

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
MICHIGAN TAX TRIBUNAL  
SMALL CLAIMS DIVISION

Daniel Patru,  
Petitioner,

v

MTT Docket No. 16-001828

City of Wayne,  
Respondent.

Tribunal Judge Presiding  
Steven H Lasher

FINAL OPINION AND JUDGMENT

The Tribunal issued a Proposed Opinion and Judgment (“POJ”) on December 1, 2016. The POJ states, in pertinent part, “[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal **in writing, by mail or by electronic filing, if available**, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions).”

On December 21, 2016, Petitioner filed exceptions to the POJ. In the exceptions, Petitioner states that the subject property sold in August 2015 for \$32,000. It was owned by HUD and had been for sale since April 3, 2013. The Referee indicated that the seller may have been under financial duress and sold the property for less than market value, but the bank sat on the property for more than two years before it sold for its asking price. A normal seller would have dropped the price before then. Further, all of the improvements made by Petitioner prior to the relevant valuation date were normal repairs and maintenance within the meaning of MCL 211.27(2).

Respondent has not filed exceptions to the POJ or a response to Petitioner’s exceptions.

The Tribunal has considered the exceptions and the case file and finds that the Hearing Referee properly considered the testimony and evidence provided in the rendering of the POJ. Even assuming that the sale of the subject provided the best evidence of true cash value or “usual selling price” on the date of Petitioner’s purchase, the record indicates that the property was not in the same condition on that date as it was on the December 31, 2015 valuation date relevant to this appeal. Though the Tribunal is not persuaded that its substandard condition necessarily renders all subsequent improvements outside the scope of normal repairs and maintenance as indicated by the Referee, Petitioner failed to present timely evidence establishing the improvements qualified as normal repairs and maintenance so as to properly be excluded from the assessment.<sup>1</sup> Notably, at the time of hearing, Petitioner had presented for the Tribunal’s

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<sup>1</sup> MCL 211.27(2) states that “[t]he 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.” *Id.* The statute goes on to list 15 specific repairs that are considered normal maintenance if they are not part of a structural addition or completion. These include (i) outside painting, (ii) repairing or replacing siding, roof, porches, steps, sidewalks, or drives, (iii) repainting, repairing, or replacing

review only the Board of Review Decision and market listings and listing histories for the subject and comparable properties provided by Respondent. Though additional documentation was filed with Petitioner's exceptions, the parties are required to submit any and all documentation they wish to have considered to both the Tribunal and the opposing party at least 21 days prior to the hearing, or it may not be considered.<sup>2</sup> Both parties were given notice of this requirement via the October 10, 2016 Notice of Hearing, and as such, each had sufficient notice and opportunity to timely submit documentation and prepare their case for hearing. Exceptions are limited to the evidence submitted prior to or at the hearing, and Petitioner's attempt to enter new facts and evidence into the record after-the-fact is therefore improper.

Given the above, Petitioner has failed to show good cause to justify the modifying of the POJ or the granting of a rehearing.<sup>3</sup> As such, the Tribunal adopts the POJ as the Tribunal's final decision in this case.<sup>4</sup> The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

- a. The property's TCV, SEV, and TV, as established by the Board of Review for the tax year(s) at issue, are as follows:

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

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

- b. The property's final TCV, SEV, and TV, for the tax year(s) at issue, are as follows:

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

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

IT IS SO ORDERED.

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 as finally provided in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of

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existing masonry, (iv) replacing awnings, (v) adding or replacing gutters and downspouts, (vi) replacing storm windows or doors, (vii) insulating or weatherstripping, (viii) complete rewiring, (ix) replacing plumbing and light fixtures, (x) replacing a furnace with a new furnace of the same type or replacing an oil or gas burner, (xi) repairing plaster, inside painting, or other redecorating, (xii) new ceiling, wall, or floor surfacing, (xiii) removing partitions to enlarge rooms, (xiv) replacing an automatic hot water heater, and (xv) replacing dated interior woodwork. See MCL 211.27(2)(a)-(o).

<sup>2</sup> See TTR 287.

<sup>3</sup> See MCL 205.762.

<sup>4</sup> See MCL 205.726.

equalization.<sup>5</sup> 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.

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%, and (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%.

This Final Opinion and Judgment resolves the last pending claim 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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.<sup>9</sup>

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<sup>5</sup> See MCL 205.755.

<sup>6</sup> See TTR 261 and 257.

<sup>7</sup> See TTR 217 and 267.

<sup>8</sup> See TTR 261 and 225.

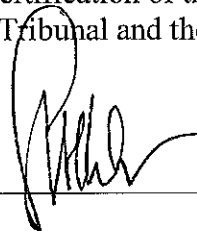
<sup>9</sup> See TTR 261 and 257.

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.”<sup>10</sup> A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.<sup>11</sup> The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.<sup>12</sup>

Entered:  
ejg

1-26-2017

By

A handwritten signature in black ink, appearing to be 'R. Miller', is written over a horizontal line.

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<sup>10</sup> See MCL 205.753 and MCR 7.204.

<sup>11</sup> See TTR 213.

<sup>12</sup> See TTR 217 and 267.