

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

Eastwick Square Townhouse Coopertive,
Petitioner,

v

MTT Docket No. 269883

City of Roseville,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT

The Tribunal, having given due consideration to the file in the above-captioned case, finds:

1. Administrative Law Judge Thomas A. Halick issued a Proposed Order Granting Respondent's Motion to Dismiss made on the Record on January 13, 2012. The Proposed Order, in pertinent part, "the parties have 20 days from date of entry of this Proposed Order to file exceptions and written arguments with the Tribunal consistent with Section 81 of the Administrative Procedures Act (MCL 24.281)."
2. Neither party has filed exceptions to the Proposed Order.
3. The Administrative Law Judge considered the briefs, argument and evidence submitted and made specific findings of fact and conclusions of law. The Administrative Law Judge's determination is supported by the briefs, argument and evidence and applicable statutory and case law.
4. The Tribunal adopts the Proposed Order as the Tribunal's final decision in this case. See MCL 205.726. The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the Proposed Order.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the subject property's assessed values and taxable values for the tax years at issue are as indicated by this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's taxable values as finally indicated in this Final Opinion and Judgment within 20 days of the entry of this Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been

determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Final Opinion and Judgment within 28 days of the entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (ii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (iii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (iv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (v) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (vi) after December 31, 2010, at the rate of 1.12% for calendar year 2011, and (vii) after December 31, 2011, at the rate of 1.09% for calendar year 2012.

MICHIGAN TAX TRIBUNAL

Entered: March 19, 2012

By: Steven H. Lasher

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

Eastwick Square Townhouse Cooperative,
Petitioner,

v

MTT Docket No. 269883

City of Roseville,
Respondent.

Administrative Law Judge Presiding
Thomas A. Halick

PROPOSED ORDER GRANTING RESPONDENT’S MOTION TO DISMISS
MADE ON THE RECORD

On November 22, 2011, a hearing was held in the above captioned case.

Petitioner’s counsel stated in opening argument that this case is “exactly similar to the case of *Roseville Townhouses Cooperative v City of Roseville*, MTT Docket No. 269701, which has already been heard.”

Respondent moved on the record that the case be dismissed. Petitioner presented legal argument on the record with regard to the motion.

The parties stipulated to the admission of Petitioner’s valuation disclosure consisting of Exhibits P-1 through 66, which are bound and indexed in the Tribunal’s case file.

The parties stipulated to the admission of Respondent’s valuation disclosure consisting of Exhibits R-1 (Respondent’s Valuation Report by Daniel Hickey) and Exhibit 2 (Respondent’s Amended pp. 16, 19-22 of Valuation Report by Daniel Hickey).

The admissibility of each of the above-referenced exhibits is subject to the same objections placed on the record in *Roseville Townhouses Cooperative v City of Roseville*, MTT Docket No. 269701.

The parties further stipulated that the record in *Roseville Townhouses Cooperative v City of Roseville*, MTT Docket No. 269701 is incorporated and made a part of this record.

The Tribunal’s Order entered February 25, 2011, partially granted summary disposition, dismissing Petitioner’s main legal theory that the income approach to value must be applied

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using the actual income and expenses of a nonprofit housing cooperative. That Order left open the possibility that Petitioner could present evidence at the hearing to meet its burden of proof based on other evidence in the record, such as by demonstrating flaws or inaccuracies in the property record cards. At the hearing, Petitioner made it clear that its case rested entirely on the proofs and legal theory in its valuation disclosure, which the Tribunal had previously found to be inadequate as a matter of law in this and other cases. At that point it was clear that the outcome of this case would be identical to *Roseville Townhouses Cooperative v City of Roseville*, MTT Docket No. 269701 and Respondent moved for dismissal on the same grounds as in the prior case litigated between these parties.

Upon consideration of the Tribunal's Orders entered February 25, 2011 (Order Partially Granting Respondent's Motion for Summary Disposition and Order Granting Respondent's Motion to Strike certain testimony and documentary evidence), the record of the November 22, 2011 hearing, the pleadings, legal briefs, arguments made in open court, and the entire case file, it is determined that Petitioner's evidence is insufficient to meet its primary burden to go forward with competent evidence to establish the true cash value of the subject property and that Petitioner cannot meet the ultimate burden of persuasion as required by MCL 205.737(3).

IT IS ORDERED that Respondent's Motion to Dismiss is GRANTED.

IT IS FURTHER ORDERED that the parties shall have 20 days from date of entry of this Proposed Order to file exceptions and written arguments with the Tribunal consistent with Section 81 of the Administrative Procedures Act (MCL 24.281). The exceptions and written arguments shall be limited to the matters addressed in the motion. This Proposed Order, together with any exceptions and written arguments, shall be considered by the Tribunal in arriving at a final decision in this matter pursuant to Section 26 of the Tax Tribunal Act (MCL 205.726).

MICHIGAN TAX TRIBUNAL

Entered: January 13, 2012

By: Thomas A. Halick