX 30232, LANSING, MI 48909 · Other Carriers: 2407 N GRAND RIVER AVE, LANSING, MI 48906

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: 41-18-11-303-004

Year	TCV	AV	TV
2021	\$8,458,000	\$4,229,000	\$3,279,827
2022	\$8,955,600	\$4,477,800	\$4,368,557 ¹

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

Parcel Number: 41-18-11-303-004

Year	Petitioner			Respondent		
	TCV	SEV	TV	TCV	SEV	TV
2021	\$4,500,000	\$2,250,000	\$2,250,000	\$8,458,000	\$4,229,000	\$3,279,827
2022	\$4,600,000	\$2,300,000	\$2,300,000	\$8,955,600	\$4,477,800	\$4,368,557 ²

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

Parcel Number: 41-18-11-303-004

Year	SEV	TV
2021	\$1,979,000	\$1,029,827
2022	\$2,177,800	\$2,068,557

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:

¹ It appears as though this number is incorrect as it exceeds the amount allowed under MCL 211.27a(2) and there have been no alleged additions. From BS&A, it appears that the correct 2022 TV is \$3,388,061.

² See footnote 1.

Parcel Number	Classification
41-18-11-303-004	Commercial - Improved

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

Tax Year	H&BU
2021 and 2022	Retail

C. The property's 2021 and 2022 TCV and TV are under appeal. The uncapping of the property's 2021 TV is also at issue. However, during the Prehearing Conference, Respondent indicated that this issue had been appealed to the December 2022 Board of Review and that the Board recapped the property's TV. The parties indicated that they would review this and if there was an agreement in this regard, they would file a stipulation withdrawing the uncapping issue.

D. Petitioner's claims or counterclaims:

"Petitioner contends that that state equalized, assessed and taxable values levied against the subject property are unlawful as they exceed fifty (50%) of the property's fair market value. Petitioner further contends that the subject property was unlawfully uncapped for the 2021 tax year."

E. Respondent's claims or counterclaims: Respondent asserts that the subject property was accurately assessed and that the 2021 TV was properly uncapped.

IV. PENDING MOTIONS OR DISCOVERY:

A. Motions: None pending at this time.

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

V. VIDEO CONFERENCE HEARING INFORMATION:

It has been 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

- A. **August 28, 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.
- B. **August 28, 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**.

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 231.³

By

Patricia L. Haem

Date Entered: May 16, 2023

³ 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. 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 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

⁴ 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 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.

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk