

APPENDIX

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LARA Tax Tribunal

Department of Licensing and Regulatory Affairs



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Tax Docket Lookup Details

Docket Number:

16-001828-TT

Status:

Disposed

Petitioner:

Daniel Patru

Respondent:

City Of Wayne

Case Type:

SC Property

Division:

Small Claims Division

County:

Wayne

Full Title:

Daniel Patru, Petitioner v City Of Wayne, Respondent

Judge:

Steinmetz, Christine

Parcels

Parcel

82 55 024 01 1069 000

- Clicking "Document" will download the document.
- Mousing over "Document" will display the name of the document.

Action Information

Line #	Subject	Filer	Line Ref	Enter Date/Post Mark	Fee	Related Item
54	Claim of Appeal was filed	PET		12/18/2018	\$100.00	Document
53	Proof of Service			12/14/2018		Document
52	Denied	PET	50	12/14/2018		Document
51	Order Denying Motion		50	12/14/2018		Document
50	Motion for Reconsideration was received.	PET	48	12/05/2018	\$25.00	Document
49	Proof of Service			12/04/2018		Document
48	Final Opinion and Judgment			12/04/2018		Document
47	Hearing Completed		29	10/18/2018		

46	Telephonic Hearing Grant			10/15/2018		Document
45	Telephonic Hearing Grant			10/15/2018		Document
44	A request for telephonic hearing was filed.	RESP		10/08/2018		Document
43	A request for telephonic hearing was filed.	PET		10/08/2018		Document
42	Notice of Hearing			10/04/2018		Document
41	A rehearing has been rescheduled			10/04/2018		
40	Hearing was adjourned.		29	10/04/2018		
39	Adjournment Order			10/04/2018		Document
38	Evidence was received.	PET		09/06/2018		Document
37	Evidence was received.	PET		09/06/2018		Document
36	Evidence was received.	PET		09/06/2018		Document
35	Evidence was received.	PET		09/06/2018		Document
34	Evidence was received.	PET		09/06/2018		Document
33	Evidence was received.	PET		09/06/2018		Document
32	Evidence was received.	PET		09/06/2018		Document
31	Evidence was received.	PET		09/06/2018		Document
30	Notice of Hearing			07/24/2018		Document
29	A rehearing has been rescheduled			07/24/2018		
28	Record Returned - COA			07/12/2018		Document
27	Decision Rev/Rem - Higher Court			05/08/2018		Document
26	Certification Letter COA			09/07/2017		Document
25	Record Sent - COA			09/07/2017		
24	Claim of Appeal was filed	PET		03/21/2017	\$100.00	Document
23	Denied	PET	21	03/06/2017		Document
22	Order Denying Motion		21	03/06/2017		Document
21	Motion for Reconsideration was received.	PET	20	02/16/2017	\$25.00	Document
20	Final Opinion and Judgment			01/26/2017		Document
19	Exceptions were filed.	PET		12/21/2016		Document
18	Proposed Opinion and Judgment			12/01/2016		Document
17	Hearing Completed		14	12/01/2016		
16	Notice of Hearing			10/10/2016		Document
15	Hearing Referee			10/10/2016		
14	A hearing has been scheduled			10/10/2016		
13	Hearing Completed			10/07/2016		
12	Adjournment Order			10/07/2016		Document
11	Evidence was received.	RESP		09/13/2016		Document
						Document
10	Evidence was received.	PET		09/14/2016		Document
9	Evidence was received.	PET		09/07/2016		Document
8	Evidence was received.	PET		09/07/2016		Document

7	Notice of Hearing			07/29/2016		Document
6	A hearing has been scheduled			07/29/2016		
5	Answer was received	RESP		07/11/2016		Document
						Document
4	Petition has been verified	PET	1	06/22/2016		Document
3	Notice of Docket Number SC			06/22/2016		Document
2	Documentation	PET		05/31/2016		Document
1	A petition was received.	PET		05/31/2016	\$125.00	Document

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Daniel Patru
25239 Andover Dr.
Dearborn Heights, MI 48125
Tel. 734-274-9624
Email. dpatru@gmail.com

9/6/2018

Assessor
3355 South Wayne Road
Wayne, MI 48184
734-722-2000 Ext 1014
Email: assessing@ci.wayne.mi.us

Re. Evidence for MTT Docket No. 16-001828

Dear Assessor:

Enclosed is evidence for the Michigan Tax Tribunal hearing for docket number 16-001828 (for 5073 Winifred) scheduled for October 5, 2018.

- 1) Michigan Dept of Treasury, STC Form 865 (formerly L-4293)
- 2) Spreadsheet showing repairs.
- 3) MLS data sheet for 5073 Winifred.
- 4) MLS history for 5073 Winifred.
- 5) STC Bulletin No. 7 of 2014.
- 6) City of Wayne Certification Guideline (retrieved from http://www.ci.wayne.mi.us/pdfs2009/city_certification_guideline_july_2009.pdf on 9/6/2018)

According to the MLS, this property was first listed for sale on April 3, 2013. It went pending three times but didn't close until I bought it in July 2015. This is evidence that the property sold for its fair market value, taking into account its condition.

At the time of sale, the property needed repairs. Most of the repairs were required by the City of Wayne. See the City of Wayne Certification Guideline for background. These repairs were normal repairs and thus under the Mathieu Gast Act (MCL 211.27(2)) are not to be considered when calculating the assessed value. Form 865 and the spreadsheet showing the repairs show how the repairs fit within the specific categories of the act.

Form 865 and the spreadsheet show values for each of the repairs. These values reflect the cost to the homeowner to perform the repairs. However, STC Bulletin 7 of 2014 indicates that the value of the repairs should be calculated by performing before and after appraisals. (STC

Bulletin 7 of 2014 page 2 items 3 and 4) In other words, the value of a repair is not its cost to the homeowner but its effect on the house's value.

I am not arguing that the City's assessment of my house is wrong. My argument is that the city's assessment is an "after-repair" appraisal which takes into consideration normal repairs performed after I bought the house. The "before-repair" value of the house is evidenced by its sale price after it was professionally marketed on the MLS over a span of two years. The difference between the before and after values is the value of the repairs which cannot be considered in the assessment.

Sincerely,

/s/ Daniel Patru

Property ID	Address	MLS#	Chg Typ	Chg Date	Chg Info	List Agent Full Name	List Office Name
55024011069000	5073 WINIFRED Street	215060002	SOLD	08/19/2015 01:48:23 PM	SOLD \$32,000	Donald G. Castelli	Century 21 Castelli
55024011069000	5073 WINIFRED Street	215060002	PEND	07/06/2015 10:48:56 AM	ACTV->PEND	Donald G. Castelli	Century 21 Castelli
55024011069000	5073 WINIFRED Street	215060002	BMK	07/03/2015 09:41:27 AM	PEND->ACTV	Donald G. Castelli	Century 21 Castelli
55024011069000	5073 WINIFRED Street	215060002	PEND	06/29/2015 03:02:20 PM	ACTV->PEND	Donald G. Castelli	Century 21 Castelli
55024011069000	5073 WINIFRED Street	215060002	NEW	06/17/2015 07:21:30 PM	\$32,000	Donald G. Castelli	Century 21 Castelli
55024011069000	5073 WINIFRED Street	215060002	NEW	06/17/2015 07:21:30 PM		Donald G. Castelli	Century 21 Castelli
55024011069000	5073 Winifred Street	213030345	EXPD	10/24/2014 12:10:41 AM	CWTH->EXPD	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	CWTH	10/23/2013 01:58:28 PM	PEND->CWTH	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	PEND	10/23/2013 01:58:20 PM	ACTV->PEND	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	BMK	10/23/2013 01:58:06 PM	PEND->ACTV	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	PEND	05/03/2013 09:58:15 AM	ACTV->PEND	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	NEW	04/03/2013 03:05:16 PM	\$29,900	JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred Street	213030345	NEW	04/03/2013 03:05:16 PM		JEFFREY PACKER	COLDWELL BANKER PREF
55024011069000	5073 Winifred	24121996	SOLD	03/16/2005 11:51:54 AM	SOLD \$114,500	Christine Nolen	REMERICA COUNTRY PLA
55024011069000	5073 Winifred	24121996	PEND	02/22/2005 01:42:28 PM	ACTV->PEND	Christine Nolen	REMERICA COUNTRY PLA
55024011069000	5073 Winifred	24121996	NEW	09/24/2004 12:00:00 AM	\$120,000	Christine Nolen	REMERICA COUNTRY PLA
55024011069000	5073 Winifred	24121996	NEW	09/24/2004 12:00:00 AM		Christine Nolen	REMERICA COUNTRY PLA

5073 WINIFRED Street, Wayne 48184-2637

MLS#: **215060002**
 P Type: **Residential**
 Status: **Sold**

Area: **05083 - Wayne**
 DOM: **N/15/15**

Short Sale: **No**
 Trans Type: **Sale**
ERTS/LS

LP: **\$32,000**
 OLP: **\$32,000**
 SP: **\$32,000**



1 / 25

Location Information

County: **Wayne**
 City: **Wayne**
 Mailing City: **Wayne**
 Side of Str:
 School Dist: **Wayne-Westland**
 Location: **S of Annapolis / E of Venoy**
 Directions: **E on Annapolis off of Venoy then South on Winifred**

Parking

Garage: **No**
 Grg Sz: **No Garage**
 Grg Dim:
 Grg Feat:

Lot Information

Acreage: **0.12**
 Lot Dim: **40.00X135.00**
 Front Feet: **40**

Square Footage

Sqft Source: **Appraiser**
 Est Fin Abv Gr: **1,023**
 Est Fin Lower: **350**
 Est Tot Lower: **672**
 Est Tot Fin: **1,373**
 List Price/SqFt: **\$31**

Layout

Beds: **3**
 Baths: **1.0**
 Rooms: **6**
 Arch Sty: **Bungalow**
 Arch Lvl: **1 1/2 Story**
 Site Desc:

Contact Information

Name: **SHOWING TIME**
 Phone: **800-746-9464**

Waterfront Information

Wtrfrnt Name:
 Wtrfrnt Fac:
 Wtrfrnt Feat:

General Information

Year Built: **1943**
 Year Remod:

Listing Information

Listing Date: **06/17/15**
 Srvcs Offered: **Arrange Appointments**
 Pending Date: **07/06/15**
 Land DWP:
 Protect Period: **0**
 Terms Offered: **Cash, Conventional, FHA, FHA 203K**

List Type/Level Of Service: **Exclusive Right to Sell/Limited Service**

Off Mkt Date: **08/19/15**
 Land Int Rate:
 Restrictions:

BMK Date: **07/03/15**
 Land Payment:
 Exclusions:

Contingency Date:
 Land Cntrt Term:
 Possession: **IMMED**
 MLS Source: **REALCOMP**

Features

Foundation: **Basement**
 Basement: **Partially Finished**
 Exterior: **Aluminum**
 Porch Type: **Patio, Porch**
 Out Buildings: **Shed**
 Appliances: **Disposal, Stove**
 Heat & Fuel: **Gas, Forced Air**
 Wtr Htr Fuel: **Gas**
 Water Source: **Municipal Water**

Fndtn Material: **Poured**
 Cnstrct Feat:

Cooling: **Ceiling Fans 2+, Central Air**
 Road Frontage: **Paved**
 Sewer: **Sewer at Street**

Room Information

Room	Level	Dimen	Floor Cover
Bath - Full	Entry		
Bedroom	Entry	11 x 11	
Kitchen	Entry	12 x 9	

Room	Level	Dimen	Floor Cover
Bedroom	Entry	11 x 8	
Bedroom - Mstr	Upper	18 x 12	
Living Room	Entry	14 x 11	

Legal/Tax/Financial

Property ID: **55024011069000**
 Tax Summer: **\$1,058**
 Legal Desc: **34F1069 LOT 1069 AVONDALE SUB NO. 5 T2S R9E L60 P57 WCR**
 Subdivision: **AVONDALE SUB NO 5**

Ownership: **Government - Owned**
 Tax Winter: **\$233**
 Homestead: **Yes**

Home Warranty: **No**
 Oth/Sp Asmnt: **72.5**

Agent/Office Information

Sub Agency: **No**
 Sub Ag Comp: **Century 21 Castelli**
 List Office: **DONALD G. CASTELLI**
 List Agent: **CYNTHIA M. CASTELLI**
 Co-list Agent:

Buyer Agency: **Yes**
 Buy Ag Comp: **\$1,250**

Trans Coord: **No**
 TC Comp:

Access: **Appointment/Key**
 Comp Arrange: **Variable**
 List Office Ph: **(734) 525-7900**
 List Agent Ph: **734-458-6129**
 Co-List Agent Ph: **734-458-6129**

Remarks

Public Remarks: **HUD Home. This is a house to call "HOME" 3 bedroom bungalow. Completely remodeled kitchen w/stove and hood vent. Living room and main floor bedrooms with nice hardwood floors. Nice master bedroom upper. Partially finished basement. Large cabin type shed in fenced yard. (IE) Insured w/escrow repair - 203K elig. FHA 203B with Repair Escrow financing availability is subject to buyer's appraisal. Please see attached HUD Homes addendums**

REALTOR® Remarks: **HUD Home. Sold AS IS by elec bid only. Up to \$1250 comm. Avail 7-3-15. Bids due daily by 11:59 PM Central Time til sold. FHA Case#264-004175. Insured w/escrow repair. 203K elig. IE-FHA 203B with Repair Escrow financing availability is subject to buyer's appraisal. Keys in LO \$2/ea or \$12/8-key set. For info visit www.HUDHomestore.com. For add forms, updates, step-by-step video & free photo list, please visit www.BLBResources.com. BLB Resources makes no warranty as to condition of prop. BVAI. LBP Adden**

Sold Information

Sold Date: **08/19/15**
 3rd Party Appr: **No**
 Selling Office: **Excess Realty**
 Selling Agent: **Ileana Patru**
 Co-Selling Agent:
 Sell Concession: **No**

Sold Price: **\$32,000**
 Finance Code: **Cash Sale**

Short Sale: **No**

SP/LP: **100.00%**
 SP/OLP: **100.00%**
 Selling Office Ph: **(888) 909-5478**
 Selling Agent Ph: **(734) 931-0040**
 Co-Selling Agt Ph:

Item	Quantity	Unit Value	Total	Statutory Category
<i>Comments Section of Inspection Report</i>				
Roof			3500	b
Furnace Check			65	j
Vacuum Breakers			10	i
Smoke Detectors	5	10	50	-
Carbon Monoxide Detectors	2	25	50	-
Repair service walk			500	b
Repair chimney masonry			500	c
Paint shed			600	a
Repair window in bathroom			200	f
Install screens	11	30	330	f
Replace trim 2nd floor			50	o
Extend hot water heater relief pipe			10	n
Turn on all utilities				
Replace broken treads on front steps			300	b
<i>Electrical section of report - prices not listed are covered in this price</i>			1500	h
Replace front GFCI				h
Rediaper Service Entrance gooseneck				h
Repair, replace, or remove AC				h
Repair 2 backyard building lights			50	i
Provide GFCI in bathroom				h
Remove hanging wire and seal opening from driveway-side bedroom				h
Provide switched lighting in upstairs bedroom				h
Provide switched lighting in upstairs storage room				h
Bond around the water meter				h
Provide 20A GFCI outlet within 6 feet of washer and dryer.				h
Provide 230V to dryer outlet or remove				h
In basement, remove all lampholders with builtin outlets				h
Provide a junction box for the connection of the flex and furnace supply				h
In the main electrical panel, protect all NM cable or reroute to exit the top of the panel.				h
At junction box next to the main electrical panel, protect all NM cables				h
Additional repairs not required by the City				
Provide door at upstairs stairway			400	f
Replace screen door closure			25	f
Unclog drains			300	i
Interior paint			1200	k
Water heater			600	n
Total			10240	

This form is issued under authority of
Section 211.27, MCL. Filing is voluntary.

**REQUEST FOR NONCONSIDERATION OF TRUE CASH VALUE OF
NORMAL REPAIR, REPLACEMENT AND MAINTENANCE EXPENDITURES**
(SECTION 27 OF P.A. 206 OF 1893, AS AMENDED)

☐ Initial Filing
☐ Supplemental Filing

For Year Ending
December 31, 2015

SEE INSTRUCTIONS ON REVERSE

Owner's Name Daniel Patru Claim No. _____
Address 25239 Andover Drive, Dearborn Hts MI 48125
Address of Property 5073 Winifred, Wayne MI 48184 Parcel Code No. 55024011069000
Enter Cost of:

(a) Outside painting (a) 600
(b) Repair or replace
1. Siding 1. _____
2. Roof 2. 3500
3. Porches 3. _____
4. Steps 4. 300
5. Sidewalks 5. 500
6. Drives 6. _____
TOTAL (b) 4300
(c) Repaint, repair or replace existing masonry (c) 500
(d) Replace awnings (d) _____
(e) Add or replace gutters or downspouts (e) _____
(f) Replace storm windows or doors 200 + 330 + 40 + 25 (f) 955
(g) Insulation or weatherstripping (g) _____
(h) Rewiring 1500 (h) 1500
(i) Replace
1. Plumbing fixtures 1. 10 + 50 + 300
2. Light fixtures 2. 50
TOTAL (i) 340
(j) Replace furnace (j) 65
(k) Interior
1. Repair plaster 1. _____
*Describe other decorating: 2. Inside painting 2. 1200
3. Other decorating* 3. _____
TOTAL (k) 1200
(l) Replace
1. Ceiling 1. _____
2. Wall 2. _____
3. Floor surface 3. _____
TOTAL (l) _____
(m) Remove partitions (m) _____
(n) Replace water heater (n) 600 + 10
(o) Replace dated interior woodwork (o) 50

I TOTAL EXPENDITURES FOR YEAR I 10140
II Expenditure which was part of a structural addition II 0
III Expenditure which was not part of a structural addition (line I minus line II) III 10140

Signature of Property Owner Daniel Patru Date 9/6/2018

TO BE COMPLETED BY ASSESSOR

Estimated True Cash Value After Repair, Replacement and Maintenance	Estimated True Cash Value Before Repair, Replacement and Maintenance	Estimated True Cash Value of Repair, Replacement and Maintenance for Nonconsideration
---	--	---

NOTE: Consider enhanced quality and physical condition, as is, **after** the repairs, etc., for this estimated value.

NOTE: Consider the quality and physical condition, as it was, **before** the repairs, etc., for this estimated value.

NOTE: This estimate is the difference between the estimated **before** value subtracted from the estimated **after** value.

This true cash value would be the basis for the assessed value after the residence has been sold, if these appraisals are up-to-date.

This true cash value is the basis for the assessed value on the roll, if these appraisals are up-to-date.

This true cash value is required to be entered in the assessment roll as nonconsideration value.

INSTRUCTIONS FOR COMPLETING FORM 865 (formerly L-4293)

(Section 27, General Property Tax Act, as amended by P.A. 415 of 1994)

1. The owner of property for which nonconsideration of the value of normal repair, replacement and maintenance expenditures is claimed should file this form with the assessor on or before December 31 of the year of the expenditure. **Note:** The initial filing may include expenditures since the date of purchase.
2. The assessor is required to determine that the expenditures were not for part of a structural addition, such as a garage, breezeway, family room, basement, bathroom, or completing the initial construction as opposed to replacing elements of an existing structure.
3. The owner's labor or a volunteer's labor are to be considered at a reasonable cost estimate.
4. This form is to be kept on file by the assessor for review by the board of review, the county equalization department, the State Tax Commission and the Michigan Tax Tribunal.

Legal Basis for nonconsideration:

P.A. 415 of 1994 amended Section 211.27 of Michigan Compiled Laws

(2) The assessor shall not consider the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property is sold. For the purpose of implementing this subsection, the assessor shall not increase the construction quality classification or reduce the effective age for depreciation purposes, except if the appraisal of the property was erroneous before nonconsideration of the normal repair, replacement, or maintenance, and shall not assign an economic condition factor to the property that differs from the economic condition factor assigned to similar properties as defined by appraisal procedures applied in the jurisdiction. The increase in value attributable to the terms included in subdivisions (a) to (o) that is known to the assessor and excluded from true cash value shall be indicated on the assessment roll. This subsection applies only to residential property. The following repairs shall be considered normal maintenance if they are not part of a structural addition or completion:

The law then lists 15 specific repairs, replacements or items of maintenance which are to be considered as normal maintenance. Those items, (a) through (o), are listed on the front of this form.

INSTRUCTIONS TO ASSESSOR FOR PROCESSING FORM 865 (formerly L-4293)

1. The assessor is required to estimate the true cash value of the property both before and after the expenditures.
2. The assessor shall not increase the construction quality classification nor decrease the effective age for depreciation purposes in determining the value of the residential property for the "before appraisal."
3. Originally the nonconsideration will not reduce the property assessment below the assessment for the preceding year except if the appraisal was erroneous and excessive before the expenditures.
4. The economic condition factor or an overall adjustment based on tentative equalization multipliers determined by the county or state may be applied to the normally repaired or maintained property in the manner as to other similar properties.
5. State equalized valuation multipliers resulting from the action of the county board of commissioners and state equalization are required to be applied to all assessments.



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Daniel Patru,
Petitioner,

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

MAHS Docket No. 16-001828

v

Case Type: Valuation

City of Wayne,
Respondent.

Presiding Judge
Marcus L. Abood

FINAL OPINION AND JUDGMENT

Location of Hearing: Pontiac, MI
Hearing Held on: October 18, 2018
Appearances on Behalf of Petitioner: Daniel Patru (telephonic)
Appearances on Behalf of Respondent: Sara Gilo (telephonic)

SUMMARY OF JUDGMENT

The subject property's true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV"), for the tax year(s) at issue, shall be as follows:

Parcel Number: 82-55-024-01-1069-000

Year	TCV	SEV	TV
2016	\$50,400	\$25,200	\$25,200

PROCEDURAL HISTORY

Petitioner was required to protest the subject property's assessment to the Board of Review (BOR).

Petitioner protested the subject property's assessment to the 2016 March BOR.

Petitioner filed its Petition with the Tribunal on May 31, 2016, and Respondent filed its Answer on July 11, 2016. A hearing was conducted in this matter on December 1, 2016 and a proposed opinion and judgment (POJ) was rendered on December 1, 2016. Subsequently, Petitioner filed exceptions on December 21, 2016 and a FOJ was rendered on January 26, 2017. Petitioner then filed a Motion for Reconsideration on

February 16, 2017 and a MTT order denied Petitioner's motion on March 6, 2017. A Claim of Appeal was filed with the Court of Appeals (March 21, 2017) which remanded and reversed the MTT decision on May 8, 2017.

ISSUES AND APPLICABLE LAW

The issues in this matter are:

1. Whether the subject property is assessed in excess of 50% of its TCV.

"The petitioner has the burden of proof in establishing the true cash value of the property."¹

The assessment of real property in Michigan shall not exceed 50% of its true cash value.² "True cash value" means "the usual selling price . . ."³ "True cash value" means "fair market value."⁴

The Tribunal is required to make an independent determination of true cash value.⁵ "[T]he tribunal is not bound to accept either of the parties' theories of valuation. It may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination."⁶

The Tribunal is required to select the valuation methodology that is accurate and bears a reasonable relationship to the property's true cash value.⁷

2. Whether the TV exceeds the amount provided by MCL 211.27a.

MCL 211.27a provides that a property's taxable value is the lesser of the property's state equalized value or capped taxable value, and a property's capped taxable value is, absent a transfer of ownership, determined mathematically by taking into consideration the prior tax year's taxable value, physical losses to the property, the lesser of the rate of inflation or 5%, and physical additions to the property, including omitted property (i.e., property not previously assessed).

SUMMARY OF EVIDENCE

A. Petitioner's Evidence

Petitioner's contentions of TCV, SEV, and TV:

¹ MCL 205.737(3); see also *Kern v Pontiac Twp*, 93 Mich App 612, 620; 287 NW2d 603 (1979).

² Michigan Const 1963, art IX, sec 3.

³ MCL 211.27(1).

⁴ *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

⁵ See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992).

⁶ *Id.* at 356.

⁷ See *Safran Printing Co v Detroit*, 88 Mich App 376; 276 NW2d 602 (1979).

Parcel Number: 82-55-024-01-1069-000

Year	TCV	SEV	TV
2016	\$32,000	\$16,000	\$16,000

Petitioner offered the following exhibits:

1. Evidence, filed on May 31, 2016
 - a. 2016 Board of Review Decision.
2. Evidence, filed on September 7, 2016
 - a. Sales history summary – subject property.
 - b. MLS print-out – subject property.
3. Evidence, filed on September 14, 2016.
 - a. MLS print-out – subject property.
 - b. Subject interior photographs.
 - c. Comparable Sales MLS print-outs with interior photographs.
4. Evidence, filed on September 6, 2018
 - a. List of Repairs.
 - b. MLS print-out – subject property.
 - c. Sales history summary – subject property.
 - d. STC Bulletin No. 7 dated June 11, 2014.
 - e. Request for Non-consideration of True Cash Value of Normal Repair, Replacement and Maintenance Expenditures.
 - f. List of Repairs.
 - g. City of Wayne – City Certification Guidelines.
 - h. Explanatory Letter dated September 6, 2018.

Based on the pleadings, admitted exhibits, and sworn testimony, Petitioner claims:

Petitioner referenced his evidence including a good explanatory letter as well as his list of repairs made to the property. Petitioner acknowledged that the property was listed in April 2013, that there were 2 offers which fell through and that the property then went off the market. The subsequent listing price was \$29,900 which was an increase from the original listing price. Petitioner noted that Respondent inspected the house as part of Petitioner's purchase of the property. Petitioner contends part of his repairs/expenses to the property were required by the city. Petitioner asserts this appeal is based on a Mathieu Gast issue of normal repairs to the property and referenced STC Bulletin No. 7.

On rebuttal, Petitioner referred to the relevant statute which says that the assessor cannot equate assessments with normal repairs made to the property. Petitioner believes Respondent must consider the property's value before repairs; Respondent should have before and after valuations of the property. Further, Petitioner does not see the relevance of dates in relation to his repairs.

B. Respondent's Evidence

The property's TCV, SEV and TV, as confirmed by the Board of Review, for the tax years at issue:

Parcel Number: 82-55-024-01-1069-000

Year	TCV	SEV	TV
2016	\$50,400	\$25,200	\$25,200

Respondent offered the following exhibits:

1. Evidence, filed on July 11, 2016
 - a. 2016 Subject Property Record Card.
 - b. Petition to Board of Review.
2. Evidence, filed on September 13, 2018
 - a. Sales Comparison Adjustment Grid.

Based on the pleadings, admitted exhibits, and sworn testimony, Respondent claims:

Respondent argues that the change in the property assessment was not based on Petitioner's repairs but based on the purchase of the property in 2015 which uncapped the assessment for 2016. Respondent assessed the property as "average" condition as of December 31, 2015. The changes were not substantial and were based on the rate of inflation.

On rebuttal, Respondent argues mass appraisal does not account for properties one-by-one. In other words, properties are assessed uniformly and Respondent assumes properties are in "average" condition.

FINDINGS OF FACT

The following facts were proven by a preponderance of the evidence:

1. The subject property is located at 5073 Winifred Street, in the county of Wayne and within the city of Wayne.
2. The subject property is classified as Residential and has a principal residence exemption of 0% for the tax year at issue.
3. The average level of assessment in effect for the property's classification is 50%.
4. The subject property is developed with a 1.5-story, 1,020 square foot dwelling, no car storage.
5. Petitioner purchased the subject property in August 2015 for \$32,000 which was more than the listing price.
6. Petitioner made approximately \$10,000 of repairs to the subject property.
7. Petitioner's repairs are "normal" repairs as denoted by statutory reference.
8. Respondent granted a certificate of occupancy for the subject property before the December 31, 2015 tax day.

9. Petitioner rents the subject property for \$950 per month.
10. The subject's sale transaction in August 2015 uncapped the assessment for the 2016 tax year.
11. Petitioner submitted valuation evidence in the form of unadjusted, unapplied MLS sales print-outs.
12. Respondent submitted a valuation disclosure in the form of a sales comparison adjustment grid as well as a mass appraisal cost approach.
13. Respondent's 2016 assessment was not based on Petitioner's "normal" repairs to the subject property.

CONCLUSIONS OF LAW

1. The following authority and reasoned opinion supports the Tribunal's determination:

A proceeding before the Tax Tribunal is original, independent, and de novo.⁸ The Tribunal's factual findings are to be supported by competent, material, and substantial evidence.⁹

Further, "[i]t is the duty of the [T]ax [T]ribunal to select the approach which provides the most accurate valuation under the circumstances of the individual case."¹⁰ In doing so, the Tribunal shall consider the three most common approaches to valuation - the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach.¹¹

As noted in the Findings of Fact, Petitioner's property assessment did not change by virtue of the repairs Petitioner made to subject property. To the contrary, the subject property's assessment for 2016 changed based on the sale transaction of the subject property in August 2015. Second, Respondent's determination of the subject's "average" condition was made as of December 31, 2015.¹² This date is completely separated from the issuance of the certificate of occupancy which was granted to Petitioner's property. The condition of the subject property (as of December 31, 2015) is integral to the market value as of that date. Petitioner undertook repairs to the property to comply with the city's ordinance and to ready the property as a tenant rental. Third, Petitioner's MLS print-out information for the subject and its comparable sales illustrate properties in "average" condition. Specifically, the subject and comparable sales' interior photographs do not depict neglected or vandalized properties. Further, the subject's interior photographs

⁸ MCL 205.735a(2).

⁹ See *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

¹⁰ *Antisdale* at 277; citing *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170; 141 NW2d 699 (1966).

¹¹ See *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Pantlind Hotel Co*, *supra*.

¹² Petitioner's insistence that Respondent should have performed before and after valuations around Petitioner's repairs is disingenuous given Petitioner's faint reference to its own raw, unadjusted, unapplied sales data.

(before Petitioner's normal repairs) signify a property that is livable and habitable with reasonable marketability and appeal. Lastly, Petitioner did not contend that his purchase of the subject property was an arm's length sale transaction under the definition of *market value*.¹³ The grantor in this bank sale transaction was the U.S. Department of Housing and Urban Development (HUD). Petitioner's purchase price is not the presumptive determination of market value. Therefore, Petitioner's contentions related to his purchase price and "normal" repairs are given no weight or credibility in the determination of market value for the subject property.

Respondent's sales comparison adjustment grid is a conventional presentation for a comparative sales analysis. First, all five comparable sales are similar to the subject in dwelling square footage, style, year built, siding and condition. Second, adjustments to the sales are minimal; the most significant adjustment is for the difference in car storage. Sale 1 is similar to the subject in the lack of car storage. Sale 3 is similar to the subject in central air conditioning. Sale 4 is the closest sale to the December 31, 2015 tax day. Second, Respondent's sales adjustment grid does not include a line-item entry for repairs. This comparative analysis is devoid of any relationship to Petitioner's "normal" repairs to subject property which occurred before the issuance of a certificate of occupancy and the December 31, 2015 tax day. Therefore, a reasoned and reconciled determination of market value is obtainable from Respondent's sales. Respondent's sales comparison approach is the most reliable and credible valuation evidence which also supports the assessment and 2016 uncapping of the subject property.

2. Based upon the findings of fact and conclusions of law, the property's true cash, state equalized, and taxable values for the tax year(s) at issue are as listed in the Summary of Judgment section of this Final Opinion and Judgment.

JUDGMENT

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue shall be as set forth in the Summary of Judgment section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax year(s) at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.¹⁴ To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

¹³ Appraisal Institute, *The Dictionary of Real Estate Appraisal* (Chicago, 6th ed, 2015), p 141.

¹⁴ See MCL 205.755.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, and (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.¹⁵ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.¹⁶ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.¹⁷ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.¹⁸

¹⁵ See TTR 261 and 257.

¹⁶ See TTR 217 and 267.

¹⁷ See TTR 261 and 225.

¹⁸ See TTR 261 and 257.

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."¹⁹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.²⁰ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.²¹

Entered: DEC 04 2018

By Walter R. Wood

¹⁹ See MCL 205.753 and MCR 7.204.

²⁰ See TTR 213.

²¹ See TTR 217 and 267.

State of Michigan
Department of Licensing and Regulatory Affairs
Michigan Administrative Hearing System
Michigan Tax Tribunal
Small Claims Division

Daniel Patru,
Petitioner,

MTT Docket No. 16-001828

v

2nd Motion for Reconsideration
Proof of Service

City of Wayne,
Respondent

TranInfo:4606 23283578-1 12/10/18
Chk#: 4648 Amt: \$25.00
ID: DANIEL PATRU

2nd Motion for Reconsideration

I. Failure to apply MCL 211.27(2)

This Motion to Reconsider addresses the second Final Opinion in this case. The Michigan Court of Appeals, case no. 337547, reversed the first Final Opinion because it did not apply MCL 211.27(2). The Court of Appeals discussed the error this way on page 5:

The hearing referee incorrectly interpreted MCL 211.27(2) by concluding that because the repairs were done to a property in substandard condition, they did not constitute normal repairs. As a result, **contrary to MCL 211.27(2), the referee considered the increase in value attributed to the repairs when determining the property's TCV. Stated differently, the referee's finding that the property's TCV was \$50,400 was based on its assessment of the property's value after it had been repaired. This was improper because MCL 211.27(2) expressly provides that certain repairs constitute normal repairs so long as they are not part of a structural addition or completion.** Nothing in MCL 211.27(2) provides that the repairs listed in subdivisions (a) through (o) are not normal repairs in the event that they are performed on a substandard property. Thus, by reading a requirement into the statute that was not stated by the legislature, the trial court erred by interpreting and applying MCL 211.27(2). See *Mich Ed Ass'n v Secretary of State (On Rehearing)*, 489 Mich 194, 218; 801 NW2d 35 (2011) (stating that nothing will be read into a clear statute that is not within the manifest intention of the Legislature as derived from the language of the statute itself). (Emphasis mine.)

Like its predecessor this Final Opinion fails to apply MCL 211.27(2). Unlike the first Final Opinion, the second Final Opinion does not even attempt at a legal justification for ignoring the statute. It acknowledges that "Petitioner's repairs are 'normal' repairs" (Final Opinion page 4, Findings of Fact 7) and yet still adopts a valuation whose analysis is "devoid of any relationship to Petitioner's 'normal' repairs ... which occurred before ... tax day." (Final Opinion page 6, 2nd paragraph)

Petitioner respectfully asks that the Final Opinion be corrected to apply MCL 211.27(2).

II. Miscellaneous Errors

Besides the failure to apply MCL 211.27(2), there are several other errors in the Final Opinion, some of which may be Petitioner's own fault or at least not the fault of the Judge. The hearing was conducted by phone, there was no transcript made, and it is possible that the Petitioner misspoke or was misunderstood.

Listing History

The Final Opinion says that the listing price was \$29,900 when Petitioner bought it for \$32,000 (page 3 2nd paragraph from the bottom and page 4, Findings of Fact 5.)

Actually the property's MLS history sheet, submitted as evidence (Final Opinion page 3 evidence 4c) shows that Petitioner paid the current list price of \$32,000. The following table shows the MLS history:

Date	MLS History
4/3/2013	Listed for \$29,900 with Jeffrey Packer of Coldwell Banker
5/3/2013	Offer accepted
10/23/2013	No sale, Property withdrawn from market
6/17/2015	Listed for \$32,000 with Donald Castelli of Century 21 Castelli
6/29/2015	Offer accepted
7/03/2015	Back on the market
7/06/2015	Offer accepted
8/19/2015	Sold for \$32,000

Relevant Statute

The Final Opinion says on page 3, last paragraph, that "On rebuttal, Petitioner referred to the relevant statute which says that the assessor cannot equate assessments with normal repairs made to the property." This makes no sense. The relevant statute, MCL 211.27(2), says, essentially, that the assessor cannot consider the value of normal repairs when determining the true cash value for assessment purposes.

Relevance of Dates in Relation to Repairs

The Final Opinion on page 3, last sentence, says that "Further, Petitioner does not see the relevance of dates in relation to his repairs." When asked by the Tribunal Judge if he believes that his repairs "trumps" everything, including assessment dates and uncapping dates, Petitioner replied that the statute (MCL 211.27(2)) does not mention dates at all. (Whenever she is assessing, the assessor may not consider normal repairs until after the property is sold.)

Petitioner's Rebuttal of Respondent's Evidence

The Final Opinion on page 3, Petitioner's Evidence, and page 5, Findings of Fact 11, does not mention that Petitioner explicitly said that he did not contest Respondent's after-repair valuation on Tax Day. Petitioner said that he really did not care what Respondent thought the property was worth after the repairs, because he should be taxed based on the property's before-repair value. Petitioner's letter of 9/6/2018 likewise says: "I am not arguing that the City's assessment of my house is wrong. My argument is that the city's assessment is an 'after-repair' appraisal which takes into consideration normal repairs performed after I bought the house." (last paragraph)

Rent

The Final Opinion on page 5, Findings of Fact 9, says that the rent is \$950. The rent is \$930. Petitioner misspoke at the hearing.

Respondent's Assessment Not Based on Normal Repairs

The Final Opinion on page 5, Findings of Fact 13, says "Respondent's 2016 assessment was not based on Petitioner's "normal" repairs to the subject property." This

is unclear because it could be interpreted to mean that that Respondent applied MCL 211.27(2). Petitioner suggests that Finding of Fact 13 be rewritten as: "Respondent's 2016 assessment did not apply MCL 211.27(2). The assessment considered only the value of the property in average or repaired condition, as it was on tax day."

Value of the Property Before Repairs

The Final Opinion does not make a finding of fact as to the value of the property before it was repaired. This is important because application of MCL 211.27(2) requires before-repair and after-repair appraisals.

The only direct evidence in the case regarding the before-repair value is the MLS listing sheet and history of the property itself. This evidence was unrebutted. Respondent did not present evidence that the property's sale was not a market sale.

Conclusions of Law

The Final Opinion's discussion of the Petitioner's case in the Conclusions of Law section is contained in one paragraph on pages 5 and 6. To support its conclusion that "Petitioner's contentions related to his purchase price and 'normal' repairs are given no weight or credibility in the determination of market value", the paragraph gives four reasons. In summary they are:

1. The property's assessment for 2018 changed based on the sale transaction in August 2015 and not based on Petitioner's repairs.
2. The assessment considered the property in average condition as it was on December 31, 2015, tax day.
3. The MLS photographs submitted by Petitioner show the property in average condition, not neglected or vandalized.
4. The property's sale was not "an arm's length sale transaction" because the Petitioner has not claimed it so and because the seller was HUD.

Reason one is wrong and irrelevant. Assessments are done yearly. They are not triggered by sales. "The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 ..." MCL 211.2(2). Perhaps what is meant is "uncapping" instead of assessment. Petitioner has no issue with uncapping and this case is not about uncapping.

Petitioner is not contesting reason two. At both the hearing and in written evidence Petitioner has stated that the assessment on tax day was a valid after-repair assessment. But reason two does not invalidate MCL 211.27(2). When normal repairs have been done, the assessor must remove their contribution to the assessed value.

Reason three proves nothing relevant. The fact that MLS photos make the house look good does not mean 1) that the assessor may ignore MCL 211.27(2) (MLS photos do not determine the assessor's legislative duties), 2) that the house did not need repairs (Respondent, far from denying that repairs were needed, was the authority actually requiring the repairs), or 3) that the house was listed and sold for a non-market price by incompetent realtors (good photos are a sign of competence).

Reason four is defective. Regarding whether Petitioner claimed that the sale was specifically "an arm's length transaction", Petitioner does not remember whether he used those specific words, but whole point of providing evidence of professional marketing efforts is to show that the property sale was a market sale. Petitioner has contended this point at both hearings and in written evidence. Whether the sale was a fair market sale or an arm's length sale transaction or any equivalent term does not depend on pleading some magic phrase, but on the underlying evidence.

The professional marketing and sale of a property is evidence of a market sale. To overcome this evidence, some counter evidence should be presented. It is not enough to simply say the seller is HUD. No evidence has been presented that the sale was phony, or not arm's length, or that the licensed brokers and their agents who marketed the property were incompetent or unmotivated to do their professional duty to fetch the highest price for their client.

Even if reason four were true, and the sale was not a market sale, this does not excuse disobeying MCL 211.27(2). It would only make determining the before-repair value harder.

Therefore none of the reasons given in the Final Opinion's Conclusions of Law are valid to excuse the assessor from applying MCL 211.27(2) or to otherwise contradict Plaintiff's contentions regarding his purchase price, normal repairs, or correct assessed value.

Footnote 12

The Final Opinion at footnote 12, page 5, says: "Petitioner's insistence that Respondent should have performed before and after valuations around Petitioner's repairs is **disingenuous** given Petitioner's faint reference to its own raw, unadjusted, unapplied sales data." (emphasis mine) Google shows synonyms of disingenuous as: insincere, dishonest, untruthful, false, deceitful, duplicitous, lying, mendacious; hypocritical. The idea of before and after appraisals is not Petitioner's invention. It comes directly from case law and the State Tax Commission. Petitioner would like this Tribunal Judge to explain why it is disingenuous for him to insist that Respondent follow the law.

Petitioner would also like an explanation as to what this Tribunal Judge means by "Petitioner's faint reference". Petitioner has submitted MLS data into evidence regarding the comparables used by Respondent to determine the after-repair valuation. This is Petitioner's regular practice in all his cases before the Tribunal. Assessors typically do not provide MLS data for their comparables and having this data has sometimes proved useful. But in the latest hearing Petitioner has not relied on the MLS data for comparables, and he has stated both in the hearing and in his letter of 9/6/2018 that he is not contesting Respondent's after-repair valuation. With respect to the before-repair valuation, Petitioner is relying solely on the actual sale of the subject property after it was well exposed in the MLS to the market by professional, state licensed brokers who have an ethical and legal obligation to obtain the highest price for the seller. So Petitioner has made either no use of MLS data (for after-repair valuation) or full use of MLS data (for before-repair valuation). Petitioner has not made "faint reference" to MLS data.

III. Prayer for Relief

For the reasons stated above, Petitioner respectfully requests that the Tribunal reconsider and revise its Final Opinion.

Proof of Service

I certify that on 12/5/2018 I served a copy of this motion upon Respondent by first class mail to:

City of Wayne, Assessments,, Attn. Sara Gilo
3355 South Wayne Road
Wayne, MI 48184

Respectfully submitted,
/s/ Daniel Patru, P74387

Daniel Patru

FROM:

Daniel Patry
3309 Solway
Knoxville TN 37931

TO:

Michigan Tax Tribunal
PO BOX 30232
Lansing MI 48909

IT US AT USPS.COM
ER FREE SUPPLIES ONLINE

PS00001000014

OD: 12.5 x 9.5



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U.S. POSTAGE
\$6.70
PM 3-Day
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Date of sale
12/05/18
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PRIORITY MAIL 3-Day®

EXPECTED DELIVERY DAY: 12/10/18

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SHIP TO:

PO BOX 30232
LANSING MI 48909-7732

USPS TRACKING NUMBER



9505 5066 8066 8339 0187 30



UNITED STATES
POSTAL SERVICE





RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Daniel Patru,
Petitioner,

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

v

MAHS Docket No. 16-001828

City of Wayne,
Respondent.

Presiding Judge
David B. Marmon

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

On December 5, 2018, Petitioner filed a motion requesting that the Tribunal reconsider the Final Opinion and Judgment ("FOJ") entered in the above-captioned case on December 4, 2018. In the motion, Petitioner states, in pertinent part, that the Tribunal failed to apply MCL 211.27(2) as directed by the Court of Appeals. Application of MCL 211.27(2) requires before-repair and after-repair appraisals, and the only evidence of the before-repair value was the MLS listing sheet provided by Petitioner. The assessment of the property was not triggered by a sale as stated in the FOJ, that the photographs of the house make it look good does not mean Respondent may ignore MCL 211.27(2), and Petitioner provided evidence that his sale was a market sale.

The Tribunal has considered the Motion and the case file and finds that this case was heard on remand from the Court of Appeals.¹ The Court held that the Hearing Referee for the previous hearing erred in concluding that the repairs were not normal repairs because they were performed on a property in substandard condition.² The Court remanded to the Tribunal "to determine whether the repairs were normal repairs within the meaning of MCL 211.27(2)."³ The FOJ made a specific finding of fact that the repairs were "normal repairs" as stated in MCL 211.27(2).⁴ However, the Tribunal also made a finding of fact that "Respondent's 2016 assessment was *not* based on Petitioner's 'normal' repairs to the subject property."⁵ Rather, as noted in the FOJ, "the subject property's assessment for 2016 changed based on the sale transaction of the subject property in August 2015."⁶ Although the Tribunal concludes that the plain language of MCL 211.27(2) prevents an assessor from increasing the true cash value of a property "that is a result of expenditures for normal repairs," and does not speak to

¹ See *Patru v City of Wayne*, unpublished per curiam opinion of the Court of Appeals, issued May 8, 2018 (Docket No. 337547).

² *Id.* at 5.

³ *Id.*

⁴ Final Opinion and Judgment ("FOJ"), December 4, 2018, p 4.

⁵ FOJ, p 5 (emphasis added).

⁶ FOJ, p 5.

whether a property has been uncapped, the Tribunal nonetheless concludes that the FOJ did not commit palpable error in its final conclusion.

To begin, there is nothing in MCL 211.27(2) requiring “before repair” and “after repair” appraisals when determining whether an assessment includes the true cash value of the normal repairs.⁷ Rather, in a proceeding before the Tribunal, Petitioner bears the burden of proof.⁸ Further, the Tribunal cannot conclude that the FOJ erred when it concluded that Petitioner’s contentions concerning the purchase price, i.e. the true cash value before repairs, was entitled to no weight or credibility. The selling price of a property is not is presumptive true cash value.⁹ Despite Petitioner’s assertions that the marketing efforts for the subject show that the sale was a “market sale,” the home was being sold by the U.S. Department of Housing and Urban Development (“HUD”). Because the subject was being sold by a government entity, that entity’s motivation may not have been to receive market value for the property.

The Tribunal also concludes that it was not a palpable error to conclude that the assessment did not consider the “normal repairs.” This is supported by the fact that the property record card indicates that Respondent believed the true cash value of the subject to be \$48,000 *before Petitioner purchased the property*¹⁰ and \$50,400 as of December 31, 2015, after the repairs were complete. An increase of \$2,400 in true cash value (5%) is easily attributable to inflation and increases in the market. In addition, as stated by the FOJ, the interior photographs depict a property in average condition before Petitioner acquired it. Although not necessarily evidence of true cash value, this evidence supports the property’s assessment as a property in average condition both at the time Petitioner acquired it and after he completed the normal repairs. In other words, the record evidence supports the conclusion that the assessment did not consider the increase in true cash value that was the result of normal repairs.

⁷ MCL 211.27(2) allows an assessor to increase “construction quality classification or reduce the effective age for depreciation purposes” if the “appraisal of the property was erroneous before non-consideration of the normal repair.” It also prevents an assessor from assigning an economic condition factor to the property that differs from the economic condition factor assigned to similar properties as defined by appraisal procedures applied in the jurisdiction. Neither situation is at issue here. Although State Tax Commission Bulletin No. 7 of 2014 requires “before” and “after” appraisals, such appraisals are only required “[i]f the true cash value of non-consideration items is shown on the assessment roll. . . .” As described herein, the true cash value of the non-consideration items is *not* shown on the assessment roll and the STC requirement does not apply. In addition, STC guidance lacks the force of law. *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 103; 754 NW2d 259, 267 (2008).

⁸ See *Great Lakes Div of Nat’l Steel Corp v City of Ecorse*, 227 Mich App 379, 389; 576 NW2d 667 (1998).

⁹ MCL 211.27(5).

¹⁰ In this regard, the Tribunal notes that the property record card shows an assessed value in 2015 of \$24,000, and because assessed value is 50% of true cash value, see MCL 211.27a(1), this means that Respondent believed the true cash value of the subject was \$48,000 as of December 31, 2014. See MCL 211.2(2).

Given the above, Petitioner has failed to demonstrate a palpable error relative to the FOJ that misled the Tribunal and the parties and that would have resulted in a different disposition if the error was corrected.¹¹ Therefore,

IT IS ORDERED that Petitioner's Motion for Reconsideration is DENIED.

This Order resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a claim of appeal with the Michigan Court of Appeals.

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal of right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."¹² A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.¹³ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.¹⁴

By  _____

Entered: December 14, 2018
wmm

¹¹ See MCR 2.119.

¹² See MCL 205.753 and MCR 7.204.

¹³ See TTR 213.

¹⁴ See TTR 217 and 267.

STATE OF MICHIGAN
COURT OF APPEALS

DANIEL PATRU,

Petitioner-Appellant,

v

CITY OF WAYNE,

Respondent-Appellee.

UNPUBLISHED

May 8, 2018

No. 337547

Tax Tribunal

LC No. 16-001828-TT

Before: SHAPIRO, P.J., and M. J. KELLY and O'BRIEN, JJ.

PER CURIAM.

Petitioner, Daniel Patru, appeals by right the Tax Tribunal's order that established the true cash value (TCV) at \$50,400 for the 2016 tax year on a certain residential property owned by Patru in Wayne County. For the reasons stated below, we reverse and remand for rehearing.

I. BASIC FACTS

In August 2015, Patru purchased a residential property in Wayne County for \$32,000 in a bank sale. It is undisputed that, when he purchased the property, it was in substandard condition and required numerous repairs to make it livable. Patru completed the required repairs on the property as of December 31, 2015. Thereafter, respondent, the City of Wayne, determined that the TCV for his property was \$50,400, rather than the \$32,000 purchase price. Patru appealed the decision, first to the Board of Review, and then to the Tax Tribunal. Patru contended that under MCL 211.27(2), the City could not consider "the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance." In response, the City appears to have maintained that the TCV of the property reflected its value as a fully repaired property, and it presented a sales-comparison analysis that included no adjustments for the substandard condition of the property at the time of sale.

In October 2016, a hearing referee heard the parties' arguments and evidence in support of their respective positions. Relevant to this appeal, the referee found that the purchase price of \$32,000 was not the presumptive true cash value, and it found that the seller *may* have been under financial duress, causing the property to sell for less than market value. The referee also recognized that the property was in need of repair when it was purchased. The referee concluded that:

[T]he subject's purchase price reflected the condition of the subject property prior to the repairs and the repairs were completed by tax day. Petitioner claims that under MCL 211.27(2) we should not increase the subject's true cash value for normal repairs and maintenance until the subject property is sold. However, Petitioner even admitted that the subject was in substandard condition at the time of purchase and the city required that the repairs be made. Therefore, the Tribunal does not find that the repairs completed by Petitioner were normal repairs and maintenance as noted by the statute. Instead, the subject was in substandard condition at the time.

Thus, the referee determined that if a property is purchased in substandard condition, any repairs done on the property to bring it into good repair do not constitute normal repairs, maintenance, or replacement within the meaning of MCL 211.27(2), so the increase in TCV resulting from those repairs can be immediately considered in determining the TCV for assessment purposes. The referee then determined that the TCV for the property was \$50,400.

Patru filed exceptions, arguing that the repairs he conducted were normal repairs and directing the Tribunal to the plain language of MCL 211.27(2). Patru also submitted a spreadsheet that detailed every repair he had performed on the property and the approximate cost of each. In reviewing the exceptions, however, the Tribunal focused on the fact that the spreadsheet was "new evidence" that had not been previously submitted to the Tribunal, refused to consider the new evidence, and concluded that, although the referee's statement of law was not necessarily correct, Patru had nevertheless failed to establish that the repairs he conducted were normal repairs within the meaning of the statute. Accordingly, the Tribunal upheld the referee's determination.

Patru moved for reconsideration, contending that he had presented sworn testimony and additional documentary evidence at the hearing in support of his argument that the repairs were "normal" repairs under MCL 211.27(2). The Tribunal denied the motion. In doing so, the Tribunal did not consider that Patru had offered evidence at the hearing in support of his argument that MCL 211.27(2) applied. Instead, the Tribunal stated that Patru had failed to establish the TCV for the property before repairs. The Tribunal reasoned that, as a result, it was "unable to conclude that the valuation adopted by the Hearing Referee in the Proposed Opinion and Judgment and the Tribunal in the Final Opinion and Judgment improperly includes value for normal maintenance and repairs."

This appeal follows.

II. MCL 211.27(2)

A. STANDARD OF REVIEW

Patru argues that the Tribunal erred by determining the TCV for his property to be \$50,400 for the 2016 tax year. “Absent fraud, this Court’s review of a Tax Tribunal decision is limited to determining whether the tribunal made an error of law or adopted a wrong legal principle.” *Meijer, Inc v Midland*, 240 Mich App 1, 5; 610 NW2d 242 (2000). We review de novo the proper interpretation and application of a statute. *Brecht v Hendry*, 297 Mich App 732, 736; 825 NW2d 110 (2012). When construing a statute containing a tax exemption, we must construe it narrowly and in favor of the taxing authority. *Moshier v Whitewater Twp*, 277 Mich App 403, 409; 745 NW2d 523 (2007). At the same time, we will not allow a “strained construction adverse to the Legislature’s intent.” *Id.* (quotation marks and citation omitted).

B. ANALYSIS

Under MCL 211.27(2), an assessor cannot consider “the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property is sold.” To aid the assessor in determining what constitutes a normal repair, the Legislature set forth a list of repairs that are “considered normal maintenance if they are not part of a structural addition or completion.” See MCL 211.27(2).¹

¹ In relevant part, MCL 211.27(2) provides:

The following repairs are considered normal maintenance if they are not part of a structural addition or completion:

- (a) Outside painting.
- (b) Repairing or replacing siding, roof, porches, steps, sidewalks, or drives.
- (c) Repainting, repairing, or replacing existing masonry.
- (d) Replacing awnings.
- (e) Adding or replacing gutters and downspouts.
- (f) Replacing storm windows or doors.
- (g) Insulating or weatherstripping.
- (h) Complete rewiring.
- (i) Replacing plumbing and light fixtures.

In this case, when Patru purchased the house it was in substandard condition and required numerous repairs to bring it into a livable condition. Moreover, it is undisputed that the repairs were actually completed. However, there is a question as to whether the repairs that were completed were normal repairs within the meaning of MCL 211.27(2). The record reflects that Patru provided evidence in support of his claim at the hearing before the referee, in support of his exceptions to the referee's proposed opinion and judgment, and in support of his motion for reconsideration. In particular, the referee's proposed opinion and judgment reflects that:

At the hearing, [Patru] presented two pages of repairs that the city required to be completed. [Patru claimed that the] subject's purchase price reflected the fact that the subject needed repairs. [Patru] stated that he put approximately \$10,000 into the subject property and did most of the work himself. The work involved carpentry, electrical, and cement. The repairs were completed and the property had a certificate of occupancy by December 31, 2015.

* * *

[Patru] stated that under MCL 211.27(2) the assessor shall not consider the normal repairs or maintenance until the property is sold. [Patru] presented two pages of repairs that the city required to be repaired on the subject property before allowing occupancy. [Patru] stated that about two weeks after moving in, the subject's basement flooded. [Patru] concluded by stating that the city cannot assess the repairs to the subject property until the property is sold pursuant to the statute.

Additionally, with his exceptions to the referee's proposed opinion and judgment, Patru submitted a spreadsheet detailing the repairs he completed, which, we note, included repairs that, under MCL 211.27(2), constitute normal repairs so long as they are not part of a structural addition or completion.²

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- (j) Replacing a furnace with a new furnace of the same type or replacing an oil or gas burner.
 - (k) Repairing plaster, inside painting, or other redecorating.
 - (l) New ceiling, wall, or floor surfacing.
 - (m) Removing partitions to enlarge rooms.
 - (n) Replacing an automatic hot water heater.
 - (o) Replacing dated interior woodwork.

² For example, Patru repaired the roof, which is a normal repair under MCL 211.27(2)(b), repaired chimney masonry, which is a normal repair under MCL 211.27(2)(c), repaired a service

The hearing referee incorrectly interpreted MCL 211.27(2) by concluding that because the repairs were done to a property in substandard condition, they did not constitute normal repairs. As a result, contrary to MCL 211.27(2), the referee *considered* the increase in value attributed to the repairs when determining the property's TCV. Stated differently, the referee's finding that the property's TCV was \$50,400 was based on its assessment of the property's value after it had been repaired. This was improper because MCL 211.27(2) expressly provides that certain repairs constitute normal repairs so long as they are not part of a structural addition or completion. Nothing in MCL 211.27(2) provides that the repairs listed in subdivisions (a) through (o) are not normal repairs in the event that they are performed on a substandard property. Thus, by reading a requirement into the statute that was not stated by the legislature, the trial court erred by interpreting and applying MCL 211.27(2). See *Mich Ed Ass'n v Secretary of State (On Rehearing)*, 489 Mich 194, 218; 801 NW2d 35 (2011) (stating that nothing will be read into a clear statute that is not within the manifest intention of the Legislature as derived from the language of the statute itself).

In its final opinion and judgment, the Tribunal recognized that the referee erred in its interpretation of MCL 211.27(2); however, it nevertheless upheld the determination of TCV. The Tribunal reasoned that because the spreadsheet detailing the repairs completed on the property had not been submitted before the hearing, it had no obligation to consider that evidence, so it concluded that Patru failed to establish that the repairs constituted normal repairs. However, as stated above, Patru did present evidence at the hearing in support of his claim that MCL 211.27(2) applied. The referee did not fully evaluate that evidence—which included testimony—because it misapprehended how to properly apply MCL 211.27(2).

Further, because the hearing was not transcribed, we cannot determine whether the evidence Patru provided at the hearing was reflective of the information on the spreadsheet submitted with his exceptions. If the testimony provided was an oral recitation of the information included on the spreadsheet, then Patru presented testimony sufficient to establish that at least some of the repairs constituted normal repairs under MCL 211.27(2), and so the increase in TCV attributed to those repairs should not be considered in the property's TCV for assessment purposes until such time as Patru sells the property. However, if Patru merely testified that he did some carpentry, electrical, and masonry repairs and no further explanation of the work that was provided, then he would have arguably failed to support his claim. Either way, on the record before this Court, we cannot evaluate the sufficiency of the evidence presented at the hearing. Thus, we conclude that further proceedings are necessary in order to determine whether the repairs were normal repairs within the meaning of MCL 211.27(2). Accordingly, we remand to the Tax Tribunal for a rehearing. Further, because the existing record is insufficient to resolve whether the repairs are normal repairs within the meaning of the statute, the parties shall be afforded further opportunity to submit additional proofs. See *Fisher v Sunfield Township*, 163

walk and broken treads on front steps, which is a normal repair under MCL 211.27(2)(b), and repainted the interior, which is a normal repair under MCL 211.27(2)(k).

Mich App 735, 743; 415 n 297 (1987) (requiring rehearing when it was not clear whether the proofs submitted were sufficient to establish that repair expenditures were normal repairs).³

Reversed and remanded for rehearing consistent with this opinion. We do not retain jurisdiction.

/s/ Douglas B. Shapiro
/s/ Michael J. Kelly
/s/ Colleen A. O'Brien

³ We note that, on reconsideration, the Tribunal faulted Patru for failing to establish a pre-repair TCV. However, as the Tribunal must make its own, independent determination of TCV, *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 389; 576 NW2d 667 (1998), we conclude that Patru's failure to persuade the Tribunal that the property's purchase price reflected the pre-repair TCV is irrelevant. The Tribunal independently had to evaluate all the evidence presented and, properly applying MCL 211.27(2), arrive at the property's TCV.