



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Traverse Garfield Properties LLC,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 22-000348

City of Traverse City,
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 July 25, 2023. Attorney Seth A. O'Loughlin appeared on behalf of Petitioner. Attorney Stephanie Simon Morita appeared on behalf of Respondent. A scheduling order has been established and a video conference hearing, held via Microsoft Teams, was discussed and a hearing was set as follows:

HEARING DATE:	Tuesday, January 16, 2024 through Friday, January 19, 2024
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	Click here to join the meeting Or call in (audio only) +1 248-509-0316,,58980523# 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.

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: 28-51-586-002-008

Year	TCV	AV	TV
2022	\$2,371,000	\$1,185,500	\$969,604

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

Parcel Number: 28-51-586-002-008

	Petitioner			Respondent		
Year	TCV	SEV	TV	TCV	SEV	TV
2022	\$960,000	\$480,000	\$480,000	\$2,000,000	\$1,000,000	\$1,000,000

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

Parcel Number: 28-51-586-002-008

Year	SEV	TV
2022	\$520,000	\$520,000

III. TAX INFORMATION

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

IV. FACTUAL STATEMENT OF CLAIMS:

- A. Classification of property:

Parcel Number	Classification
28-51-586-002-008	Commercial

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

Tax Year	H&BU
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2022	Commercial
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- C. The property's TCV and TV are at issue for each tax year under appeal.
- D. Petitioner's claims or counterclaims: Petitioner contends the subject property is over assessed and a reduction in TCV and TV is warranted. Petitioner purchased the subject property for the full asking price of \$1,980,000 or \$141.23/SF on November 15, 2019. Petitioner contends the subject property consists of a one (1) and two-story commercial building with a gross building area (GBA) of 14,020/SF. The subject property was built in 1959 and remodeled in 2020. Petitioner submits the building is in average condition with no deferred maintenance observed. Petitioner's appraiser did not personally inspect the building but observed the exterior and interior via Facetime on April 12, 2023, two days before the appraisal report was completed on April 14, 2023. Petitioner's appraiser contends that Respondent purchased the subject property as an investment decision due to the subject's location which allows for the sale of medical marijuana and contends the purchase price was unfavorable to the buyer.

Petitioner submitted a valuation disclosure analyzing the sales comparison approach and income-direct capitalization approach. Petitioner submitted four (4) sales comparables and determined an unadjusted sales price per SF of \$61.80 to \$110.88 which after adjustments resulted in an adjusted sales price per SF of \$62.91 to \$81.69. Petitioner concluded a value of \$72.75/SF or \$1,020,000. Petitioner (comparables #1 and #3) and Respondent (comparables #3 and #5) utilized common comparables located at 862 S. Garfield and 1151 W. South Airport Road. Petitioner adjusted downward \$16.79/SF for the Garfield comparable and downward \$31.49 for the W. South Airport comparable to arrive at \$73.34/SF and \$81.69/SF, respectively. Respondent adjusted downward \$11.31 for the W. South Airport comparable and upward \$9.01 for the Garfield comparable to arrive at \$101.78/SF and \$99.15/SF, respectively. Petitioner also provided an income approach analysis using 11 rental comparables, seven of which were retail, three of which were retail/warehouse, and one of which was warehouse. Of the 11 rental comparables, eight were modified gross and three were NNN. Petitioner arrived at a rental rate range per SF between \$3.96 and \$12.50 NNN with an average of \$8.48 NNN. However, Petitioner concluded the in-place rent of \$19.35/SF should be used for the marijuana provisioning space and \$7/SF for the remaining space on a gross plus utilities basis. After deducting various costs and operating expenses Petitioner arrived at a NOI of \$77,350. Using a 8.25% capitalization rate, Petitioner concluded a rounded TCV of \$940,000 or \$67.05/SF.

After analysis of the sales comparison approach and income approach, Petitioner put most weight on its income approach to conclude an overall rounded TCV of \$960,000 or \$68.47/SF.

E. Respondent's claims or counterclaims: Respondent submits the subject property is slightly over assessed and the current TCV and TV should be reduced. Respondent contends the subject property contains 15,640/SF of gross building area and is 100% leased. Respondent also confirms the sale price of \$1,980,000 and adds that there were multiple offers on the property likely because the property is zoned to allow for medical marijuana facilities. In 2020, the subject property was renovated for use as a medical marijuana facility. In support of its case, Respondent submitted a valuation disclosure utilizing the sales comparison approach and income approach. Respondent submitted seven (7) sales comparables and determined an unadjusted sales price per SF of \$86.67 to \$126.60 which after adjustments resulted in an adjusted sales price per SF of \$96.22 to \$140.90. Petitioner concluded a gross of \$130/SF amounting to a rounded TCV of \$2,030,000. Respondent also valued the property using an income approach. Respondent's utilized four (4) rental comparables, using one modified gross and three NNN, to arrive at a rental rate per SF range between \$8.00 and \$18.00 which after adjustments resulted in a final adjusted rental rate per SF range of \$7.06 to \$11.23/SF NNN. Respondent concluded a rental rate of \$10.00/SF NNN. Respondent then determined the net income for the subject property to be \$138,633 after deducting a 7% (\$10,948) vacancy and collection loss and expenses of \$6,819. Using a capitalization rate of 8%, Respondent arrived at a rounded TCV of \$1,730,000. After analysis of the sales comparison approach and income approach, Respondent concluded a reconciled value giving most weight to its sales comparison approach to arrive at a TCV of \$2,000,000.

V. PENDING MOTIONS OR DISCOVERY:

A. Motions: None pending at this time.

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

VI. 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.

The Tribunal's [Remote Witness Instructions](#) must also be reviewed by any witnesses who may be called at hearing.


SCHEDULING ORDER

- I. January 2, 2024 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. January 2, 2024 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 231.¹

Date Entered: July 31, 2023

By

A handwritten signature in blue ink, appearing to be "A. S.", written over a horizontal line.

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 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 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

² 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 oc](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.

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