STATE OF MICHIGAN

IN THE SUPREME COURT

DANIEL PATRU,

Petitioner-Appellant,

vs

CITY OF WAYNE,

Respondent-Appellee.

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT

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RESPONDENT-APPELLEE CITY OF WAYNE'S ANSWER TO PETITIONER-APPELLANT DANIEL PATRU'S APPLICATION FOR LEAVE TO APPEAL

PROOF OF SERVICE

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COUNTER-STATEMENT OF JURISDICTION

This is a tax case. On February 18, 2020, the Court of Appeals issued an unpublished per curiam Opinion affirming the Michigan Tax Tribunal's (hereafter the "MTT" or the "Tribunal") assessment of the Subject Property. Petitioner-Appellant, Daniel Patru, subsequently moved for reconsideration of that decision, which the Court of Appeals denied in an Order dated March 31, 2020. Then, on July 20, 2020, Petitioner-Appellant filed a timely[1] Application for Leave to Appeal with this Court.

Under MCR 7.303(B), the Supreme Court's review of an Application for Leave to Appeal is discretionary; however, that discretionary review is generally reserved for questions of *major* jurisprudential significance. *Id.; See also* MCR 7.305(B). Such questions are conspicuously absent here and, therefore, the instant Application should be denied. *Id*.

[1] As correctly noted by Petitioner in his Brief, this appeal is timely by virtue of the tolling provisions contained within Executive Order Nos. 2020-4 and 2020-8.

COUNTER-STATEMENT OF THE QUESTION PRESENTED

I. SHOULD THE SUPREME COURT GRANT LEAVE TO APPEAL IN THIS GARDEN-VARIETY TAX CASE?

Respondent-Appellee answers, "**No**."

Petitioner-Appellant answers, "**Yes**."

This Court should answer, "**No**."

COUNTER-STATEMENT OF MATERIAL FACTS

A. BACKGROUND

This is a simple tax case.[2] Specifically, Petitioner-Appellant, Daniel Patru, takes issue with Respondent-Appellee's assessment of his residential property – which is located on Winifred Street in the City of Wayne – for the 2016 tax year. (*See* **Exhibit A**, COA Opinion, p. 1).

B. THE MTT'S 12/04/18 DECISION

On December 4, 2018, the MTT issued a Final Opinion/Judgment affirming Respondent-Appellee's assessment of the Subject Property. (*See* **Exhibit B**, MTT Opinion). In so doing, the Tribunal made several key findings of fact, *viz*. (1) Petitioner made approximately $10,000 worth of "normal" repairs after purchasing the Subject Property in August of 2015; (2) that purchase "uncapped" the assessment of the Property for the 2016 tax year; and (3) ***Respondent's 2016 assessment was not based on the aforementioned repairs***. (*Id*. at 4-5).

Having set forth the above facts, the Tribunal went on to conclude, as a matter of law, that Respondent's assessment was reasonable and, moreover, supported by the "sales comparison" evidence produced at the October 18, 2018 hearing. (*Id*. at 5-6). Petitioner subsequently moved for reconsideration, which the Tribunal denied in a 2-page Order dated December 14, 2018. (*See* **Exhibit C**, MTT Order Denying Reconsideration). In turn, Petitioner took his case to the Michigan Court of Appeals.

C. THE COURT OF APPEAL'S 2/18/20 DECISION

On February 18, 2020, the Court of Appeals issued a 7-page Opinion and Order affirming

[2] This Court's review of a Michigan Tax Tribunal decision is *extremely* limited. In fact, "[a]bsent 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). Likewise, any factual findings must be upheld unless they are "not supported by competent, material, and substantial evidence." *Id*.

the MTT's decision to assess the Subject Property with a true cash value ("TCV") of $50,400.00. (*See* **Exhibit A**, COA Opinion, p. 1). In so doing, the Court agreed with the Tribunal's analysis of the applicable statute, MCL 211.27(2) (*Id*. at 3-4), as well as its factual finding that the repairs undertaken by Petitioner did *not* impact Respondent's assessment of the Subject Property. (*Id*. at 5-6). The Court also rejected Petitioner's cursory argument that the law of the case doctrine somehow required a ruling in his favor. (*Id*.). Petitioner subsequently field a Motion for Reconsideration, which the Court of Appeals denied on March 31, 2020. (*See* **Exhibit D**, 3/31/20 Order).

Mr. Patru now asks the Supreme Court to grant leave to appeal and, thereafter, reverse the decisions issued by the Court of Appeals and the MTT. As explained at greater length *infra*, Petitioner's Application should be denied because he has not provided a single compelling reason for the Supreme Court to hear this completely unremarkable tax case.

APPLICABLE LEGAL STANDARDS

MCR 7.305(B)

An Application for Leave to Appeal from a decision of the Court of Appeals must demonstrate that it involves: (1) legal principles of major significance to Michigan law; (2) a clearly erroneous decision that will cause material injustice; or (3) a decision that conflicts with a Supreme Court decision and/or another decision of the Court of Appeals. *See* MCR 7.305(B). If an Application does *not* come within one (1) of these narrow categories, then leave to appeal should be denied. *Id.; Cf.* MCR 7.303(B).

TAX TRIBUNAL APPEALS

The standard of review for Tax Tribunal cases in multifaceted. *Briggs Tax Service, LLC v Detroit Pub Schs*, 485 Mich 69, 75; 780 NW2d 753 (2016). If fraud is not claimed, then this Court

reviews the Tax Tribunal's decision for misapplication of the law, or adoption of a wrong principle. Under this deferential standard of review,[3] the Tax Tribunal's factual findings conclusive if they are supported by "competent, material, and substantial evidence on the whole record." *Id*.

ARGUMENT

I. PETITIONER-APPELLANT'S APPLICATION FOR LEAVE TO APPEAL DOES NOT MEET THE REQUIREMENTS OF MCR 7.305(B).

Petitioner's Application does not meet the requirements of MCR 7.305(B), which provides that:

> (B) **Grounds**. The application must show that[:]
>
> (3) the issue involves legal principles of major significance to the state's jurisprudence;
>
> * * *
>
> (5) in an appeal from a decision of the Court of Appeals, the decision is clearly erroneous and will cause material injustice or the decision conflicts with a Supreme Court decision or another decision of the Court of Appeals[.]

Id. Here, Mr. Patru cannot demonstrate that this ordinary tax case meets the requirements of the above rule; therefore, his Application should be denied.

A. The Instant Case Does Not Involve Legal Principles Of 'Major Significance' To This State's Jurisprudence.

The instant case does not involve legal principles of major significance to this State's jurisprudence. Indeed, it involves nothing more than a municipality's assessment of a single piece of real property. While the instant case is, understandably, important to Mr. Patru, in the grand scheme of things it is decidedly *inconsequential* to our State's jurisprudence.

In sum, given the lack of: (1) a significant legal principle at the heart of the parties' dispute; and/or (2) any "clearly erroneous" decision made by the Court of Appeals, Plaintiff-Appellant has

[3] In tax cases, the lone issue subject to *de novo* review is statutory interpretation. *Id*.

failed to satisfy the jurisdictional requirements of MCR 7.305(B).

B. The Instant Case Does Not Conflict With Any Decision(s) Issued By This Court (Or The Court Of Appeals), Nor Is There Any 'Material Injustice.'

The instant case does not conflict with any decision(s) issued by this Court and/or the Court of Appeals, nor does Mr. Patru appear to claim otherwise. Rather, the gist of his argument on appeal is that the assessment of his property was simply too high.

Respectfully, this argument misses the mark. In particular, Petitioner's argument ignores the plain text of MCR 7.305(B)(5)(b), which states that a putative appellant *must* show that "the decision conflicts with a Supreme Court decision or another decision of the Court of Appeals." Simply stated, that just hasn't happened in the case at hand. Ultimately, Petitioner is searching for discord in an area of the law that is harmonious and well-settled.

Petitioner has likewise failed to allege – let alone *prove* – that the MTT's assessment of his property was so egregious that it will, in effect, cause "material injustice" if this Court fails to intervene.[4] In short, Petitioner's Application does not pass muster under MCR 7.305(B).

II. THE COURT OF APPEALS CORRECTLY AFFIRMED THE MTT'S 2016 ASSESSMENT OF THE SUBJECT PROPERTY.

To the extent the Court is inclined to examine the substance of Petitioner's argument(s), there is not a single reversible error to be found in this Court of Appeal's well-reasoned 2/18/20 decision. For ease of reference, Respondent will address each argument in turn.

A. The Court of Appeal's Analysis Of MCL 211.27(2) Is Entirely Correct.

In his Application, and previously in his Brief on Appeal, Petitioner argues that

[4] *See* MCR 7.305(B)(5)(a) (leave may be properly granted where a decision of the Court of Appeals is "clearly erroneous and will cause material injustice"). Again, the nominal amount in question here is "an increase of $2,400," which could be attributed to "inflation and [general] increases in the market." (*See* **Exhibit A**, 2/18/20 Opinion, pp. 5-6).

Respondent's assessment of the Subject Property violated MCL 211.27(2). § 27(2) states, in pertinent part, that:

> 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***.

Id. (emphasis added). As this Court correctly observed in its 2/18/20 Opinion, the text of § 27(2) ***requires*** municipalities to "determine the TCV of the subject property on the basis of its fair market value as of December 31," if the property was ***sold*** earlier that year.[5] In short, while Petitioner may question whether this is sound tax-policy, the fact of the matter is that the Subject Property was assessed in accordance with the plain terms of the applicable Michigan statute.[6]

B. **Petitioner's Reliance On The 'Law Of The Case' Doctrine Is Misplaced**.

Petitioner also argues that the Court of Appeal's decision ignored the law of the case doctrine. This argument, however, was succinctly rejected at page 5 of the Court's 2/18/20 Opinion:

> In *Patru I*, this Court did ***not*** resolve whether petitioner's 2015 repairs to the property could or could not be considered in determining the property's TCV for the 2016 tax year, but instead determined that 'further proceedings are necessary to determine whether the repairs were normal repairs within the meaning of MCL 211.27(2).' Id., unpub. op at 5. More significantly, this Court did not address the effect of the property's transfer of ownership in 2015 on the tribunal's consideration of "normal repairs" under MCL 211.27(2) for purposes of the 2016 tax year. ***Because this issue was not actually addressed and decided in the prior appeal, the law-of-the-case doctrine does not apply***.

(*Id*. at 5) (emphasis added). In short, because the doctrine only applies to issues that were "actually decided" in the prior appeal,[7] the Court of Appeals correctly rejected Petitioner's specious law of

[5] See **Exhibit A**, 2/18/20 Opinion, p. 4. Simply put, that is precisely what happened here. *Id*.
[6] *Id*.
[7] *See Grievance Admin v Lopatin*, 462 Mich 235, 260; 612 NW2d 120 (2000).

the case argument.

C. The Subject Repairs Had No Bearing, Whatsoever, On Respondent's Assessment.

Finally, even if Petitioner's various arguments were *not* so demonstrably incorrect, the Tribunal – and, subsequently, the Court of Appeals – made it a point to explain that Petitioner's repairs had no bearing, whatsoever, on Respondent's 2016 assessment[8]. It is, of course, well-settled that Michigan law requires the MTT to makes its own "independent" determination of TCV. *See Great Lakes Div of Nat'l Steel Corp*, 227 Mich App 379, 390; 576 NW2d 667 (1998). Here, as noted by the Court at pp. 5-6 of its Opinion, that is precisely what happened here:

> It is undisputed that the assessed TCV of the property for the 2015 tax year was **$48,000**. Given this evidence, it was appropriate for the tribunal to draw conclusions about the value of the property before and after petitioner's purchase, specifically, that the prior year's assessment of $48,000 was reflective of the property's TCV before petitioner purchased it, that ***an increase of $2,400 could be attributed to inflation and increases in the market***, and that petitioner's 'normal repairs' were not attributable to the property's substandard condition, but rather were intended primarily to prepare the property as rental property. The tribunal concluded that the '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,' and that '***the assessment did <u>not</u> consider the increase in true cash value that was the result of normal repairs***.'

(*Id*. at 5-6) (emphasis added). In light of the foregoing, Petitioner's myopic focus on his repair-work is, in a word, misplaced.

[*Remainder of page left intentionally blank*]

[8] Petitioner's Brief is silent on this important point which, in effect, renders his abstract legal arguments moot.

RELIEF REQUESTED

For these reasons, Petitioner-Appellant's Application for Leave to Appeal should be denied.

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Dated: August 13, 2020

STATE OF MICHIGAN

IN THE SUPREME COURT

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vs

CITY OF WAYNE,

Respondent-Appellee.

MSC No. 161680
COA No. 346894
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APPENDIX OF EXHIBITS TO RESPONDENT-APPELLEE CITY OF WAYNE'S ANSWER TO PETITIONER-APPELLANT DANIEL APPLICATION FOR LEAVE TO APPEAL

EXHIBIT A

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT
Daniel Patru v City of Wayne

Respondent-Appellee City of Wayne's Answer
To Petitioner-Appellant Daniel Patru's
Application for Leave to Appeal

STATE OF MICHIGAN

COURT OF APPEALS

DANIEL PATRU,

Petitioner-Appellant,

v

CITY OF WAYNE,

Respondent-Appellee.

UNPUBLISHED
February 18, 2020

No. 346894
Tax Tribunal
LC No. 16-001828-TT

Before: FORT HOOD, P.J., and BECKERING and BOONSTRA, JJ.

PER CURIAM.

Petitioner challenges respondent's assessment of residential property in the city of Wayne for the 2016 tax year. Petitioner purchased the property in August 2015 for $32,000 and thereafter made approximately $10,000 worth of repairs to the property. For the 2016 tax year, respondent assessed the property as having a true cash value (TCV) of $50,400, and a taxable value of $25,200. Petitioner appealed these assessments to the Michigan Tax Tribunal, which issued a decision in January 2017 upholding the assessments. In a prior appeal, this Court noted that under MCL 211.27(2), an increase in TCV attributable to normal repairs cannot be considered by an assessor until property is sold, and because the record was insufficient to determine whether the repairs performed by petitioner qualified as normal repairs, this Court reversed and remanded for further proceedings "to determine whether the repairs were normal repairs within the meaning of MCL 211.27(2)." *Patru v City of Wayne*, unpublished per curiam opinion of the Court of Appeals, issued May 8, 2018 (Docket No. 337547) ("*Patru I*"), p 5. On remand, the tribunal agreed that petitioner's repairs qualified as "normal repairs," but determined that respondent's assessment of the property's TCV was proper because of the 2015 change in ownership. The tribunal further found, however, that petitioner's repairs, which were intended primarily to ready the property as rental property, did not affect the assessed TCV value of the property in any event. Accordingly, the tribunal again established the TCV of petitioner's property at $50,400, and the taxable value at $25,200, for the 2016 tax year. Petitioner again appeals as of right, and we now affirm.

In *Briggs Tax Serv, LLC v Detroit Pub Sch*, 485 Mich 69, 75; 780 NW2d 753 (2010), our Supreme Court explained:

> The standard of review of Tax Tribunal cases is multifaceted. If fraud is not claimed, this Court reviews the Tax Tribunal's decision for misapplication of the law or adoption of a wrong principle. We deem the Tax Tribunal's factual findings conclusive if they are supported by "competent, material, and substantial evidence on the whole record." But when statutory interpretation is involved, this Court reviews the Tax Tribunal's decision de novo. [Footnotes omitted.]

A tax exemption statute must generally be narrowly construed in favor of the taxing authority, and this Court generally defers to the Tax Tribunal's interpretation of a statute it is charged with administering and enforcing, but these rules do "not permit a strained construction adverse to the Legislature's intent." *Moshier v Whitewater Twp*, 277 Mich App 403, 409; 745 NW2d 523 (2007).

Petitioner argues that under MCL 211.27(2), the tribunal should have determined the TCV of his property without regard to any "normal repairs" he made to the property after he purchased it in August 2015. At the time relevant to this appeal, MCL 211.27(2) provided:[1]

> (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 items 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 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.

[1] MCL 211.27(2) was amended by 2019 PA 116, effective November 15, 2019, to add subsection (p), which addresses the installation, replacement, or repair of an alternative energy system.

(g) Insulating or weatherstripping.

(h) Complete rewiring.

(i) Replacing plumbing and light fixtures.

(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. [Emphasis added.]

Initially, we agree with the Tax Tribunal that because there was a transfer of ownership of the subject property in 2015, MCL 211.27(2) did not prohibit the assessor from considering the impact of any "normal repairs" on the property's TCV for purposes of the 2016 tax year.

The taxable status of real property for a given tax year is "determined as of each December 31 of the immediately preceding year." MCL 211.2(2). Generally, property is assessed at 50% of its true cash value[.]" MCL 211.27a(1). However, the "taxable value" of property is subject to "capping," meaning it is limited to the property's taxable value in the immediately preceding year, subject to certain allowable adjustments. MCL 211.27a(2)(a); Const 1963, art 9, § 3.[2] However, upon a transfer of ownership of property, the taxable value is "uncapped," meaning "the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer." MCL 211.27a(3). The taxable value does not become capped again until the end of the calendar year following the transfer of ownership. MCL 211.27a(4); *Michigan Props, LLC v Meridian Twp*, 491 Mich 518, 530; 817 NW2d 548 (2012). Thus, because petitioner purchased the property in 2015 (i.e., there was a transfer of ownership), the property's taxable value for the 2016 tax year was to be determined by its actual assessed value as of December 31, 2015, without regard to any capping limitations.

While MCL 211.27(2) does not expressly provide that it does not apply to "normal repairs" performed during a year when ownership of property is transferred (i.e., the taxable value becomes uncapped), the statute must be read in conjunction with other provisions of the General Property

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[2] "[B]efore ownership of property is transferred, its taxable value may increase no more than the lesser of the rate of inflation or five percent." *Lyle Schmidt Farms, LLC v Mendon Twp*, 315 Mich App 824, 831; 891 NW2d 43 (2016). Once ownership of the property is transferred, its taxable value is "uncapped," see *id.*, and its taxable value for the year following the transfer is determined by the property's actual value, MCL 211.27a(3).

Tax Act, MCL 211.1 *et seq.*, and Const 1963, art 9, § 3. See *Bloomfield Twp v Kane*, 302 Mich App 170, 176; 839 NW2d 505 (2013) (statutes that relate to the same matter are considered to be *in pari materia* and must be read together as a whole). It is apparent that MCL 211.27(2) was adopted to distinguish "normal repairs" or property maintenance from other improvements (e.g., "additions") that increase the value of property as long as the property is owned by the same party. In *Toll Northville LTD v Twp of Northville*, 480 Mich 6, 12; 743 NW2d 902 (2008), our Supreme Court, quoting *WPW Acquisition Co v City of Troy*, 466 Mich 117, 121-122; 643 NW2d 692 (2001), observed that the purpose of Const 1963, art 9, § 3, as amended in 1994 by Proposal A, is

> to generally limit increases in property taxes on a parcel of property, as long as it remains owned by the same party, by capping the amount that the "taxable value" of the property may increase each year , even if the "true cash value," that is, the actual market value, of the property rises at a greater rate. However, a qualification is made to allow adjustments for "additions."

As indicated, however, when property is sold, it becomes "uncapped" and the property's value for the following tax year is determined by its value as of December 31 of the preceding year. In other words, the property's TCV for the tax year following a transfer of ownership is determined by its value as of December 31 of the calendar year in which the transfer of ownership occurred. Accordingly, the restriction on consideration of "normal repairs" for purposes of calculating increases in TCV is intended to apply only while property is owned by the same party, and thus would not apply to repairs performed during a year in which ownership of the property is transferred. Rather, the taxable value of property for the tax year following a transfer of ownership would be 50% of the property's TCV as of December 31 of the immediately preceding year (i.e., the year there was a transfer of ownership). MCL 211.2(2); MCL 211.27a(1) and (3).

TCV "means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at a private sale, and not at auction sale except as otherwise provided in this section, or at forced sale." MCL 211.27(1). TCV is synonymous with fair market value. *Pontiac Country Club v Waterford Twp*, 299 Mich App 427, 434-435; 830 NW2d 785 (2013).

Because petitioner purchased the subject property in August 2015, the taxable value of the property became uncapped between August 2015 and December 31, 2015, and, for the 2016 tax year, the assessor was required to determine the property's TCV as of December 31, 2015. Petitioner argues that under MCL 211.27(2), respondent can consider the value added by "normal repairs" only when *petitioner* sells the property, because the statute 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." While this interpretation may be correct with respect to repairs made during a tax year in which there is no transfer of ownership, it cannot apply to repairs made during a year in which there was a transfer of ownership because "the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer," MCL 211.27a(3), which in turn is "determined as of each December 31 of the immediately preceding year," MCL 211.2(2). Thus, the tribunal correctly held that it was required to determine the TCV of the subject property on the basis of its fair market

value as of December 31, 2015, regardless of any "normal repairs" made by petitioner in 2015 after he purchased the property.

Petitioner seems to rely on the law-of-the-case doctrine to argue that under *Patru I*, the tribunal was required to determine whether petitioner's repairs qualified as "normal repairs" and was further prohibited from considering the impact of any "normal repairs" in determining the property's TCV for purposes of the 2016 tax year. In *Lenawee Co v Wagley*, 301 Mich App 134, 149-150; 836 NW2d 193 (2013), this Court explained:

> "The law of the case doctrine holds that a ruling by an appellate court on a particular issue binds the appellate court and all lower tribunals with respect to that issue." *New Props, Inc v George D Newpower, Jr, Inc*, 282 Mich App 120, 132; 762 NW2d 178 (2009) (quotation marks and citation omitted). "[I]f an appellate court has passed on a legal question and remanded the case for further proceedings, the legal questions thus determined by the appellate court will not be differently determined on a subsequent appeal in the same case where the facts remain materially the same." *Id.* (quotation marks and citation omitted; alteration in original). The doctrine is applicable "only to issues actually decided, either implicitly or explicitly, in the prior appeal." *Grievance Administrator v Lopatin*, 462 Mich 235, 260; 612 NW2d 120 (2000). "The primary purpose of the doctrine is to maintain consistency and avoid reconsideration of matters once decided during the course of a single continuing lawsuit." *Ashker v Ford Motor Co*, 245 Mich App 9, 13; 627 NW2d 1 (2001).

In *Patru I*, this Court did not resolve whether petitioner's 2015 repairs to the property could or could not be considered in determining the property's TCV for the 2016 tax year, but instead determined that "further proceedings are necessary to determine whether the repairs were normal repairs within the meaning of MCL 211.27(2)." *Id.*, unpub op at 5. More significantly, this Court did not address the effect of the property's transfer of ownership in 2015 on the tribunal's consideration of "normal repairs" under MCL 211.27(2) for purposes of the 2016 tax year. Because this issue was not actually addressed and decided in the prior appeal, the law-of-the-case doctrine does not apply.

Petitioner further argues that the tribunal erred by also finding that, regardless of the proper construction of MCL 211.27(2), petitioner's repairs did not have any bearing on the property's TCV, which was determined to be $50,400 as of December 31, 2015. We again disagree. The tribunal did not credit petitioner's argument that the property was in substandard condition when he purchased it. The tribunal reviewed petitioner's Multiple Listing Service (MLS) printouts and photographs for both the subject property and comparable properties. The tribunal found that petitioner's MLS listing for the subject property showed a property in "average" condition, and that petitioner's photographs of the property, before any repairs, showed "a property that is livable and habitable with reasonable marketability and appeal." The tribunal noted that the purpose of petitioner's repairs was "to ready the property as a tenant rental." It is undisputed that the assessed TCV of the property for the 2015 tax year was $48,000. Given this evidence, it was appropriate for the tribunal to draw conclusions about the value of the property before and after petitioner's purchase, specifically, that the prior year's assessment of $48,000 was reflective of the property's TCV before petitioner purchased it, that an increase of $2,400 could be attributed to inflation and

increases in the market, and that petitioner's "normal repairs" were not attributable to the property's substandard condition, but rather were intended primarily to prepare the property as rental property. The tribunal concluded that the "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," and that "the assessment did not consider the increase in true cash value that was the result of normal repairs."

We reject petitioner's argument that the tribunal was required to calculate the property's TCV using a "before repairs" appraisal and an "after repairs" appraisal. Petitioner's reliance on the State Tax Commission's 2014 Bulletin No. 7 in support of this argument is misplaced. Indeed, page 3 of the Bulletin states:

> The exemption for normal repairs, replacements and maintenance ends in the year after the owner who made the repairs, replacements and maintenance sells the property. *In the year following a sale, the assessed value shall be based on the true cash value of the entire property.* The amount of assessment increase attributable to the value of formerly exempt property returning to the assessment roll is new for equalization purposes. [Emphasis added.]

As already explained, because the taxable value of the subject property was uncapped due to the transfer of ownership in 2015, and respondent was permitted to assess the property on the basis of its actual TCV as of December 31, 2015, there was no need to determine the property's values before and after petitioner's "normal repairs" in 2015.

Petitioner also argues that the tribunal erred by failing to make its own independent determination of the property's TCV. See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 354-356; 483 NW2d 416 (1992). The record does not support this argument. The tribunal evaluated the evidence and proposed valuation methods offered by both parties. The tribunal found that "[r]espondent's sales comparison approach is the most reliable and credible valuation evidence which also supports the assessment and 2016 uncapping of the subject property." The tribunal did not just automatically accept respondent's valuation. Rather, it analyzed respondent's sales-comparison data and found that "a reasoned and reconciled determination of market value is obtainable from Respondent's sales," which it concluded "supports the assessment and 2016 uncapping of the subject property."

Petitioner further argues that the tribunal erred by rejecting his 2015 purchase price of the property as determinative of its TCV. MCL 211.27(6) provides:

> Except as otherwise provided in subsection (7), the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction. As used in this subsection and subsection (7), "purchase price" means the total consideration agreed to in an arms-length transaction and not at a forced sale paid by the purchaser of the property, stated in dollars, whether or not paid in dollars.

In this case, the tribunal considered petitioner's evidence of the 2015 purchase price for the property, but it also considered the nature of the sale, which involved a bank sale in which the grantor was the United States Department of Housing and Urban Development. The tribunal found that the seller was not necessarily motivated to receive market value for the property and that the property's purchase price was not presumptive of its TCV. The tribunal instead gave greater weight to the evidence submitted by respondent in support of its sales-comparison approach to valuation, which was based on sales of five properties similar in age and with comparable square footage, style, siding, and condition. The tribunal found that respondent's evidence provided "the most reliable and credible valuation evidence" and supported respondent's assessment of the subject property.

In sum, petitioner has not shown that the Tax Tribunal committed an error of law or that its decision is not supported by competent, material, and substantial evidence on the whole record. Accordingly, we affirm its decision.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Jane M. Beckering
/s/ Mark T. Boonstra

EXHIBIT B

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT
Daniel Patru v City of Wayne

Respondent-Appellee City of Wayne's Answer
To Petitioner-Appellant Daniel Patru's
Application for Leave to Appeal

STATE OF MICHIGAN
RICK SNYDER
GOVERNOR
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING
SHELLY EDGERTON
DIRECTOR

Daniel Patru,
Petitioner,

v

City of Wayne,
Respondent.

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

MAHS Docket No. 16-001828

Case Type: Valuation

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:

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[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

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[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.

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[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]

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[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]

By _____

Entered: DEC 0 4 2018

[19] See MCL 205.753 and MCR 7.204.
[20] See TTR 213.
[21] See TTR 217 and 267.

EXHIBIT C

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT
Daniel Patru v City of Wayne

Respondent-Appellee City of Wayne's Answer
To Petitioner-Appellant Daniel Patru's
Application for Leave to Appeal

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Daniel Patru,
Petitioner,

v

City of Wayne,
Respondent.

MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION

MAHS Docket No. 16-001828

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.

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[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.

EXHIBIT D

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT
Daniel Patru v City of Wayne

Respondent-Appellee City of Wayne's Answer
To Petitioner-Appellant Daniel Patru's
Application for Leave to Appeal

Court of Appeals, State of Michigan

ORDER

Daniel Patru v City of Wayne

Docket No. 346894

LC No. 16-001828-TT

Karen M. Fort Hood
Presiding Judge

Jane M. Beckering

Mark T. Boonstra
Judges

The Court orders that the motion for reconsideration is DENIED.

Karen M. Fort Hood
Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

MAR 3 1 2020
Date

Jerome W. Zimmer Jr.
Chief Clerk

STATE OF MICHIGAN

IN THE SUPREME COURT

DANIEL PATRU,

Petitioner-Appellant,

vs

CITY OF WAYNE,

Respondent-Appellee.

MSC No. 161680
COA No. 346894
MTT No. 16-001828-TT

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CERTIFICATE OF SERVICE

GEOFFREY S. WAGNER states that on August 13, 2020, he did serve a copy of Respondent-Appellee City of Wayne's Answer to Petitioner-Appellant Daniel Patru's Application for Leave to Appeal via electronic transmission through the MI-File TrueFiling system on the aforementioned date.

GIARMARCO, MULLINS & HORTON, PC

/s/ Geoffrey s. Wagner
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