STATE OF MICHIGAN
IN THE COURT OF APPEALS
DETROIT OFFICE

Daniel Patru, *Appellant,* v City of Wayne, *Appellee.*	Court of Appeals No. 346894 Lower Court No. 16-001828-TT **Appellant's Brief** **Proof of Service**
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CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

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MCR 7.204(A)(1)(b) 1

OTHER AUTHORITIES

Michigan State Tax Commission (STC) Bulletin No. 7 of 2014 (Mathieu Gast Act) 10, 11, 12

Jurisdictional Statement

The Court of Appeals has jurisdiction over this claim of appeal under MCL 205.753(2) (allowing appeals from a final order of the Tax Tribunal) and MCR 7.204(A)(1)(b) (requiring appeals to be made within 21 days after the entry of an order deciding a motion for reconsideration). The Second Final Opinion and Judgment (2018) (FOJ) from the Tax Tribunal was entered 12/04/2018. A motion for reconsideration was filed 12/05/2018. The order denying reconsideration was entered 12/14/2018. The claim of appeal for this case was filed 12/18/2018, within the 21 days required.

Introduction

This case concerns the application of the Mathieu-Gast Home Improvement Act, MCL 211.27(2), which instructs assessors to "not consider" the value of normal repairs when determining the true cash value of residential property for assessment purposes.

In 2015, Appellant bought a house for $32,000 and made about $10,000 in repairs to it. The house was repaired by 12/31/2015 when the City of Wayne assessed the house at $50,400 true cash value. The City's assessment did not apply Mathieu-Gast nonconsideration: it did not exclude the value of the repairs from the true cash value. The Appellant has petitioned the Tax Tribunal to apply Mathieu-Gast nonconsideration, but so far the Tax Tribunal has refused.

The Tax Tribunal first ruled that the repairs were not normal repairs because the house was in substandard condition when Appellant bought it. This Court reversed, ruling that the condition of the house was statutorily irrelevant to whether repairs were normal repairs. This Court remanded the case for a rehearing because the hearing referee's misunderstanding of the statute made it impossible to determine whether Appellant had proved at the hearing that the repairs were normal.

After the rehearing, the Tax Tribunal accepted the repairs as normal but still refused to apply nonconsideration because it believed that:

1. The Tribunal was not required to determine the before-repair value if it disagreed with Appellant's evidence on that point; and
2. The assessor had increased the true cash value because of inflation, not repairs. There was some evidence to believe that the property had been in average condition all along: a) the city's assessment before Appellant purchased the house and after it was repaired differed by just 5% and b) the MLS marketing photos showed that the house was in average condition.

Questions Involved

I. Did the Tax Tribunal fail in its duty to independently determine the true cash value when it refused to determine the before-repair value because a) Appellant had the burden of proof and 2) the Tribunal disagreed with Appellant's proof?

Appellant answers yes. The Tax Tribunal answers no. The Appellee's answer is unknown.

II. Did the Tax Tribunal violate MCL 211.27(2) when it ignored normal repairs because there was some evidence that the assessor did not need to consider repairs to justify the assessed value?

Appellant answers yes. The Tax Tribunal answers no. The Appellee's answer is unknown.

III. Did the Tax Tribunal err when it gave the selling price of the property "no weight or credibility" as to the market value of the property based solely on a) the fact that the seller was a government entity and b) speculation that the seller may not have been motivated to receive market value?

Appellant answers yes. The Tax Tribunal answers no. The Appellee's answer is unknown.

Facts

I. Introduction, the first hearing before the Tax Tribunal, and reversal by the Court of Appeals

Appellant purchased the subject house in August 2015 for $32,000. The house was sold by the Department of Housing and Urban Development (HUD) through a real estate broker who had listed the house on the MLS. MLS Listing, filed by Appellant/Petitioner with Tax Tribunal on 9/7/2016, Appendix at 5. At the time of purchase, the house needed numerous repairs; most of which were required by the City of Wayne as a condition of obtaining a Certificate of Occupancy. List of Repairs, filed by Appellant with the Tax Tribunal on 9/6/2018, Appendix at 6. By tax day, 12/31/2015, Appellant had repaired the house and rented it. FOJ, page 4-5, Appendix at 12-13.

The City of Wayne determined that the true cash value of the house as of tax day was $50,400, rather than the $32,000 purchase price. Appellant appealed to the Board of Review and then to the Tax Tribunal.

Appellant does not dispute that the house was worth $50,400 on tax day in its repaired condition. But he contends that under MCL 211.27(2) the repairs were normal repairs and that the true cash value for assessment purposes cannot include the value of the repairs. He contends that the correct true cash value is therefore the before-repair value. Explanatory Letter submitted by Appellant to the Tax Tribunal on 9/6/2018, Appendix at 2.

Appellant contends that the house's sale for $32,000 is evidence of its before-repair value. Licensed real estate brokers listed the house on the Multiple Listing Service (MLS), initially for $29,900 on 4/3/2013 and later for $32,000 on 6/17/2015. Before Appellant bought the property there had been at least two accepted offers on the property that failed to close. MLS History, filed by Appellant/Petitioner with Tax Tribunal on 9/7/2016, Appendix at 4.

The City of Wayne contends that the true cash value should be the value of the

house as was on tax day and that MCL 211.27(2) does not change this result. FOJ, page 4, Appendix at 12.

The Referee who first heard the case at the Tax Tribunal ruled that MCL 211.27(2) did not apply because the repairs were not normal repairs because the house was in substandard condition. The Court of Appeals reversed. "Nothing in MCL 211.27(2) provides that the repairs . . . 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 . . ." *Patru v City of Wayne*, unpublished per curiam opinion of the Court of Appeals, issued May 8, 2018 (Docket No. 337547), p 5 (Appendix at 32). The Court of Appeals remanded for a rehearing to determine whether the repairs were normal repairs because "[t]he referee did not fully evaluate that evidence—which included testimony—because it misapprehended how to properly apply MCL 211.27(2)." *Id.*

II. The second hearing before the Tax Tribunal

The rehearing was held in December 2018. Tax Tribunal Judge Marcus L. Abood ruled that the repairs were normal repairs and that the repairs were worth approximately $10,000. FOJ, page 4, Appendix at 12. However, he went on to rule that MCL 211.27(2) did not apply in this case because the "property assessment did not change by virtue of the repairs Petitioner made to the subject property." FOJ, page 5, Appendix at 13.

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Appellant responded to the FOJ with a motion for reconsideration. The motion raised the following points (relevant to this appeal):

1. The FOJ erred when it found normal repairs but yet did not apply MCL 211.27(2). The Court of Appeals, in this case, said that a true cash value based on the repaired value is contrary to MCL 211.27(2) because it "considered the increase in value attributed to the repairs." Motion for Reconsideration, filed by Appel-

lant/Petitioner with Tax Tribunal on 12/10/2019, page 1, Appendix at 17.

2. The FOJ did not determine the value the house before repairs as required by MCL 211.27(2).
3. The FOJ's reasons for its conclusions of law were wrong, irrelevant, and defective.
4. Petitioner/Appellant was not disingenuous for insisting on before-repair and after-repair appraisals.

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Tax Tribunal Judge David B. Marmon denied the motion. Two paragraphs and a footnote contain the essence of Tax Tribunal's reasoning. They are reproduced below:

> 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. [See footnote 7 below] Rather, in a proceeding before the Tribunal, Petitioner bears the burden of proof. [footnote 8 omitted] 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. [footnote 9 omitted] 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* [footnote 10 omitted] 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.
>
> *footnote 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)default case record. Order Denying Petitioner's Motion for Reconsideration (Order Denying Reconsideration), page 2, Appendix at 26.

Appellant summarizes the Tribunal's decision as:

1. The Tax Tribunal believes that it did not have to make a before-repair appraisal because Petitioner has the burden of proof and the Tribunal disagrees with Petitioner's proof on this point. (The subject's sale is given no weight or credibility.)
2. The Tax Tribunal believes that MCL 211.27(2) is not violated if there is some evidence that the assessor did not need to consider repairs to justify the true cash value. Here the true cash value was just 5% more than the previous year's true cash value. The 5% change was due to inflation, not repairs. The assessor's property record card indicated that the property had been in average condition before its sale. Also, the pictures on the MLS showed the property in average condition.
3. The Tax Tribunal believes that MCL 211.27(2) does not require before-repair and after-repair appraisals because:
   (a) The text of the statute does not plainly require the appraisals.
   (b) The STC guidance requires repairs if the value of the repairs are on the assessment roll, and here they are not.
   (c) Even if the STC required the repairs, the Tax Tribunal is not bound by STC guidance.

4. The Tax Tribunal gave the property's sale "no weight or credibility" because the seller was a government entity (HUD) who may not have been motivated to receive market value.

Points 1, 2, and 4 are addressed in order in the Arguments. Point 3 is addressed in the discussion of point 2.

Argument

Following are three allegations of error, any of which is enough to cause a reversal.

I. The Tax Tribunal failed in its duty to independently determine the true cash value of the property when it refused to make a determination of the before-repair value because Appellant had the burden of proof and the Tribunal disagreed with Appellant's proof

When reviewing Tax Tribunal cases, this Court looks for misapplication of the law or adoption of a wrong principle. Statutory interpretation is reviewed de novo. *Briggs Tax Service, LLC v Detroit Pub. Schools*, 485 Mich 69, 75; 780 NW2d 753, 757-758 (2010)default case record.

Once a taxpayer has presented evidence, the Tax Tribunal must make an independent determination of the true cash value at issue, even if it finds the taxpayer's evidence unconvincing. In *Jones & Laughlin Steel Corporation v. City of Warren*, 193 Mich App 348; 483 NW2nd 416 (1992)default case record this Court reversed when the Tax Tribunal did not follow this rule:

> The tribunal further erred in failing to make an independent determination of the true cash value of the property. The tribunal apparently believed that no such determination was necessary after it concluded that petitioner had failed to meet its burden of proof and dismissed petitioner's appeal. The tribunal correctly noted that the burden of proof was on petitioner, This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party. The tribunal's decision, however, seems analogous to the entry of a directed verdict upon the failure of a plaintiff's proofs.

> To the extent this analogy may be accurate in this case, the entry of judgment against petitioner for its failure to provide sufficient evidence was erroneous because, while petitioner may not have met its burden of persuasion, it did meet its burden of going forward with evidence.
>
> Even if the tribunal had correctly concluded that petitioner's proofs had failed, the tribunal still would be required to make an independent determination of the true cash value of the property. The tribunal may not automatically accept a respondent's assessment, but must make its own findings of fact and arrive at a legally supportable true cash value. . . . On remand, the tribunal shall make an independent determination of true cash value. *Jones & Laughlin*, 193 Mich App at 354-356default case record (cleaned up).

In this case the Tax Tribunal has made the same error as the Tax Tribunal in *Jones & Laughlin*: it declined to determine the true cash value of the property at issue (by determining the before-repair value) because the Appellant bore the burden of proof and the Tribunal disagreed with Appellant's proof. Order Denying Petitioner's Motion for Reconsideration (Order Denying Reconsideration), page 2, Appendix at 26. The exact analysis of *Jones & Laughlin* quoted above applies. "Even if the tribunal had correctly concluded that petitioner's proofs had failed, the tribunal still would be required to make an independent determination . . ." For this reason, this Court should reverse.

II. The Tax Tribunal misinterpreted MCL 211.27(2) when it ruled that normal repairs may be ignored if there is some evidence that the assessor did not need to consider repairs to justify the assessed value

When reviewing Tax Tribunal cases, this Court looks for misapplication of the law or adoption of a wrong principle. Statutory interpretation is reviewed de novo. *Briggs*, 485 Mich at 75; 780 NW2d at 757-758default case record.

MCL 211.27(2) reads in relevant part:

> The assessor shall not consider the increase in true cash value that is a result of expenditures for normal repairs . . . in determining the true cash value of property for assessment purposes until the property is sold. . . . The increase in value attributable to [normal repairs] that is known to

> the assessor and excluded from true cash value shall be indicated on the assessment roll. . . .

The State Tax Commission (STC) also says that "Assessors are required to give non-consideration treatment to known qualifying changes to real property, regardless of whether the taxpayer has filed a form L-4293." Michigan State Tax Commission (STC) Bulletin No. 7 of 2014 (Mathieu Gast Act) 2.

In this case, the Tax Tribunal found that the repairs were normal under the statute. FOJ, page 4, Appendix at 12. Despite this, the Tax Tribunal goes on to decide the case as if there had been no normal repairs, essentially ignoring them. The Tax Tribunal appears to believe that the assessor is free to ignore normal repairs without violating MCL 211.27(2) as long as she has some evidence to believe that repairs are not necessary to justify the true cash value of the property. In this case, that evidence was a) the assessed value change of 5% from 12/31/2014 to 12/31/2015 which was due to inflation and b) the MLS marketing pictures taken before the house was sold which show that the house was in average condition. The Tax Tribunal says that simply because this evidence existed, the assessor did not violate MCL 211.27(2):

> 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. Order Denying Reconsideration, page 2, Appendix at 26.

In pointing to some evidence that the property was in average condition, the Tax Tribunal carefully avoids actually determining whether the property really was in average condition. Under the Tax Tribunal's interpretation of MCL 211.27(2) the objective facts do not matter. The assessor and the Tax Tribunal may ignore normal repairs as long as they have *some evidence* supporting the true cash value without having to consider (or appeal to) repairs.

Contrary to the Tax Tribunal's view, the plain language of the statute makes

clear that normal repairs must be given non-consideration treatment. The statute uses the word "shall" to indicate that the assessor must determine the true cash value of the repairs and indicate it in the assessment roll.

Non-consideration treatment requires before-repair and after-repair appraisals. STC Bulletin2. Had the assessor attempted a before-repair appraisal, she would have found ample evidence that the property that she had valued at $48,000, using a computerized, mass appraisal which *assumed* that the property was in average condition, FOJ, page 4, Appendix at 12, was in fact not correct. The MLS pictures which appear to show the property in average condition come from an MLS listing which shows that the property was on the market for $29,000 and then for $32,000 and that it sold for $32,000. MLS History, Appendix at 4. The City's inspectors had inspected the property and imposed repair requirements before they would issue a Certificate of Occupancy; the repairs were valued at approximately $10,000. List of Repairs, Appendix at 6. The first time the Tax Tribunal looked at this case, it ruled that the condition of the house was so substandard that any repairs to it could not be normal. (This Court corrected the legal reasoning but did not question the fact that the house needed repairs. "It is undisputed that, when he purchased the property, it was in substandard condition and required numerous repairs to make it livable." *Patru*, p 1 (Appendix at 28).)

Perhaps the root of the Tax Tribunal's error regarding MCL 211.27(2) stems from its misunderstanding of what the statute means by "not consider". In everyday usage, "to consider" implies activity and to "to not consider" implies passivity. But in MCL 211.27(2), non-consideration is active. The statute says that "the increase in value attributable to [normal repairs] ... shall be indicated on the assessment roll." The STC Bulletin uses the term "non-consideration treatment". Passively ignoring normal repairs is a violation of the statute as this Court noted the first time it heard this case:

> ... 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. *Patru*, p 5 (Appendix at 32).

In the Order Denying Reconsideration, page 3, Appendix at 27, footnote 7, the Tax Tribunal attempts to justify its refusal to perform before-repair and after-repair appraisals:

> 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.

The Tax Tribunal has misinterpreted the STC Bulletin. Below is a fuller quote of paragraphs 3 and 4 on page 2, referenced by the Tribunal. The Tribunal's quote is underlined, and I have bolded the words immediately after to clarify:

> 3. <u>If the true cash value of non-consideration items is shown on the assessment roll</u> **in the first year after the qualifying change is made**, then the true cash value of the item shall be calculated by performing "before" and "after" appraisals and then deducting the "before" true cash value from the "after" true cash value.
>
> 4. <u>If the true cash value of non-consideration items is shown on the assessment roll</u> **in years subsequent to the first year after the qualifying change**, then the true cash value of the item shall be calculated each year by performing "before" and "after" appraisals and then deducting the "before" true cash value from the "after" true cash value to determine the true cash value contribution of the item for that assessment year. The purpose of this approach is to reflect the current contribution, rather than the initial contribution, to true cash value which is provided by the item.

Paragraphs 3 and 4 of the Bulletin distinguish between two cases: if the repairs are accounted for in the first year or in years after the first year. The paragraphs detail *how* the repairs are to be valued not *if* they are to be valued. The statute itself and paragraph 2 of the bulletin quoted above makes it clear that once a normal repair is known, its value must be noted on the assessment roll. The fact that the repairs were

not on the assessment roll does not excuse before-repair and after-repair appraisals, it is evidence that the statute was violated.

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After misinterpreting the State Tax Commission's guidance, the Tax Tribunal brushes it aside by saying that STC guidance lacks the force of law, citing *Rovas*. FOJ, page 2, Appendix at 10. The problem with this is that Appellant was complaining that the assessor has not followed the STC guidance. In this situation, when the MTT says that the STC does not have the force of law, it is excusing the *assessor's* lack of compliance with STC guidance. But the legislature has commanded assessors to follow the STC.

In *Rovas*, this Court was dealing with a situation where the taxpayer was challenging the STC. Here the taxpayer is relying on STC guidance and the assessor, with the Tax Tribunal's endorsement, is ignoring STC guidance. The assessor in this case and in future cases need not concern herself with obeying the law and following STC guidance regarding MCL 211.27(2) knowing that if the taxpayer appeals, the Tax Tribunal will back her up. In this situation, the MTT is not following the teaching of *Rovas* but fashioning its own teaching that undermines the legislature's command that assessors should follow STC guidance. This is error.

It may be that in cases where the STC has been challenged by the taxpayer and been ruled wrong, the assessor may follow the Tax Tribunal's ruling, but *Rovas* surely does not stand for the proposition that the assessor may challenge STC guidance herself.

Also, *Rovas* clearly teaches that STC guidance is entitled to respect. But here,

the Tax Tribunal does not say that the assessor even mentioned STC guidance, much less sought to argue that the guidance was wrong. Nor does the Tax Tribunal's own argument show that it afforded the STC respect. partial footnote on the subject that cherry-picks a quote out of context does not meet *Rovas*'s standard.

The implication is that even if the STC supports Appellant's position, the Tax Tribunal is free to ignore it. This is troubling because here Appellant has submitted to the Assessor a list of normal repairs and the City has ignored them – MCL 211.27(2) has not affected in the least how the City has assessed Appellant's property. The Appellant appeals to the Michigan Tax Tribunal and the Tribunal rules that the City has done no wrong to ignore the repairs, and that the City does not have to obey the guidance of the STC in this matter. Under this reasoning, the STC is never binding on assessors if the Tax Tribunal agrees with the assessors. Even without reading *Rovas*, it is clear that the case could not stand for this proposition. The STC guidelines are written for the assessors, but also for the taxpayers. And when a taxpayer seeks the protection of the tax law, it is unseemly to allow the taxing authority to speak with a divided voice.

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What do I want to say here? What is the problem?

The problem is that the MTT's position here would deprive taxpayers of certainty of how the state's tax law will be interpreted. MTT is saying that it will not implement the STC's guidelines when the assessor refuses to do so. Thus the taxpayers of Michigan cannot trust the STC's interpretation of tax law, because their local assessor may not follow it, and the MTT may not enforce the STC's interpretation.

The Tax Tribunal misunderstood MCL 211.27(2) and ruled that normal repairs may be ignored as long as the assessor could justify the true cash value on other grounds. The statute

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III. The Tax Tribunal erred when it gave the selling price of the property "no weight or credibility" as to the market value of the property based solely on the fact that the seller was a government entity and speculation that the seller may not have been motivated to receive market value

The Tax Tribunal's factual findings are accepted as final by this Court "provided they are supported by competent, material, and substantial evidence. Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence." *Jones & Laughlin*, 193 Mich App at 352-53default case record (cleaned up).

In *Jones & Laughlin*, the Tax Tribunal had ruled, "A sale that occurs *after* the tax date has little or no bearing on the assessment made prior to the sale." *Id.* at 354 (emphasis in original). This Court reversed holding:

> Evidence of the price at which an item of property actually sold is most certainly relevant evidence of its value at an earlier time within the meaning of the term 'relevant evidence.' MRE 401. Although the sale . . . occurred approximately nine months after the tax date, the lapse in time is important only with respect to the weight that should be given the evidence, not to the relevance of the evidence. While the tribunal correctly noted that the sale price of a particular piece of property does not control its determination of the value of that property, the tribunal's opinion that the evidence "has little or no bearing" on the property's earlier value suggests that the evidence was rejected out of hand. Such cursory rejection would be erroneous. *Id* (cleaned up).

As in *Jones & Laughlin*, the Tax Tribunal in this case cursorily rejected the sale of the property albeit for a different reason. In the FOJ this took just four sentences:

> 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*. [footnote cite to Dictionary of Real Estate Appraisal.] The grantor in this bank sale transaction was the 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. FOJ, page 6, Appendix at 14 (emphasis in original).

The Order Denying Reconsideration is essentially the same except that it adds a

speculation: “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.” Order Denying Reconsideration, page 2, Appendix at 26.

Besides being cursory, the Tax Tribunal’s rejection of the sale is not based on any evidence or even logic, but rather solely on the fact that the seller was HUD along with the speculation that the seller’s “motivation may not been to receive market value for the property.” There is no proof offered for why this speculation may be true in the general case or in this instance. This does not meet the evidence standard of competent, material, and substantial.

Appellant complained of this issue the first time this case came before this Court. This Court chose to reverse on other grounds and did not address this issue. The Tax Tribunal has again rejected the sale of the property cursorily based on pure speculation. Appellant fears that the Tax Tribunal will continue to make cursory rejections until it is stopped by this Court. Therefore Appellant respectfully asks this Court to reverse on this ground as well as the others.

Relief Requested

Applicant has presented here three independent allegations error. He respectfully asks this Court to reverse the ruling of the Tax Tribunal.

Proof of Service

On 2/15/2019, I served a copy of the Brief on the Appellee, the City of Wayne, by first class mail to: 3355 S. Wayne Rd, Wayne, MI 48184.

Respectfully Submitted,

/s/ Daniel Patru

2/15/2019