Pinewood Circle LLC,
Petitioner,

v

City of Romulus,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 21-002697

Presiding Judge
Victoria L. Enyart

CORRECTED ORDER DENYING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

ORDER VACATING MAY 11, 2023 ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT

INTRODUCTION

The Tribunal entered an Order on May 11, 2023, denying the parties' Cross-Motions for Summary Disposition and scheduling a status conference for June 26, 2023, to discuss the scheduling of the case for hearing. The status conference was commenced on June 26, 2023 and based on the discussions during that status conference regarding the submission of the parties' evidence in support of their separate contentions (i.e., the same assessment record cards submitted by both parties, etc.), the Tribunal reviewed the Cross-Motions and the case file and finds that the May 11, 2023 Order Denying Respondent's Motion for Summary Disposition was issued in error.

In that regard, the Tribunal entered a revised Scheduling Order on July 13, 2022, providing dates for the filing of Cross-Motions for Summary Disposition and responses to the Cross-Motions. The parties filed Cross-Motions on August 22, 2022, and responses to the opposing parties' respective Cross-Motion on September 12, 2022. Although the Tribunal found a genuine issue of material fact and denied the Cross-Motions, the Tribunal has, as indicated above, once again reviewed the Cross-Motions, the Responses, and the case file and finds, based on the attachments submitted by both parties, that there is no genuine issue of material fact, and that denying Petitioner's Cross-Motion and granting Respondent's Cross-Motion is warranted.

PETITIONER'S CONTENTIONS

Petitioner's original contentions of property's true case value (TCV), state equalized value (SEV), and taxable value (TV) are as follows:

Parcel Number	Year	TCV	SEV	TV
82-80-013-02-0002-303	2021	$8,000,000	$4,000,000	$4,000,000

Petitioner's revised contentions of TCV, SEV, and TV are as follows:[1]

Parcel Number	Year	TCV	SEV	TV
82-80-013-02-0002-303	2018	$11,931,775	$5,965,887	$5,965,887

In their Cross-Motion,[2] Petitioner contends that:

> "The property at issue in this case . . . is **multi-family**, with 156 apartment units located in the City of Romulus . . . . **Petitioner purchased the Subject Property in 2020**. The next year, 2021, the Subject Property's . . . TCV . . . and . . . SEV . . . more than doubled, increasing 108%, from $3,956,100 to $8,228,700.
>
> In Public Act 415 of 1994 . . . the Legislature added many provisions to the General Property Tax Act . . . to implement the constitutional amendment known as Proposal A. PA 415 includes the following statutory language: '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.'
>
> Why would the Legislature have enacted this language, which is now in . . . MCL 211.27(6)? Under Proposal A, the year after a property transfers, the . . . TV . . . 'uncaps' and equals the SEV. This can enormously impact property taxation and a new owner. **If assessors can impose atypical value increases on transferred properties**, **it can create great hardships for property buyers**. In the long run, this also could harm Michigan property values and reduce tax revenues . . . .

[1] Petitioner's proposed revised SEV contention supports a revised TCV contention of $11,931,774 and not $11,931,775.

[2] Petitioner attached to their Cross-Motion the following exhibits: (i) the property's record cards for the 2019, 2020, and 2021 tax years, (ii) the record cards for "the City's Multi-Family" parcels for the 2020 and 2021 tax years, (iii) a document entitled "2021 Percent Changes of AVs and SEVs for the Multi-Family Parcels," (iv) a document entitled "Lawful Calculation of the Subject Property's 2021 TCV," (v) Respondent's Answers to Petitioner's Second Requests for Production of Documents, and Interrogatories, (vi) Respondent's 2021 Form L-4023, Analysis For Equalized Valuation, (vii) Deposition Transcript of Respondent's City Assessor (with Deposition Exhibits), (viii) Michigan State Tax Commission (STC) Bulletin No. 19 of 1997, and (ix) STC Directives re: Following Sales dated October 25, 2005.

> This would be especially true for large non-residential properties. Buyers of such properties can invest throughout the country, and for that matter, throughout the world. **For property tax revenues to grow as much as possible**, **two outcomes are needed**: 1) higher values; and 2) transfers, so that TVs uncap to higher SEVs. **Those two outcomes will not happen if assessors can increase values of transferred properties substantially more than properties that do not transfer**. Obviously, the Legislature wanted to prevent transferred properties from being assessed disparately, with atypical valuation increases, the year after a transfer.
>
> In 2021, if the City had valued the Subject Property **as it did its other multi-family properties**, the Subject Property's TCV and SEV would have increased a little less than 51%. **If the Tribunal allows the Subject Property's 108% TCV and SEV increases to stand**, **the language of Section 27(6) will be rendered meaningless**, **and the Legislature's intent will be nullified**. That would violate Michigan law. To effectuate Section 27(6), and ensure constitutionally required uniformity, the Tribunal should grant Petitioner summary disposition."
>
> [Emphasis added.]

Petitioner also contends that:

1. "Petitioner's understanding is that Respondent will not dispute the following facts:

    1) The Subject Property has tax parcel number 82-80-013-02-0002-303. Exhibit P-1 is the City's 2020 tax year record card for the Subject Property.[3]
    2) Exhibit P-2 is the City's 2021 tax year record card for the Subject Property.
    3) Exhibit P-3 has the City's 2020 tax year record cards for the 48 parcels that Respondent identified as multi-family in its discovery responses. Hereafter, these 48 parcels will be referred to as the Multi-Family Parcels.[4]
    4) Exhibit P-4 has the City's 2021 tax year record cards for the Multi-Family Parcels.
    5) Below is Exhibit P-5. It shows the percent change in each Multi-Family Parcel's 2021 . . . AV . . . and SEV. As shown in Exhibit P-5, in 2021, the

[3] Petitioner also stated in support of this contention that: "[e]ach identified Petitioner Exhibit is attached hereto."

[4] Petitioner also stated in support of this contention that:

> "In Respondent's Answers to Petitioner's Second Requests for Production of Documents, and Interrogatories, Exhibit P-7 hereto, Respondent identified these 48 Multi-Family Parcels. For the 2020 and 2021 tax years, the assessed value and SEV of each parcel are the same. Also, for 2020 and 2021, the Multi-Family Parcel with parcel number 80 078 01 0234 000, appears to be exempt as a church. That parcel, and its property tax status, has no bearing on this case."

year after Petitioner purchased the Subject Property, its AV and SEV more than doubled. Parcel number 80 062 99 0026 000 . . . which like the Subject Property sold during 2020, had close to a 100% increase, over 95%.

6) As Exhibit P-5 indicates, excluding the Subject Property and the 0026 Parcel, the 2021 AVs and SEVs of the Multi-Family Parcels collectively increased on average about 48.3%.[5] This 48.3% increase was due to the economic condition factor ('ECF') changing, typically from 0.83 to 1.375. The ECF applies only to the improvements[] and explains why the AVs and SEVs of the Multi-Family Parcels had such sizeable increases in 2021.
7) Exhibit P-6 shows that had the City changed only the ECF of the Subject Property, its TCV would have increased from $7,912,204 to $11,931,775, resulting in TCV and SEV increases of a little less than 51%. However, Respondent's Assessor also made three changes that resulted in a much larger increase in the Subject Property's TCV and SEV: (1) the quality of construction of the Subject Property's apartment buildings was changed from 'Low Cost' to 'Average' quality; (2) the annual depreciation rate for the apartment buildings was reduced from 2% to 1.75%; and, (3) the economic obsolescence factor was changed from 10% to zero.[6] At her deposition, Respondent's Assessor could not specifically explain why she made these changes or what triggered them, only stating that they 'seemed appropriate.' **As a result of the change in ECF and the Assessor's changing the three other identified factors**, **Respondent was able to increase the Subject Property's indicated TCV to within 0.6% of the actual purchase price**.
8) Exhibit P-8 is summary of Respondent's 2021 Form L-4023, Analysis For Equalized Valuation. This exhibit shows that for 2021, the total market adjustment for Respondent's real property commercial class was $7,144,300 in AV. The $4,272,600 AV increase for the Subject Property, represents almost 60% of the total 2021 AV increase for Respondent's entire commercial real property class.
9) Exhibit P-9 is the transcript of the August 5, 2022 deposition of Respondent's Assessor. At deposition, Respondent's Assessor could not recall whether she made similar changes for any other multi-family property in the City. Exhibit P-9 at 29-34.

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[5] Petitioner also states in support of this contention that:

> "Excluding the Subject Property and the 026 Parcel, from 2020 to 2021, the totally SEV of the Multi-Family Parcels increased from $24,004,800 to $35,596,800, a 48.29% increase."

[6] Petitioner also states in support of this contention that:

> "Importantly, Respondent did not simply adjust the quality of construction by one category[] but changed it from 'Low-Cost' to 'Average,' which skips the category of 'Fair' completely and raises the base rate per square foot by over 33%, from $56.28 to $74.64."

These facts establish that the Subject Property's 2021 assessment was determined in a disparate way, which abrogates Section 27(6) and the uniformity clause of the Michigan Constitution."

[Emphasis added.]

2. "Here, the words of Section 27(6), which use the mandatory 'shall,' enable the Tribunal to reasonably infer that the Legislature intended that assessors not treat transferred properties in a disparate way from other similar properties. Had the City only changed the Subject Property's ECF, as it did with other Multi-Family Parcels, then the Subject Property's 2021 TCV and SEV would have increased less than 51% instead of 108%.

   As described above**, this is precisely the kind of disparate assessing that the Legislature intended to prevent when it enacted the language of Section 27(6)**. It is axiomatic that the Legislature alone decides tax policy. *Caterpillar, Inc v Dep't of Treasury*, 440 Mich 400, 414; 488 NW2d 182 (1992). For that reason, it is not necessary for the Tribunal to find wisdom in Section 27(6)'s language. However, as already described above, Section 27(6) effectuates very wise tax policy: giving potential buyers reassurance that they can purchase Michigan properties without being subjected to disparate and unfair tax treatment."[7]

   [Emphasis added.]

3. "Respondent's Assessor unlawfully 'followed the sale' and did exactly what the State Tax Commission ('STC') specifically identified as the unlawful practice of 'following sales.' The STC has made it clear that 'following sales' is a violation of the constitutional uniformity requirement. Page one of Bulletin 19 and page one of the STC Directives to Assessors and Equalization Directors, October 25, 2005 (the '2005 Directives,' attached as Exhibit P-11), state:

   > 'Following Sales' can also be described as the practice of assessing properties which have recently sold significantly differently from properties which have not recently sold."[8]

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[7] Petitioner also stated in support of this contention that:

> "The City may claim that there is **no** injustice when the true cash value equals the purchase price. Article 9, Section 3 of the Michigan Constitution arguably gives the Legislature the power to establish an assessment system in which purchase prices from arms-length transactions became properties' true cash values the year after a transfer. However, since the enactment of the Michigan Constitution in 1963, the Legislature has never made that Michigan law. Instead, consistent with the Michigan Constitution's uniformity requirement, and for the reasons described above, **in 1994 the Legislature enacted language to prevent the disparate treatment of transferred properties**." [Emphasis added.]

[8] Petitioner also stated in support of this contention that:

4. "**The STC specifically addresses the situation where assessors single out properties that have sold for inspection to determine whether there is some error in the assessment**. 'It is **not** acceptable to single out low-ratio sale properties . . . and examine them for omitted property or any other characteristic needing adjustment (e.g. class of construction, depreciation, or economic condition factor) **while disregarding properties which have not sold**. This practice is a form of the illegal practice of following sales . . . .' 2005 Directives, at 1. As the STC described on page two of the 2005 Directives, disparately assessing a transferred property violates Michigan law as Petitioner is asserting here:

> MCL 211.27(5) reads, in part as follows:
>
> In determining the true cash value of the 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.
>
> The practice of using the sale or transfer of properties as a criterion for the review or examination of parcels likely results in differing values, and clearly results in a different 'valuation method,' for transferred properties, which violates the statute. Additionally, this practice may result in a different level of assessment for transferred properties, which violates the uniformity requirement of Article IX, Section 3 of the Constitution of Michigan.

The unlawful practice described in Bulletin 19 and the 2005 Directives is precisely what Respondent did. After the Subject Property sold, besides using the new multi-family property ECF, Respondent manipulated three variables to more than double the 2021 TCV, so that it virtually equaled the Subject Property's sale price. The three variables were: 1) the property's quality; 2) the 'economic percent good' factor; and 3) the depreciation rate of the apartments at the Subject Property. See Exhibit P-6. As a result of these changes, the Subject Property's 2021 TCV became $16,457,400. *Id*. The Subject Property's 2020 sale price was almost identical, $16,550,000.

When asked why she made these changes, Respondent's Assessor could not provide specific reasons, only that they 'seemed appropriate.' When asked what

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"The STC issued the 2005 Directives after learning of some assessors, 'engaging in a practice that the STC considers to be the illegal practice of 'following sales.'' 2005 Directives at 1."

triggered these changes, Respondent's Assessor was similarly evasive and 'could not remember.'"[9]

[Emphasis added.]

5. "Respondent's assessing records provide additional evidence that the sale price was illegally followed. Respondent physically inspected the subject property on June 14, 2019. **Although the record card was updated for 2020 and the inspection noted on the 2020 record card** (Exhibit P-1 hereto), **no changes were made to the Subject Property's construction quality or economic obsolescence for the 2020 tax year**. See Exhibit P-1, and the Subject Property's 2019 record card, Exhibit P-12. Then, **sometime after the sale in February 2020**, the Assessor made the three aforementioned changes to the Subject Property's record card for quality, 'economic percent good,' and depreciation rate of the apartments at the Subject Property.[10] This is the very definition of "following a sale" and the type of action that is prohibited by the Michigan Constitution, Section 27(6), and the State Tax Commission's Bulletin 19 and 2005 Directives. [Emphasis added.]

RESPONDENT'S RESPONSE TO PETITIONER'S CONTENTIONS

In Response to Petitioner's Cross-Motion,[11] Respondent contends that:

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[9] Petitioner also stated in support of this contention that:

1. "Respondent may contend that it is understandable that its Assessor could not recall much about how the Subject Property was assessed, given the number of parcels in the City. **The obvious flaw in this position is the magnitude of the Subject Property's value increase and its significant impact on Respondent's commercial real property class**. The Subject Parcel's value more than doubled, and the resulting AV increase constituted almost 60% of the total AV increase for Respondent's entire commercial real property class. **It would be quite surprising if in 2021**, **any other parcel in the City had greater TCV and SEV increases**, **following its 2020 transfer of ownership**. For Respondent's Assessor, the Subject Property's value change and how that happened, should have been memorable." [Emphasis added.]
2. "Under the Tribunal's Marathon Petroleum decision, quoted above, and authorities that include the Michigan Supreme Court decision in *Skinner*, *supra*, the Tribunal should make reasonable inferences from the evidence presented. **The Tribunal ought to make a strong adverse inference from the deposition testimony quoted herein**, in particular, the refusal to admit that the chart above has two outliers, whose value increases are significantly greater than the other multi-family properties." [Emphasis added.]

[10] Petitioner also stated in support of this contention that:

"Indeed, the depreciation rate change for the Subject Property's apartments resulted in the apartments' 'physical percent good' increasing from 2020 to 2021, even though the apartments were a year older. Exhibit P-9 at 34."

[11] In addition to the above-noted contentions, Respondent also stated that:

1. “Petitioner’s Motion for Summary Disposition is, unsurprisingly, light on facts and heavy on hyperbole. In Petitioner’s own words, if the 2021 assessment is upheld it will ‘reduce[] property values,’ have an ‘adverse impact on Michigan property transfers’ and ‘would dampen the growth of property taxes.’ This is not only untrue, it is an attempt to distract the Tribunal from the sole legal issue in this case. That being: whether or not the subject property was assessed uniformly in compliance with MCL 211.27(6). The actual facts show that the assessment was legal, correct, and in full compliance with the plain language of that statute.”

2. “Respondent restates and incorporates the facts set forth in its Motion for Summary Disposition herein as they are complete and accurate. Respondent does, however, wish to clear up some clear errors in Petitioner’s Brief. First, Petitioner’s statement on page 4 of its Brief that there are 48 parcels in the commercial apartment ECF is **not** true as noted in Respondent’s Brief **due to the presence of condominium parcels that are required by law to be assessed as residential properties**. In addition, for the 32 commercial multi-family parcels, the 1.32 COM-Apartment ECF was applied to every single one in the 2021 assessment and not ‘typically’ applied.” [Emphasis added.]

3. “Petitioner also cited to the 2021 L-4023 as a measure of the subject’s AV increase compared to the overall commercial class, but that comparison is one of

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“Petitioner cites the August 5, 2022 deposition of Respondent’s Assessor Julie Albert extensively in its Motion and argues that based on the deposition the ‘Tribunal ought to make a strong adverse inference from the deposition’ as to the credibility of that individual or Respondent’s position in this case. Said argument is meritless and made in bad faith.

The basis for this lack of credibility seems to be that Respondent’s assessor does not have a photographic memory. **Petitioner criticizes Respondent’s assessor for not being able to answer questions regarding the 2020 and 2021 assessments of a single parcel in August of 2022**, **but never notes that Petitioner failed to request that prior to the deposition the assessor review those specific documents in order to testify as to specific portions of those documents**. With 11,000 parcels in the City, including 1,000 commercial ones, it is entirely reasonable for an assessor in August 2022 to not recall the specifics of a 2020 and 2021 single parcel assessment when in the interim the 2022 assessment was set and work had begun on the 2023 assessment.14 Not being able to recall specifics from an assessment that was submitted to the March Board in 2020 and 2021 in August 2022 is not evidence of bad faith or improper actions, it is a reflection of the fact that we are all human and do not have photographic memories. If Petitioner wished to have the witness review the record cards in detail ahead of time it could have asked for that[] but did not and thus was required to rely on what the assessor could remember. **This is not an issue of credibility**, **it is Petitioner’s failure to properly conduct the deposition**.”

[Emphasis added.]

> apples to oranges. The Adjustment stated in the L-4023 is a result of the application of a ratio given to the City by County Equalization to the in place assessment to ensure that the overall commercial class assessment is between 49% and 50% in compliance with Michigan law. It is not comparable or analogous to the change of a single parcel or representative of the overall change to all commercial parcels for that assessment."

RESPONDENT'S CONTENTIONS

The property's TCV, assessed value (AV), and TV as established by Respondent's Board of Review for the tax years at issue are:

Parcel Number	Year	TCV	AV	TV
82-80-013-02-0002-303	2021	$16,457,400	$8,228,700	$8,228,700

In their Cross-Motion,[12] Respondent contends that:

> "The sole issue in this case, as noted by the Petition, is whether or not Respondent's assessment of parcel 82-80-013-02-0002-303 for the 2021 tax year violated MCL 211.27(6). What is quite apparent from the facts is that it did not. Petitioner, however, would have this Tribunal believe against the great weight of the evidence that the 2020 sale of the property was the basis for the 2021 valuation. This is simply not true. Rather, **the 2021 assessment was levied using the same method of valuation as all other parcels in the apartment class** and Respondent is entitled to summary disposition in its favor as coincidence and happenstance are not a balm for the facts and the record." [Emphasis added.]

Respondent also contends that:

1. "The property at issue in this case, 82-80-013-02-0002-303, is located at 33975 Pine Woods Circle in the City of Romulus. As of December 31, 2019 and December 31, 2020, the parcel consisted of 15.89 acres and was improved with a multi-unit apartment complex with 156 units spread over 14 buildings and two clubhouses with one pool at the larger clubhouse. The 156 apartments contained 183,222/sf. Following the February 20, 2020 transfer and legally required uncapping, the parcel was determined to have Assessed and Taxable Values of $8,228,700 for the 2021 tax year. These values were the result of the application

[12] Respondent attached to their Cross-Motion: (i) the record cards for commercial multi-family apartment properties for the 2021 tax year, (ii) the Affidavit of Julie Albert MMAO, which addressed, among other things, the creation of the "two additional Economic Condition Factors to be applied within the Commercial Class: Apartment and Mini-Storage," "I believe I reviewed all 32 parcels assessed within the COM-APARTMENTS Economic Condition Factor in addition to a number of other parcels," and "[w]hen reviewing the 32 Apartment Parcels, I noticed errors on at least six of the 2020 record cards that required correction prior to the setting of the 2021 assessment," (iii) the record cards for commercial multi-family apartment properties for the 2020 tax year, and (iv) a copy of Ms. Albert's August 5, 2022 deposition.

of the cost approach to value utilizing the State Tax Commission Assessor's Manual ('Manual') for all base costs, multipliers, unit in place items, and depreciation, with the only contributions from the City being the Economic Condition Factor and land value. After determining the land value, and related land improvements, the cost approach was divided into two sections: the apartments and the clubhouses.

The apartment square footage was valued under the cost approach using the Class C Average Quality for Multiple Residences from the Manual resulting in a base rate of $74.64/sf. That cost was adjusted for heating and cooling using numbers from the Manual resulting in a $79.54/sf unit rate. Using the annual depreciation called for by the Manual for a Class C Average Multiple Residence structure, the assessment utilized a 1.75% annual depreciation rate and an effective age of 21 years to conclude to a percentage physically good of 69%.[13] The canopies, garages, and carports associated with the apartments were also costed out, again using the Manual, and depreciated as necessary.

The clubhouses were similarly valued under the cost approach using the Manual. The 3,516/sf of clubhouse space were valued as Class C Average Clubhouse with necessary adjustments for HVAC and sprinklers, and then depreciated. A unit in place amount for a canopy was also considered. Finally, the COM-APARTMENTS Economic Condition Factor ('ECF') of 1.375 was added to the depreciated cost of the apartment and clubhouse space to arrive at replacement cost. The subject property is one of 48 parcels coded Apartment within the City of Romulus that represent 23 different apartment complexes. For each of those 48 parcels that were assessed during the 2021 tax year, 13 each w[ere] done using the cost approach and numbers from the Manual. The 32 non-condominium parcels also received the same 1.375 COM-APARTMENT ECF and the same $100,000 an acre land value.[14] While there were differences in class, quality, and

[13] Respondent also stated in support of this contention that:

> "While the application of 1.75% to 21 years does not mathematically produce a 69% depreciation. This depreciation is calculated using the reducing balance depreciation table commercial industrial found in Appendix A, Page 1 of the Assessor's Manual. That page has a depreciation column for 2% and 1.5% rendering the 1.75% in the middle of those two. Taking the average of the 21 year life for a 2% depreciation (65%) and a 1.5% (73%) depreciation produces the 69% remaining physical life good that appears on the record card. See page 140 of volume III of the Assessor's Manual for a discussion of selecting within columns as was done here. Again, **not an independent determination by the assessor**, but simply the value indicated by the Manual." [Emphasis added.]

[14] Respondent also stated in support of this contention that:

> "The discrepancy between the 32 parcels in the COM-APARTMENTS ECF and the 48 total parcels coded as Apartment is due to the fact that 16 of the 48 parcels were condominiumized in the early 2000s and were thus valued as residential and subject to a residential ECF as required by MCL 211.34c(2)(e)(i). Those parcels are 82-80-062-05-001-000 through 82-80-062-05-0016-000."

improvements across the 32 parcels, the same valuation method, source of costs, ECF, and per acre land value were used for all parcels within the COM-APARTMENT ECF within the City of Romulus."

2. "**With regard to the 2020 assessment**, the subject property was assessed using the cost approach to value and the base rates, and modification rates, from the Manual for that year which did differ slightly from the 2021 assessment. The clubhouses were valued as Class C Average Clubhouses and the same $100,000/sf land rate was used. **The apartment square footage**, however, **was valued using the Class C Low Cost Multiple Residences base rate in addition to the canopies, garages, and carport**. The apartment square footage was depreciated at a 2% per annum rate called for by that quality with a 20 year effective age and also received a 10% economic depreciation adjustment. **The subject property and every other non-condominium apartment property in the City of Romulus were valued under the cost approach to value and multiplied by the .83 COM-COMMERCIAL ECF**." [Emphasis added.]

3. **"The 2020 and 2021 assessed values for the subject property differed**, but the assessments themselves were largely similar for the two years. For example, the square footage of the apartments, clubhouses, and acreage was the same and both assessments were done using the cost approach to value. With respect to the assessment of the land, the per acre base rate, and thus total, was the same in both years and so was the square footage of the land improvements. **Looking at the assessment of the clubhouses**, **the space was valued in both years as Class C Average Clubhouses using the updated 2021 base costs**. The property was determined to have an effective age in 2021 of 21 years – 1 year older than in 2020. The unit in place items for the apartments, clubhouses, and land were the same square footage, **but the base costs differed slightly for each one and a further year of depreciation was added for those features**. In addition, **the HVAC and sprinkler costs increased slightly**.

   In addition to the changes above, **the quality of the apartment square footage for 2021 changed**, which caused the base rate and **depreciation factor to change, and the 2021 ECF was applied. As to the latter, the ECF from 2020 to 2021 changed from .83 to 1.375 – a .545 difference**. That difference alone was substantial. Had the 2021 ECF been applied to the depreciated 2020 numbers, the true cash value for that year would have been $11,545,356 – a $3,633,156 increase. **While the 1.375 COM-APARTMENT ECF was applied to all 32 parcels within the COM-APARTMENT ECF for the 2021 tax year**, it was the first year that the apartment ECF was created. The ECF was created for the 2021 assessment using a sales study of 'similar properties in the marketplace' and was necessary to account for local market influences on the cost of construction . . . . As the COM-APARTMENT ECF was not established for the 2020 tax year, **the General Commercial ECF was applied to the subject property, and every other non-hotel commercial property in the City**, **in that**

year. The change in ECF from 2020 to 2021 by itself accounted for more than 40% in the subject's year over year value change.

The other substantial difference between the assessments for the two years is with regard to the selection of Quality of Construction ('Quality') for the base rate for the apartment square footage. In both years the apartment square footage at the subject was valued using the Multiple Residence category and a Class C selection, **but in 2020 the Quality was Low Cost and that changed in 2021 to Average**. **That change resulted in the base rate increasing** from $55.81/sf to $74.64/sf **and also changed the depreciation table**. As to the depreciation table, the Assessor's Manual calls for a different per annum depreciation for Average, 1.75% per annum, than it does for Low Cost, 2% per annum, to reflect the higher quality of construction resulting in an increased life expectancy for the property. **The 1.75% per annum depreciation had also been applied to every Class C Average apartment property in the City in the same manner**, necessitating the same application to the subject. The change in the depreciation table was not an independent determination, but one prompted by the Manual when changing the Quality of the property."

[Emphasis added.]

4. "As to the change in the Quality, that was a choice purposefully made by the assessor. More specifically, **the assessor reviewed 'all of the properties in this particular** [COM-APARTMENT] ECF' **during the 2020 calendar year**, including the subject property, following the creation of the new apartment specific ECF **and determined that the Quality of the apartment space at the subject had been incorrectly set at Low Cost**. **While the Quality of the clubhouses was Average on the record, and had always been Average**, **the apartment space was set at Low Cost in the 2020 tax year despite being built at the same time and having similar quality of construction**. Moreover, **designating the apartment space at the subject as Low Cost was out of line with the rest of the COM-APARTMENT CLASS**.

   For the 2020 assessment there were six properties, including the subject, valued as Low Cost Quality. Five of those were Class C properties and one was a class D property. **In reviewing the subject against the other parcels with the Class C designation**, the assessor concluded that the 2020 determination of Low Cost Quality for the apartment square footage was incorrect; rather, that area should have been valued as Average Quality and made that change for the 2021 assessment. **This change was predicated on the assessor's personal knowledge of the property and a review of the other properties within the class as well as the assessor's** '**best information and judgment.**' In reviewing the parcels within the COM-APARTMENT ECF prior to the 2021 assessment, **the subject was not the only parcel changed**. The following parcels were also changed from 2020 to 2021 following the review:

82-80-003-03-0004-002: Quality changed from Average to Low Cost;
82-80-065-99-0032-000: Quality changed from Average to Low Cost;
82-80-042-01-0017-000: Class changed from C to D;
82-80-032-99-0005-000: Quality changed from Average to Fair;
82-80-062-99-0026-000: Quality changed from Average to Good.

In other words, of the 32 parcels comprising 23 different apartment complexes within the ECF, 19% of all parcels and 26% of all apartment complexes were modified in this review, with changes in quality going both directions and a change in class going down.[15] **Three parcels, including the subject, were changed in such a way that the base rate increased**, **and three were changed such that the base rate decreased**.

In reviewing the subject property, the assessor also noticed that a 10% economic obsolescence adjustment had been applied to the subject for the 2020 tax year. That adjustment was removed for the 2021 tax year as it did not "seem[] appropriate" and there was no market evidence the assessor was aware of that would support applying an economic obsolescence adjustment to the subject property. Removing the economic obsolescence adjustment brought the apartment space in line with the clubhouse space at the subject which, despite being on the same property, did not receive an external or economic obsolescence adjustment in 2020."

[Emphasis added.]

5. "In making the changes to the 2021 record card, **the assessor relied on her training, experience, and knowledge of the subject property and other properties in the City of Romulus**. The assessor did not rely on, consider, or otherwise base the changes to the record card on the February 2020 transfer of the subject property other than its use in the ECF sales study, along with several other transactions. **The subject property was valued using the same method and data as all other properties within the COM-APARTMENT class** – the cost approach, Assessor's Manual base rates, and the 1.375 ECF." [Emphasis added.]

6. "MCL 211.27(6) contains three sentences that combine to create two different operative clauses of which only the second is at issue in this case, as noted in the Petition.[16] The clause at issue in this case states that Respondent 'shall

[15] Respondent also stated in support of this contention that:

> "It is important to note that in these statistics, of the 22 different complexes, one is exempt as senior housing subject to a PILOT, one is a senior facility subject to a PILOT, and two are Co-Ops, with the remainder being 'typical' (in terms of assessing) apartment properties such that if factored out to only include properties for which a value was assigned the percentage would be higher."

[16] Respondent also stated in support of this contention that:

assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction.' It would appear that Michigan courts have not yet addressed this clause as used by Petitioner in this case: a challenge that the property being appealed was valued using a different method than other similarly classified properties. **The plain language of the statute**, however, **makes its application to this case straightforward**.

The phrase 'valuation method' is **not** defined in the statute **but is regularly utilized by Michigan courts to describe the actual method by which property is valued** including, but not limited to, the 'cost-less-depreciation approach, the capitalization-of-income approach, and the market approach.' In other words, the valuation method is the way in which the property is valued generally. The phrase 'same classification' is also **not** defined in that statute, but MCL 211.34c states that '[t]he classification of assessable real property are described as follows' and establishes that '[c]ommercial real property includes . . . apartment buildings with more than 4 units.' If the meaning of a statute is clear and unambiguous, then judicial construction to vary the statute's plain meaning is not permitted.' 'The Legislature is presumed to have intended the meaning it plainly expressed' and courts should not read in additional requirements or language. 'Generally, courts must give effect to every word, phrase, and clause of a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory.'

The subject property was valued using the cost-less-depreciation approach as set forth in the Michigan Assessor's Manual published by the State Tax Commission and evidenced on the subject's 2021 record card. **The same exact method was used for all other 31 apartment classified properties in the City of Romulus for the 2021 tax year**. The Assessor's Manual was used for the base costs, depreciation tables, unit in place costs, base costs adjustments, and method for calculating an ECF for all 32 apartment parcels within the City, including the subject, as required by MCL 211.10e.71 Quite simply, there was **no** violation of MCL 211.27(6) in the assessment of the subject property for the 2021 tax year **and that is made clear by a cursory review of the subject's record card and the record cards of the 31 other apartment**

"Sentences one and three combine to define purchase price and establish that said price 'is not the presumptive true cash value of the property transferred.' MCL 211.27(6). **This has been viewed by the courts as a prohibition against use of the sales price** as "conclusive . . . evidence of the value of that piece of property" but **not** a total ban on consideration of the sales price when concluding to value. *Antisdale v City of Galesburg*, 420 Mich 265, 278; 362 NW2d 632 (1984). '**Evidence of the selling price of property is relevant in determining the taxable value of property**.' *Prof'l Plaza LLC v City of Detroit*, 250 Mich App 473, 476; 647 NW2d 529 (2001). Indeed, that evidence is such that the 'Tribunal must consider it in the absence of an auction or forced sale' and **relying on the sale price to conclude to value in context with other evidence is appropriate**. *Samonek v Norvell Twp*, 208 Mich App 80, 85; 527 NW2d 24 (1994)." [Emphasis added.]

parcels in the City – which have been in Petitioner's possession for weeks. While the specific valuations of the parcels varied by class, quality, land improvements, age, and other factors, the utilization of the cost approach and the same source of costs and every other adjustment in that analysis was consistent across the class."

[Emphasis added.]

7. "If the Tribunal deems it necessary or relevant to consider the STC's suggestions on the topic of MCL 211.27(6) with regard to following sales despite it being plainly inconsistent with the statute, there was no error in the 2021 assessment. The STC advice centers on the singling out of properties that have sold[] because they sold, and adjusting those properties while ignoring properties that did not sell. That is simply not what occurred here.

   Rather, **the facts in this case clearly show that all 32 parcels within the apartment class were selected for review due to the fact that 2021 was the first year in which the apartment specific ECF was established**. Moreover, following review, **at least six different parcels were adjusted**. True, **two of them sold during the 2020 cap year resulting in an uncapping**; however, **the sale of two parcels**, or 6% of the class, **was not the basis for selecting and reviewing the overall class nor were those the only parcels adjusted**. Six parcels were adjusted in total with positive and negative adjustments spread across the parcels for quality of construction, class of construction, and obsolescence. The record cards themselves make clear that what occurred in the 2021 assessment was not the result of singling out a property or properties because they sold, but the logical review of a class of parcels due to the creation of a new economic condition adjustment for that class."

   [Emphasis added.]

PETITIONER'S RESPONSE TO RESPONDENT'S CONTENTIONS

In Response to Respondent's Cross-Motion, Petitioner contends that:

1. "The material facts are recited on Petitioner's Brief at 4-5. The City's Motion confirms that these and other material facts are not genuinely disputed. In 2020, the property sold. In 2021, based on sales that included the Subject Property, the City created a new ECF for the Multi-Family Parcels, to adjust the cost approach to the market. On average, this increased the Multi-Family Parcels' 2021 TCVs and SEVs close to 50%. Notwithstanding that the Subject Property's sale was in the sales study used to create the new ECF, the City Assessor also changed three other factors when assessing the Subject Property for 2021: the quality of construction was changed from "Low Cost" to "Average" quality; the annual depreciation rate was reduced from 2% to 1.75%; and the economic obsolescence factor was changed from 10% to zero. These changes enabled the

City to increase the Subject Property's TCV over $8 million and over 100%, to within 0.6% of the purchase price. Exhibit P-5 dramatically verifies the City's disparate 2021 assessing, with the two outlier parcels both having transferred in 2020."

2. "The City's contentions are not[] and cannot be the law. If the Tribunal accepts the City's position, assessors would have carte blanche to unlawfully follow sales simply by changing the Manual's variables so that TCVs equal purchase prices, as here. The STC has specified that selecting transferred properties for increased scrutiny and changing their variables to increase values is unlawful. See STC Directives to Assessors and Equalization Directors, October 25, 2005 (the '2005 Directives,' filed with Petitioner's Brief as Exhibit P-11) . . . .[17]

   Importantly, the City's description of the Manual's cost approach could mislead the Tribunal into thinking that the Manual's methods are highly objective and give assessors little discretion. As detailed below, and as Exhibit P-5 confirms, this is untrue. **The Manual allows assessors so much discretion**, **that merely requiring assessors to use the Manual to satisfy Section 27(6) would give assessors the freedom to follow sales and nullify Section 27(6)**." [Emphasis added.]

3. "When deposed on August 5, 2022 the City's Assessor could not remember what changes she made or why she made them – either to the Subject Property or to other Multi-Family Parcels. The Assessor's August 22 affidavit tells a very different story. **It is axiomatic that a person who testifies at deposition is bound by that deposition testimony and cannot change the testimony later through a contrary affidavit**. It also is the law that a party may not defeat a motion under MCR 2.116 by submitting an affidavit that is contrary to deposition testimony." [Emphasis added.]

STANDARD OF REVIEW

As for the Tribunal's review of the instant Cross-Motions, there is no specific Tribunal rule governing motions for summary disposition, thus the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such motions.[18]

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[17] Petitioner also stated in support of this contention that:

> "The Michigan Supreme Court has repeatedly stated that in determining the meaning of statutes, the 'paramount concern is identifying and effecting the Legislature's intent. *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 665; 378 NW2d 737 (1985).' *Wexford Medical Group v City of Cadillac*, 474 Mich 192, 204; 713 NW2d 734 (2006) (Emphasis added). The City Motion, at 11, agrees that the Tribunal must **not** render statutory language nugatory. Yet, **the City Motion fails to identify the reason the Legislature enacted Section 27(6)**, **and consequently misses how the City's position unlawfully nullifies Section 27(6) and the Legislature's intent**." [Emphasis added.]

[18] See TTR 215.

With respect to the instant Cross-Motions, both parties move for summary disposition under MCR 2.116(C)(10), while Respondent moves for summary disposition under MCR 2.116(C)(4), and (8), provide for summary disposition when "there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law."[19] In that regard, the Michigan Supreme Court, in *Quinto v Cross and Peters Co*,[20] provided the following explanation of MCR 2.116(C)(10):

> MCR 2.116 is modeled in part on Rule 56(e) of the Federal Rules of Civil Procedure . . . [T]he initial burden of production is on the moving party, and the moving party may satisfy the burden in one of two ways.
>
> First, the moving party may submit affirmative evidence that negates an essential element of the nonmoving party's claim. Second, the moving party may demonstrate to the court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. If the nonmoving party cannot muster sufficient evidence to make out its claim, a trial would be useless[,] and the moving party is entitled to summary judgment as a matter of law.
>
> In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4).
>
> In presenting a motion for summary disposition, the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists. Where the burden of proof at trial on a dispositive issue rests on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in pleadings[] but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.[21]

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[19] *Id*.
[20] See *Quinto v Cross and Peters Co*, 451 Mich 358; 547 NW2d 314 (1996) (citations omitted).
[21] *Id* at 361-363. (Citations omitted.)

Finally, "[a] genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ."[22] In evaluating whether a factual dispute exists to warrant trial, "the court is not permitted to assess credibility or to determine facts on a motion for summary judgment."[23] "Instead, the court's task is to review the record evidence, and all reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial."[24]

CONCLUSIONS OF LAW

The Tribunal has considered the parties' Cross-Motions under MCR 2.116(C)(10) and finds, for the reasons set forth below, that denying Petitioner's Cross-Motion and granting Respondent's Cross-Motion is, as indicated above, warranted at this time. Although the May 11, 2023 Order found that there were issues of material fact that remained in dispute, the pleadings; the affidavit, despite Petitioner's objection, the deposition, and other documentary evidence submitted by the parties, particularly the property record cards, actually demonstrate that there is no genuine issue of material fact that remains in dispute when construed in the light most favorable to the non-moving party in each Cross-Motion.

As indicated in the previous Order, the central issue in this case is whether the 2021 assessment of the subject property was set in violation of MCL 211.27(6). In that regard, the previous Order also provided that:

> In reviewing the parties' arguments regarding the requirements of MCL 211.27(6), the Tribunal follows the well-established principals of statutory interpretation:
>
> > The paramount rule of statutory interpretation is that we are to effect the intent of the Legislature. To do so, we begin with the statute's language. If the statute's language is clear and unambiguous, we assume that the Legislature intended its plain meaning, and we enforce the statute as written. In reviewing the statute's language, every word should be given meaning, and we should avoid a construction that would render any part of the statute surplusage or nugatory.[25]
>
> A statute is ambiguous when it "is equally susceptible to more than a single meaning."[26] Further, the statute must be read "in relation to the

[22] See *West v General Motors Corp*, 469 Mich 177; 665 NW2d 468 (2003).
[23] See *Cline v Allstate Ins Co*, unpublished *per curiam* opinion of the Court of Appeals, issued June 21, 2018 (Docket No. 336299) citing *Skinner v Square D Co*, 445 Mich 153; 516 NW2d 475 (1994).
[24] *Id*.
[25] See *Wickens v Oakwood Healthcare System*, 465 Mich 53, 60; 631 NW2d 686 (2001) (citation omitted).
[26] See *Klida v Braman*, 278 Mich App 60, 65; 748 NW2d 244 (2008)

> statute as a whole and [to] work in mutual agreement with the remainder of the statute."[27]

Here, Respondent argues that the plain language of MCL 211.27(6) requires only that all properties of the "same classification" be assessed using the same "valuation method." As applied to the present case, Respondent contends that because all properties within the COM-Apartment ECF were valued using the cost-less-depreciation approach to value, the assessment was set in compliance with the requirements of MCL 211.27(6). Petitioner argues, however, that this interpretation would abrogate the Legislature's intent, and relies on STC guidelines regarding "following sales" in support of its position. While Respondent correctly states that STC Bulletins are not statutorily or legally binding, the Tribunal finds that the Michigan Supreme Court has held that agency interpretations are entitled to "respectful consideration." More specifically:

> It is well established that "agency interpretations are entitled to respectful consideration, but they are not binding on courts and cannot conflict with the plain meaning of the statute." "[A]gencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature." An agency's interpretation may be helpful "when the law is 'doubtful or obscure.'" However, agency interpretations of statutes are not entitled to deference when they conflict with the language of a statute.[28]

The Tribunal finds that the STC guidelines regarding the practice of "following sales" does not conflict with the plain meaning of MCL 211.27(6), and as such, shall be afforded "respectful consideration" in the Tribunal's interpretation of the statute.

With respect to the documentary evidence of record, much of the documentation provided was submitted by both parties in support of their opposing arguments. In support of its Motion for Summary Disposition, Petitioner submitted evidence to include: the property record card for the subject property for the 2019-2021 tax years; **the property record cards for all multi-family properties in the City of Romulus**; and the transcript from the deposition of Respondent's assessor. In support of its cross Motion for Summary Disposition, Respondent provided evidence to include: **the 2020 and 2021 property record cards for all parcels in the COM-apartment class**; the transcript from the deposition of its assessor; **and an affidavit signed by its assessor**. As stated above, "in presenting a motion for summary disposition, the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the opposing party to establish

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[27] See *Tomra of North America, Inc v Dep't of Treasury*, 325 Mich App 289, 300; 926 NW2d 259 (2018) (quotation marks and citation omitted; alteration in original)
[28] See *TRJ & E Properties v City of Lansing*, 323 Mich App 664, 919 N.W.2d 795 (2018)

that a genuine issue of disputed fact exists."[29] The Tribunal is satisfied that both parties met the initial burden of supporting its position with documentary evidence.

As it relates to the property record cards for the subject property and the other parcels in the COM-apartment ECF, the parties proffer different arguments regarding their significance. Petitioner argues that the record cards substantiate that Respondent's assessor engaged in the unlawful practice of "following sales," as value increasing changes were made only to the two properties that transferred ownership in 2020. Respondent argues that the same property record cards support the uniformity of the assessment and compliance with MCL 211.27(6). Similarly, Petitioner argues that Respondent's assessor's inability to testify regarding the value increasing changes to the subject property record card supports that there was no legitimate basis for those changes. Respondent argues that the testimony merely represents a lapse in memory for an event that occurred two years prior to the deposition. In furtherance of its position, Respondent submitted a subsequent affidavit where its assessor explained the changes to the property record card in detail.[30] In response to the affidavit, Petitioner contends that per the property record card, Respondent's assessor last physically inspected the subject property in June 2019 and made no value increasing changes to the property record card for the 2020 assessment. Instead, the value-increasing changes were not made until after the subject property transferred ownership.

Although the substantial majority of the previous Order is correct and adopted herein by reference, the Tribunal erred in determining that there were genuine issues of material fact, as a further review of the property record cards submitted by both parties supports Ms. Albert's Affidavit and justifies the granting of summary disposition in favor of Respondent. More specifically, Respondent did not adopt the property's sale price or otherwise chase sales. Rather, Respondent utilized the same methodology for the valuation of the subject property, and all similarly situated properties in that taxing jurisdiction including the other property that sold for the tax year at issue (i.e., the cost approach). As for Respondent's previous inspection in 2019 and failure to make changes to the property for the 2020 tax year, there is no explanation. Nevertheless, Respondent created a new ECF for use in adjusting the cost of the depreciated improvements for all such properties for the 2021 tax year, which required a review of

[29] See *Quinto*, 451 Mich 358 (1996).

[30] In the affidavit, Respondent's assessor, states "I believe I reviewed all 32 parcels assessed within the COM-Apartments Economic Condition Factor in addition to a number of other parcels." The affidavit continues, "I noticed errors on at least six of the 2020 record cards that required correction prior to the setting of the 2021 assessment." For the subject property, Ms. Albert indicated that the change in the subject property's property record card from Class C Low Cost to Class C Average for the apartment square footage was based on her "review of the property, [her] knowledge of the property from a prior inspection, the Assessor's Manual, and the 32 other parcels." Ms. Albert indicated that she applied the same 1.75% per annum that was used for all other Class C Average apartments within the ECF for consistency, and that she determined that the 10% obsolescence adjustment previously applied to the subject property was "erroneous" and as such removed it. See Respondent's Exhibit 2, Page 5.

all such properties, including the subject and the other property that sold, that resulted in changes to the subject as well as other non-sold properties in the new ECF "neighborhood." With respect to the subject's changes, Petitioner's contention of "disparate treatment" is misplaced, as the granting of Petitioner's Motion would merely have allowed for the continued incorrect assessment of the property. In that regard, the rationale for changing both the class of construction from "low cost" to "average" and the removal of the 10% economic depreciation or obsolescence factor was justified based on the assessor's knowledge of the property, the class of construction assigned to the clubhouses, and the lack of any market evidence to support the original decision to apply the 10% factor. The fact that the assessment increased to an amount within 6% of the sale price based on the above-noted changes and the application of the new increased ECF that was applied to the subject and all other such properties, supports a finding that the property's previously incorrect assessment was reviewed and corrected based on the creation and application of the new ECF and not the property's sale. As such, the assessment was not the result of "chasing sales" or "disparate treatment." Therefore,

JUDGMENT

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

IT IS FURTHER ORDERED that May 11, 2023 Order Denying Respondent's Motion for Summary Disposition is VACATED.

IT IS FURTHER ORDERED that Respondent's Motion for Summary Disposition is GRANTED.

This Final Opinion and Judgment resolves the last pending claim and closes this case.

APPEAL RIGHTS

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

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. 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. You are required to serve a copy of the motion 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. Responses to motions

for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals 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." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By Victoria K. Enyart

Entered: July 28, 2023
pmk

PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk