

**STATE OF MICHIGAN
IN THE COURT OF APPEALS
DETROIT OFFICE**

Daniel Patru,		<i>Appellant,</i>
	v	
City of Wayne,		<i>Appellee.</i>

Court of Appeals No. 337547
Lower Court No. 16-001828-TT

**Appellant's Brief
Proof of Service**

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Michigan State Tax Commission (STC) Bulletin No. 7 of 2014	1, 2

Jurisdiction

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 Final Opinion and Judgment from the Tax Tribunal was entered 1/26/2017. A motion for reconsideration was filed 2/16/2017. The order denying reconsideration was entered 3/6/2017. The claim of appeal for this case was filed 3/21/2017, within the 21 days required.

Introduction

Michigan State Tax Commission (STC) Bulletin No. 7 of 2014 specifies that “When a property having . . . Mathieu-Gast con-consideration itmes is sold, the property may not be excluded from ratio or Economic Condition Factor studies . . .”

To illustrate, imagine a simplified case where a city has only two identical houses, one owned by a brother and the other by his sister. The city has given both houses have a True Cash Value of \$100,000. When the brother’s house sells for \$110,000, the ratio or Economic Condition Factor study concludes that the True Cash Value is a 10% too low and an Economic Condition Factor is applied that results in both houses being taxed as if they were worth \$110,000. This would be ok if the assessment were too low because of simple error. But, what if the True Cash Value were too low because of Mathieu-Gast? If the city knew that \$10,000 of repairs had been done, but had not considered them, then the assessment was actually correct. The \$110,000 sale price reflected the \$100,000 True Cash Value and the \$10,000 in excluded repairs. What effect does including the brother’s sale in the ratio study have on the sister? The sister’s house will still have a True Cash Value of \$100,000, but she will be paying taxes as if the house were worth \$100,000.

If the sister had not done repairs, then her house would still be worth \$100,000,

but she will pay tax as if it were worth \$110,000. The fact that her brother did repairs will raise her taxes.

If the sister had done the same repairs as her brother, then she should be
30 benefiting from \$10,000 of nonconsideration. But because her brother sold, her benefit under Mathieu-Gast will be wiped out.

Including houses that benefit from Mathieu-Gast in the ratio study will have the effect of raising taxes on everyone, both people who are benefiting from Mathieu-Gast and people who are not benefiting.

35 The situation above is simplified. To make it resemble real life, imagine that instead of one sister, there are ten sisters, each with an identical house to the brother. The brother, having benefitted from \$10,000 of Mathieu-Gast repairs, sells. The ratio study concludes that True Cash Values are 10% too low. Each sister's tax will go up 10%. The city will collect ten times more in taxes (once for each of the ten sisters)
40 than it had to give up because of Mathieu-Gast benefits to the brother. When a house benefitting from Mathieu-Gast sells, everyone else pays a higher tax.

It is true that *Id* does not *require* that sales of properties benefiting from Mathieu-Gast be excluded. Assessors may exclude such sales if they do extra work: "an initial calculation of true cash value in the assessment year following the year the qualifying
45 change is made and . . . the amount of the true cash value contribution made by the non-consideration item in the year of the sale is fully documented and reflects the current contribution made to true cash, after giving due consideration to depreciation of the item." *Id.* at 2. In other words, assessors are given an option: 1) they can do more work and decrease the City's (i.e., their employer's) revenue, or 2) they can do
50 less work and increase the City's revenue.

Conclusion

The judgment of the Court of Appeals should be reversed.

Respectfully Submitted,

Daniel Patru

July 24, 2017