STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Dorsey School of Business Inc.,
Petitioner,

v

MTT Docket No. 18-000017

City of Southgate and
State Tax Commission,
Respondents.

Tribunal Judge Presiding
Steven H. Lasher

ORDER GRANTING RESPONDENT STATE TAX COMMISSION'S MOTION TO DISMISS STATE TAX COMMISSION AS PARTY

ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

ORDER DENYING PETITIONER'S MOTION TO DISMISS STATE TAX COMMISSION

ORDER GRANTING SUMMARY DISPOSITION IN FAVOR OF RESPONDENT

FINAL OPINION AND JUDGMENT

INTRODUCTION

On March 15, 2018, Respondent State Tax Commission ("STC") filed a Motion requesting that the Tribunal dismiss it as a party in the above-captioned case or, in the alternative, enter summary judgment in Respondent's favor.

On April 5, 2018, Petitioner filed a response opposing STC's Motion and also filed a Motion to Dismiss STC as co-Respondent. On April 25, 2018, Respondent filed a response opposing Petitioner's Motion.

The Tribunal has reviewed the motions, responses, and evidence submitted and finds that STC's Motion to dismiss itself as co-Respondent shall be granted, that STC's Motion for Summary Disposition shall be denied because it is not properly pending before the Tribunal, and that Petitioner's Motion to Dismiss STC shall be denied due to mootness. The Tribunal further

finds that granting summary disposition in favor of Respondent under MCR 2.116(I)(1) is warranted at this time.

PARTIES' CONTENTIONS

In support of its March 15, 2018 Motion to Dismiss itself as co-Respondent, STC contends that it was the lower deciding body and should not have been named as a party in the subsequent appeal and that Petitioner failed to serve its Petition upon the STC as required by TTR 221.

In support of its March 15, 2018 Motion for Summary Disposition, STC contends Respondent is entitled to judgment in its favor under MCR 2.116(C)(3) and (C)(8) because Petitioner failed to timely initiate its appeal through proper service, that Petitioner failed to properly invoke the Tribunal's jurisdiction over Petitioner's exemption claims, that MCL 211.154 does not apply to unclaimed tax exemptions because that statute applies only to untaxed property, that exemptions are construed strictly and that Petitioner's legal theory is not supported by the plain language of any exemption statute, and that the present appeal involves an error of law and not one of fact.

In support of its April 5, 2018 response to STC's Motion, Petitioner contends that it agrees with STC's Motion to dismiss STC as a party and that the Tribunal should deny STC'S Motion for Summary Disposition in light of STC's Motion to Dismiss.

In support of its April 25, 2018 response to Petitioner's Motion to Dismiss it as a party, STC contends Petitioner's Motion should be denied because Petitioner's appeal misconstrues Michigan law, that Respondent's March 19, 2018 Answer failed to invoke pertinent affirmative defenses, and that the STC should remain a party to this appeal until the Tribunal addresses the substantive legal issues under appeal.

STANDARD OF REVIEW

There is no specific Tribunal rule governing motions for summary disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such motions.[1] In this case, STC moves for summary disposition under MCR 2.116(C)(3) and MCR 2.116(C)(8).

MCR 2.116(C)(3)

Summary disposition pursuant to MCR 2.116(C)(3) is appropriate when "[t]he service of process was insufficient." When presented with a motion for summary disposition pursuant to MCR 2.116(C)(3), the Tribunal considers all affidavits, pleadings, depositions, admissions, and documentary evidence submitted by the parties.[2]

MCR 2.116(C)(8)

Motions under MCR 2.116(C)(8) are appropriate when "[t]he opposing party has failed to state a claim on which relief can be granted." The Court of Appeals has held that:

> A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of a complaint. Under this subrule "[a]ll well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant." When reviewing such a motion, a court must base its decision on the pleadings alone. In a contract-based action, however, the contract attached to the pleading is considered part of the pleading. Summary disposition is appropriate under MCR 2.116(C)(8) "if no factual development could possibly justify recovery." [3]

MCR 2.116(I)(1)

[1] See TTR 215.
[2] See MCR 2.116(G)(5).
[3] *Liggett Restaurant Group, Inc v City of Pontiac*, 260 Mich App 127, 133; 676 NW2 633 (2003) (citations omitted).

MCR 2.116(I)(1) provides that "[i]f the pleadings show that a party is entitled to judgment as a matter of law, or if the affidavits or other proofs show that there is no genuine issue of material fact, the court shall render judgment without delay."

"The Legislature has vested the Tax Tribunal with 'jurisdiction over matters previously heard by the State Tax Commission as an appellate body.' Thus, the Tribunal has jurisdiction to hear appeals from the decisions of the Commission."[4]

CONCLUSIONS OF LAW

The Tribunal has carefully considered the motions, responses, and evidence and finds that STC's Motion to Dismiss itself as a party is proper. Petitioner appealed the taxable status of the property at issue as an incorrect reporting claim to STC under MCL 211.154. On December 12, 2017, STC dismissed Petitioner's appeal due to lack of jurisdiction, and thereafter, Petitioner filed this appeal to the Tribunal under the authority of MCL 211.154(7). STC correctly claims that it is not a necessary party to resolve this dispute as it is neither a party-in-interest to the property under appeal nor a party to whom Petitioner could claim it incorrectly reported its property under MCL 211.53a. Petitioner's response to Respondent's Motion does not indicate why STC was named as a party in this appeal but agrees that it did so in error.

The Tribunal disagrees with STC's subsequent claim in its April 25, 2018 response that its dismissal should not be considered until after the Tribunal's consideration of its Motion for Summary Disposition. "Parties may be added or dropped by order of the tribunal on its own initiative or on motion of any interested person at any stage of the contested case and according to terms that are just."[5] Here, STC's argument that its dismissal is not appropriate because of a

[4] See *Autodie, LLC v City of Grand Rapids*, 305 Mich App 423, 428; 852 NW2d 650 (2014).
[5] See TTR 223(6).

purported flaw in Petitioner's legal theory is not supported by its response. Specifically, Petitioner erred in naming STC as co-Respondent in this case, and regardless of the merits of any party's argument, the Tribunal finds no pertinent reason why STC should continue as co-Respondent in this case.

The Tribunal further finds that STC's Motion for Summary Disposition pursuant to MCR 2.116(C)(3) and/or (C)(8) should be denied. Specifically, motions for summary disposition must be brought by a party properly pending before the Tribunal.[6] STC is not a proper party before the Tribunal in this matter as discussed previously, and as such, the Tribunal agrees with Petitioner's response that the STC lacks standing to bring a motion on any matter other than to request its own dismissal from this appeal.

The Tribunal further finds that Petitioner's Motion to Dismiss STC as a party is denied. Specifically, the Tribunal has already found that granting STC's motion to dismiss itself as a party is proper. As such, Petitioner's Motion requesting the Tribunal to take the same action is moot.

The Tribunal further finds that dismissal of this appeal is appropriate under MCR 2.116(I)(1) because there is no genuine issue of material fact upon which Petitioner can prevail and that Respondent is entitled to summary disposition as a matter of law.

Petitioner's pleadings contend in pertinent part that its property qualifies for a property tax exemption under MCL 211.9(1)(a) and further contend that the Tribunal has the authority to order such an exemption either through its appellate authority over incorrectly reported property under MCL 211.154 and/or through its *de novo* authority over a mutual mistake of fact under MCL 211.53a.

---

[6] See MCR 2.116(B)(1).

With regard to Petitioner's claim that STC improperly dismissed its Section 154 appeal, Petitioner states it did not identify its personal property as being exempt on its L-4175 forms filed with Respondent respectively in February 2015, February 2016, and February 2017 and that Respondent incorrectly relied on those statements as filed.

Petitioner relies on four cases to support its position that the STC has jurisdiction over the exemption claim at issue: *Detroit v Norman Allan & Co.*,[7] *Eagle Glen Golf Course v Surrey Township*,[8] *Superior Hotels, LLC v Mackinac Township*,[9] and *Ontonagon Rural County Elec. Ass'n v Allouez Township*.[10] It has previously been determined that the Legislature's adoption of 1982 PA 539 undermines the legal reasoning upon which *Norman Allan* is based.[11] Further, while the Court of Appeals found in the unpublished *Eagle Glen* and *Ontonagon Rural* cases that *Norman Allan* did not rely solely on the legislatively rescinded language of MCL 211.154 in its reasoning, that same Court subsequently stated in the published *Superior Hotels* decision that *Norman Allan* pointed to no other language in its conclusion other than a portion of Section 154 which was rescinded by 1982 PA 539.[12] As such, the Tribunal finds *Norman Allan*, *Eagle Glen*, and *Ontonagon Rural* contain no legal authority upon which the Tribunal can determine Petitioner validly stated a claim for relief under MCL 211.154.

Superior Hotels analyzed the basis upon which STC and the Tribunal may consider a claim under Section 154. That decision states in pertinent part:

---

[7] See *City of Detroit v Norman Allan & Co.*, 107 Mich App 186; 309 NW2d 198 (1981).
[8] See *Eagle Glen Golf Course v Surrey Township*, unpublished decision of the Michigan Court of Appeals, Docket No. 224810 (2002).
[9] See *Superior Hotels, LLC v Mackinaw Twp*, 282 Mich App 621; 765 NW2d 31 (2009).
[10] See *Ontonagon Rural County Elec Ass'n v Allouez Township*, unpublished decision of the Michigan Court of Appeals, Docket Nos. 265605 and 265606 (2006).
[11] See *Superior Hotels, supra* at 640-641.
[12] See *Superior Hotels, supra* at 642.

> [I]n [Section] 154 the Legislature has conferred administrative jurisdiction on the STC to correct erroneous property tax assessments in specific limited circumstances. Specifically, the STC may correct an 'assessment value' that results in an 'assessment change.' MCL 211.154(1). An 'assessment change' under [Section] 154 may result 'in increased property taxes,' MCL 211.154(2), or might 'result[] in a decreased tax liability,' MCL 211.154(6).
>
> * * *
>
> The first sentence of [Section] 154 establishes the limited circumstances to which it applies. There must be an "assessment value" that needs to be corrected as a result of taxable property having been "incorrectly reported or omitted...." We agree with the Tax Tribunal's observation in *SSAB Hardtech, Inc. v State Tax Comm.*, 13 MTTR 164 (Docket No. 288672, March 30, 2004) at 174: "It is reasonable to conclude that section 154 only applies when the assessment was based upon the incorrect reporting" or omission. ... We also conclude that "assessment value" as used in [Section] 154 means either "taxable value" or 50 percent of the true cash value of property subject to taxation as those terms are defined in the Michigan Constitution and statutes.
>
> * * *
>
> "For the purpose of collecting *ad valorem* taxes, or taxes based on the value of property, the word "assessment" means the determination of the value of property for tax purposes...." *Wikman* [*v City of Novi*, 413 Mich 617, 632; 322 NW2d 103 (1982)].[13]

In summary, the *Wikman* and *Superior Hotels* decisions, read in concert, found that the STC's jurisdiction under MCL 211.154 relates to revisions of the determination of the value of property's state equalized and/or taxable value based upon incorrect reporting or omission. Petitioner in this instance contends that Section 154 further means that the STC's authority includes determining that property otherwise reported on Petitioner's personal property statements should be exempt from taxation if Petitioner incorrectly reported it as taxable property. This purported definition expands the *Superior Hotels* definition of the STC's jurisdiction, and while *Superior Hotels* did not contemplate the applicability of Section 154 to a claim for exemption for property previously reported as taxable, the Tribunal finds that neither did it limit the scope of crafting its precedential definition to solely consider the valuation of

[13] See *Superior Hotels*, *supra* at 631, 633.

taxable property. Any expansion of this definition to include tax exemptions is not appropriate under the Michigan Constitution, as exemptions "upset the desirable balance achieved by equal taxation [and] ... must be narrowly construed."[14] Because Petitioner fails to cite explicit statutory or precedential authority to support its contention that Section 154 allows a party to remove otherwise-taxable property from the tax roll, or because the Tribunal finds that none exists, Petitioner's contention under the *Superior Hotels* doctrine that the STC erred in dismissing its appeal is without merit.

As the Tribunal heretofore finds that STC properly dismissed Petitioner's Section 154 appeal, the Tribunal further finds that Petitioner's contention that the STC failed to properly correct the taxable status of incorrectly reported or omitted property is without merit. As such, in its role as appellate authority, the Tribunal finds STC did not err in dismissing Petitioner's appeal.

Next, Petitioner claims it is entitled to proceed in its case because the purported error was a mutual mistake of fact under MCL 211.53a.

The exemption for which Petitioner contends it qualifies for the years at issue states as follows:

> **211.9 Personal property exempt from taxation; real property; definitions.**
>
> Sec. 9.
>
> (1) The following personal property, and real property described in subdivision (j)(i), is exempt from taxation:
>
> (a) The personal property of charitable, educational, and scientific institutions incorporated under the laws of this state. This exemption does not apply to secret or fraternal societies, but the personal property of all charitable homes of secret or fraternal societies and nonprofit corporations that own and

[14] See *Wexford Medical Group v City of Cadillac*, 474 Mich 192, 204; 713 NW2d 734 (2006).

> operate facilities for the aged and chronically ill in which the net income from the operation of the nonprofit corporations or secret or fraternal societies does not inure to the benefit of a person other than the residents is exempt.

Petitioner contends it qualifies for the exemption at issue because it is an educational institution as contemplated by MCL 211.9(1)(a). However, to qualify for relief under MCL 211.53a, qualifying as an educational institution is not enough to receive relief. Rather, there are two additional hurdles. The first hurdle is whether or not the Supreme Court's decision in *SBC Health* is retroactive. Petitioner did not address this issue in its pleadings, and Respondent did not address this issue in its Answer. While the Tribunal prefers not to rule upon this issue until it has input from both sides, it is not necessary to rule on retroactivity at this time because of the second hurdle, as to whether listing Petitioner's property as taxable is a mutual mistake of fact. If that listing is a mutual mistake of fact, the Tribunal has the authority under MCL 211.53a to grant relief for 2015, 2016, and 2017, as well as the portion of 2014 taxes actually paid in 2015.

In contending that this matter is a mutual mistake of fact, Petitioner relies heavily on *Ford Motor Co v Woodhaven*.[15] In this decision, the Supreme Court expanded the scope of Section 53a by applying the common law definition of mutual mistake of fact, best articulated in the seminal case of *Sherwood v Walker*.[16] In this case, Walker agreed to sell to Sherwood a cow named Rose 2nd of Aberlone, and the price was set based upon the parties' mutual belief that this cow was barren, and hence worth perhaps one-tenth of a cow that could conceive. Justice Morse stated:

> I know that this is a close question, and the dividing line between the adjudicated cases is not easily discerned. But it must be considered as well settled that a party who has given an apparent consent to a contract of sale may refuse to execute it, or he may avoid it after it has been completed, if the assent was founded, or the contract made, upon the mistake of a material fact,—such as the subject-matter of

[15] *Ford Motor Co v Woodhaven* 475 Mich 425; 716 NW2d 247 (2006).
[16] *Sherwood v Walker*, 66 Mich 568; 33 NW919 (1887).

> the sale, the price, or some collateral fact materially inducing the agreement; and this can be done when the mistake is mutual.[17]

Prior to *Ford Motor*, the Tribunal and Court of Appeals have defined this term in the context of MCL 211.53a much more narrowly.[18] In its opinion, the Supreme Court rejected the prior line of cases, held that mutual mistake of fact was a term of art known to the legislature that enacted 53a, and further held that it should be interpreted to mean what it meant in contract law, which is "an erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction."[19]

In the present case, Petitioner argues that the facts in *Ford Motor* are exactly the same as here, where the taxpayer reported exempt property as taxable. A review of that case finds that both double taxed and exempt property allegations were before the Court. Petitioner initially contended in the Bruce Township appeal that it was entitled to a refund from the City of Romeo under MCL 211.53a because a mutual mistake of fact occurred *regarding the taxability of Ford's personal property.*[20] It later changed its contention to argue that it was reported and assessed twice. The Supreme Court noted that:

> the Court of Appeals dissent reasoned that both Ford and Bruce Township shared the same factual mistake, namely, that all the property listed in Ford's statement was taxable. Because both parties relied on this factual mistake, the dissent concluded, the parties operated under a mutual mistake of fact. Therefore, the Court of Appeals dissent would have reversed the order of the MTT on the basis that the MTT erred in applying the law and adopting an incorrect legal principle.[21]

---

[17] *Id*., at 576.
[18] See *General Products Delaware Corp v Leoni Twp*, unpublished per curiam opinion of the Court of Appeals decided May 8, 2003, (Docket No 233432), and *International Place Apartments IV v Ypsilanti Twp*, 216 Mich App 104; 548 NW2d 668 (1996), which interpreted MCL 211.53b.
[19] *Ford Motor*, 475 Mich at 442.
[20] *Ford Motor*, 475 Mich at 430.
[21] *Id* at 435.

While it is not clear under *Ford Motor* whether a mutual mistake of fact includes a mutual mistake of law, only "a mistaken belief," such a conclusion would be reasonable. On the other hand, there is no indication in *Ford Motor* that the exempt property listed as taxable suddenly became exempt as a result of a change in the interpretation of the exemption statute.[22]

Further adding to this lack of distinction between mistake of law and one of fact was the Court of Appeals decision in *Eltel Associates v City of Pontiac*.[23] In *Eltel*, the issue was the date of transfer of title, which the Court of Appeals determined was the date that the deed was taken out of escrow, rather than the date the deed was signed. In holding that this was a mistake of fact, rather than a mistake of law, the Court of Appeals stated:

> 'The general rule is that a deed delivered to a third person to be by him delivered to the grantee upon the happening of some event in the future, which may or may not happen, does not pass the title to the land until such event occurs, and then only from that time.' " *Noakes v. Noakes,* 290 Mich. 231, 240, 287 N.W. 445 (1939), quoting *McIntyre v. McIntyre,* 147 Mich. 365, 366, 110 N.W. 960 (1907). Although ultimately settled by this rudimentary principle of law, the tribunal's determination of the moment when title passed was a factual determination made on the basis of the undisputed facts presented to the tribunal by the parties. Respondent fails to persuade us that the tribunal misapplied the law to the uncontested facts.
>
> However, respondent also argues that the legal nature of the "mistake" claimed by petitioner precludes any refund of the paid taxes, because MCL 211.53a does not allow relief for a mistake of law, only a mistake of fact. See *Noll Equip. Co. v. Detroit,* 49 Mich.App. 37, 42–43, 211 N.W.2d 257 (1973). We disagree, however, with respondent's categorization of the issue as a mistake of law.[24]

While the Supreme Court in *Ford Motor* only spoke of a mistaken belief, as opposed to a mistake of fact, versus a mistake of law, that distinction was made clear by the Court in *Briggs*

[22] To put in another way, this is not a case as to whether the cow was fertile. Rather it is akin to mistake as to whether Rose 2nd of Aberlone was legally permitted to calf, or to have her milk legally sold.
[23] *Eltel Associates v City of Pontiac,* 278 Mich App 588; 752 NW2d 492 (2008).
[24] *Id* at 591-592.

Tax Service LLC v Detroit Public Schools.[25] In *Briggs*, the taxpayer sought a refund under 53a for the collection of an unauthorized millage. The Supreme Court held that as the mistake did not involve the City assessor, it was not mutual. The Court further held:

> Also necessary for application of MCL 211.53a is a mistake "of fact." Lest confusion exist in differentiating mistakes of fact and mistakes of law, Michigan courts have held on several occasions that an unauthorized tax levy constitutes a mistake of law.[26]
>
> * * *
>
> These cases stand for the proposition that a mistake about the validity of a tax constitutes a mistake of law. We agree with their reasoning and reaffirm that collection of an unauthorized tax constitutes a mistake of law, not a mistake of fact.
>
> In holding that the mistake about the validity of the property tax in this case constituted a mistake of fact, the Court of Appeals relied on *Ford.* This reliance was misplaced. In *Ford*, the petitioner Ford Motor Company (Ford) sought recovery of taxes that it claimed were paid as a result of a mutual mistake of fact within the meaning of MCL 211.53a. Ford had filed personal property statements with the relevant taxing units, but each report contained misinformation about the amount of taxable property. The assessor in each taxing unit accepted and relied on those statements as accurate when calculating Ford's tax liability. Ford paid the tax bills as issued. After discovering its errors, Ford petitioned the Tax Tribunal for a refund under MCL 211.53a, alleging a mutual mistake of fact.
>
> We held that Ford had stated valid claims of mutual mistake of fact under MCL 211.53a. Ford and the assessors shared and relied on an erroneous belief about a material fact that affected the substance of the transactions. Specifically, Ford's property statements overstated the amount of its taxable property, including reporting the same property twice. As this mistake concerned a numeric value, it was inherently a factual mistake. [Footnotes omitted].[27]

In summary, the Supreme Court made it clear in *Briggs* that "a mistaken belief" under MCL 211.53a does not include a mistake of law.

---

[25] *Briggs Tax Service LLC v Detroit Public Schools*.485 Mich 69; 780 NW2d 753 (2010).
[26] *Briggs*, 485 Mich at 81.
[27] *Id*, at 83-84.

In the subject case, Petitioner listed its personal property as taxable on its personal property statements timely filed with Respondent. At the time of filing the personal property statement in 2014, the availability of an exemption for the personal property of a for-profit educational institution was unsettled, at best. There was some authority from the Supreme Court in 1920 ruling on an earlier version of the statute[28] that made no distinction between a for-profit or not-for-profit educational institution. In *Webb Academy v City of Grand Rapids*, [29] the for-profit versus non-profit status of the taxpayer was not discussed by the Court. Rather, the issue ruled upon was whether or not a small portion of the real property used as a garden, or for public storage for a fee, disqualified some or all of the real and personal property from the exemption statute in effect at the time. The Court held that the entire property was exempt. However, since that time, Michigan's Constitution has been replaced and MCL 211.7n was enacted. The only pronouncement regarding the availability of MCL 211.9(1)(a) was in the negative, when the Michigan Tax Tribunal so held on October 8, 2013 in deciding *SBC Health*.[30]

In contrast to *Ford Motor*, where the availability of a special tools exemption for its personal property was well-known and established, Petitioner's mistake in the present case was a mistake of law rather than fact. Petitioner understood what property it was listing. It did not understand its legal status. Further, Ford Motor's exemption claim would likely have been agreed to by Respondents' assessors had it been claimed. In the present case, Respondent would not have had the belief in 2014 that 9(1)(a) was available to Petitioner. Assuming that Petitioner

[28] CL 1915 Section 4001, which exempted "real estate ... owned and occupied by library, benevolent, charitable, educational and scientific institutions incorporated under the laws of this state, ... and other property thereon while occupied by them solely for the purposes for which they were incorporated."
[29] *Webb Academy v City of Grand Rapids*, 209 Mich 523; 177 NW 290 (1920).
[30] *SBC Health Midwest Inc v City of Kentwood*, 25 MTT 21 (2013).

was prescient enough in 2014 to believe otherwise, the mistaken belief could not have been mutual.

The first indication that 9(1)(a) was available to Petitioner would have occurred on March 19, 2015, when the Michigan Court of Appeals reversed the Tribunal.[31] The release date of that decision falls after the February deadline in 2015 for filing personal property returns, so the situation as to mistake of law and mutuality would be no different for 2015 than it was for 2014.

As for tax years 2016 and 2017, Petitioner could credibly claim a mistake of fact in listing the property on its personal property tax return, similar to *Ford Motor*. However, the mistake would not have been mutual. While the Court of Appeals' *SBC Health* decision set forth authority for the availability of 9(1)(a) to for-profit institutions, the 2015 decision was unpublished and not s*tare decisis*.[32] As this legal question was still open, the belief of the property's exemption under 9(1)(a) was not shared at the time by Respondent and therefore was not a mutual mistake. The law did not become settled until the Supreme Court affirmed the Court of Appeals in 2017.

Accordingly, because the mistake was one of law rather than fact for 2014 and 2015, and not a mutual mistake for any of the years under appeal, the Tribunal's jurisdiction cannot be invoked under MCL 211.53a.

JUDGMENT

IT IS ORDERED that STC's Motion to Dismiss itself as co-Respondent is GRANTED.

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

---

[31] *SBC Health Midwest Inc v. City of Kentwood*, unpublished per curiam opinion of the Court of Appeals, issued March 19, 2015 (Docket No. 319428).
[32] See MCR 7.215(C)(1).

IT IS FURTHER ORDERED that Petitioner's Motion to Dismiss STC as co-Respondent is DENIED.

IT IS FURTHER ORDERED that summary disposition under MCR 2.116(I)(1) is GRANTED in favor of Respondent.

IT IS FURTHER ORDERED that the case is DISMISSED.

This Final Opinion and Judgment resolves the last pending claim and closes the case.[33]

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.[34] 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.[35] 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.[36] Responses to motions for

[33] On May 8, 2018, after composition of this Final Opinion and Judgment was substantially completed, Petitioner filed a Motion for Costs in the above-captioned case. Petitioner's Motion is properly pending before the Tribunal, and under TTR 225, non-party STC is granted permission by the Tribunal to file a written response to Petitioner's Motion within 21 days of the date of that Motion if it should so choose. Notwithstanding Petitioner's May 8, 2018, Motion, dismissal in favor of Respondent remains appropriate at this time.
[34] See TTR 261 and 257.
[35] See TTR 217 and 267.
[36] See TTR 261 and 225.

reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[37]

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."[38] A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.[39] The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[40]

By Steven H. Lasher

Entered: May 11, 2018
bw

[37] See TTR 261 and 257.
[38] See MCL 205.753 and MCR 7.204.
[39] See TTR 213.
[40] See TTR 217 and 267.