

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

Melling Real Estate, LLC,
Petitioner,

v

MTT Docket No. 17-000744

Surrey Township,
Respondent.

Tribunal Judge Presiding
David B. Marmon

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Melling Real Estate, LLC (“Melling”), appeals ad valorem property tax assessments levied by Respondent, Surrey Township, against Parcel No. 18-041-626-001-00 for the 2017 tax year. Jason Conti, attorney and Scott Aston, CPA represented Petitioner, and Frank Gentz, Respondent’s assessor represented Respondent. A hearing on this matter was held on July 11, 2018. Petitioner’s witnesses were Frank Gentz as an adverse witness, and Andrew Sill. Respondent’s sole witness was Frank Gentz.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property for the 2017 tax year is as follows:

Parcel No.	Year	TCV	SEV	TV
18-041-626-001-00	2017	\$894,000	\$447,000	\$447,000

PETITIONER’S CONTENTIONS

Petitioner contends that the subject’s true cash value is \$750,000, based upon an appraisal performed as of December 31, 2016 by Andrew Sill, MAI, and an addendum dated June 27, 2018.¹ Sill used all three approaches to value but relied upon the sales comparison approach. As to Sill’s cost approach, Petitioner’s counsel contends as follows:

So on all three of those measures, [original cost of building before depreciation, age-life depreciation and land value] Mr. Gentz's numbers are lower than -- than Petitioner's, than Mr. Sill's. Put simply, based just on estimated land value,

¹ The addendum was necessary as the original appraisal included land and a pole barn owned by Petitioner but not under appeal.

estimated cost and age-life depreciation, Mr. Gentz arrives at a materially smaller indicated value for the subject property than Mr. Sill. Where Mr. Sill and Mr. Gentz differ in the cost approach is that Mr. Gentz fails to deduct for any external and functional obsolescence and instead summarily concludes that the subject property has zero obsolescence.²

Petitioner contends that Respondent's failure to take into account any functional or economic obsolescence is not supported by market analysis and is nothing more than an effort to inflate the true cash value conclusion.

PETITIONER'S ADMITTED EXHIBITS

- P1 Appraisal report prepared by Andrew Sill, MAI.
- P2 June 27, 2018 addendum by Andrew Sill removing land and improvements associated with vacated Webber Street parcel 041-626-003-00.
- P10 Aerial photograph of parcel with removed parcel highlighted.

RESPONDENT'S CONTENTIONS

Respondent contends that the subject is worth \$1,790,476. Respondent relied upon the cost approach for lack of good comparables and income data.³ Respondent further contends that the 50% reduction for economic and functional obsolescence was not used in Petitioner's sales approach. Respondent further criticized this 50% obsolescence, stating:

In essence, the obsolescence is the difference between the comparables' building improvements sale value and the comparables' building improvements cost approach value. When the ratio is entered back into the cost approach, as the Petitioner's appraisal has, to the value for the subject it is like taking the cost approach value of the building improvements, dividing it by itself and multiplying by the sales approach value.⁴

Respondent further contends that the demand for industrial property in the subject's local market is high, as is evidenced by six new construction projects, which include the subject property.⁵ In its valuation disclosure, Respondent also argues that under the Court of Appeals

² T at 12-13.

³ T at 15.

⁴ T at 17-18.

⁵ T at 19.

decisions in *Menard v City of Escanaba*⁶ and *Clark Equipment v Leoni Twp*⁷ the sales approach is unsuitable, and only the cost approach is appropriate.

RESPONDENT'S ADMITTED EXHIBITS

- R1 Respondent's valuation disclosure
- R6 Andrew Sill's work file.

FINDINGS OF FACT

1. The subject property is located in the Village of Farwell at 333 Grace Street.
2. Per the 2010 census, Farwell had a population of 871, in 373 households.⁸
3. Farwell is located in Clare County, which has an estimated population of 31,000.⁹
4. Farwell is roughly 90 miles north of Lansing, 100 miles northeast of Grand Rapids, and 165 miles northwest of Detroit.
5. The portion of the subject property located on the parcel under appeal is a 56,767 square foot industrial building, mostly built in 1981 with 3,774 square feet of office, 1,924 square feet of mezzanine storage and 6,520 square feet of unheated ("cold") storage on 24.82 acres.¹⁰
6. Petitioner submitted an appraisal performed by Andrew Sill, MAI that as amended, concluded to a value of \$750,000 using all three approaches to value.
7. Neither valuation witness found sales comparables within Farwell, or Clare County.
8. The parties agreed that the subject's highest and best use is as an industrial building.
9. Sill found four sales of industrial properties in rural areas throughout the state of Michigan of similar sized and aged industrial facilities, ranging in price from \$720,000 to \$850,000.¹¹
10. Of Sill's four sales, Comparable #202 was most similar to the subject, and gave an indicated sales price of \$893,506.

⁶ *Menard v City of Escanaba*, 315 Mich App 512; 891 NW2d 1 (2016).

⁷ *Clark Equipment v Leoni Twp* 113 Mich App 778; 318 NW2d 586 (1982).

⁸ P1 at 19.

⁹ P1 at 79.

¹⁰ P2 at 3.

¹¹ P2 at 3.

11. Sill also performed a cost approach, which included a 50% adjustment for combined functional and economic obsolescence through the extraction method.
12. Sill's conclusion of value under the cost approach of \$895,876 was very close to the value indicated by Comparable #202.
13. Gentz, a CMAO, only performed a mass appraisal cost approach.
14. Gentz had no sales to support an economic condition factor, or a county multiplier.
15. Gentz failed to find any economic or functional obsolescence.

CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.¹²

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law except for taxes levied for school operating purposes. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not . . . exceed 50 percent. . . .¹³

The Michigan Legislature has defined "true cash value" to mean:

The usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.¹⁴

The Michigan Supreme Court has determined that "[t]he concepts of 'true cash value' and 'fair market value' . . . are synonymous."¹⁵

"By provisions of [MCL] 205.737(1) . . . , the Legislature requires the Tax Tribunal to make a finding of true cash value in arriving at its determination of a lawful property assessment."¹⁶ The Tribunal is not bound to accept either of the parties' theories of valuation.¹⁷

¹² See MCL 211.27a.

¹³ Const 1963, art 9, sec 3.

¹⁴ MCL 211.27(1).

¹⁵ *CAF Investment Co v Michigan State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

¹⁶ *Alhi Dev Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981).

¹⁷ *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 378 NW2d 590 (1985).

“It is the Tax Tribunal's duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.”¹⁸ In that regard, the Tribunal “may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination.”¹⁹

A proceeding before the Tax Tribunal is original, independent, and de novo.²⁰ The Tribunal's factual findings must be supported “by competent, material, and substantial evidence.”²¹ “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.”²²

“The petitioner has the burden of proof in establishing the true cash value of the property.”²³ “This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party.”²⁴ However, “[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessments in relation to true cash values in the assessment district and the equalization factor that was uniformly applied in the assessment district for the year in question.”²⁵

The three most common approaches to valuation are the capitalization of income approach, the sales comparison, or market, approach, and the cost-less-depreciation approach.²⁶ “The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading.”²⁷ The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving at the true cash value of the property, utilizing an approach that provides the most accurate valuation under

¹⁸ *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

¹⁹ *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992).

²⁰ MCL 205.735a(2).

²¹ *Dow Chemical Co v Dep't of Treasury*, 185 Mich App 458, 462-463; 462 NW2d 765 (1990).

²² *Jones & Laughlin Steel Corp*, *supra* at 352-353.

²³ MCL 205.737(3).

²⁴ *Jones & Laughlin Steel Corp*, *supra* at 354-355.

²⁵ MCL 205.737(3).

²⁶ *Meadowlanes*, *supra* at 484-485; *Pantlind Hotel Co v State Tax Comm*, 3 Mich App 170, 176; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968).

²⁷ *Jones & Laughlin Steel Corp*, *supra* at 353 (citing *Antisdale v City of Galesburg*, 420 Mich 265; 362 NW2d 632 (1984) at 276 n 1).

the circumstances.²⁸ Regardless of the valuation approach employed, the final valuation determined must represent the usual price for which the subject would sell.²⁹

At issue in this appeal is the true cash value of a 35-year-old 56,767 square foot industrial building on 24.82 acres located in the rural community of Farwell, which is far from any metroplex in Michigan. No matter how bucolic, industries setting up shop in such areas are typically further away from suppliers, markets and a skilled workforce than equivalent facilities within an urban/suburban setting. Also, a typical feature of rural settings for industrial buildings is a lack of sales comparables in the immediate area. Moreover, such properties are rarely leased, rendering the income capitalization approach problematic.

Respondent's solution to determining the true cash value is to use only the mass appraisal cost approach. Recently, the Tribunal opined on relying solely on this approach at hearing:

This tax appeal matter focuses on a singular property and not on a universe of properties in uniformity. The reliance on a county equalization study is equally broad in scope to the analysis and application to the subject property. More specifically, the development of a land sales study, an ECF and multipliers was identified as the county's work and care should be taken in the use of the overall study. Cogent testimony was lacking for the details of this sales study which was completed by someone other than the assessor. Equally troubling is the 2003 cost manual with unconfirmed and unspecified updates relied upon by Respondent. Reference to an outdated cost manual is not the equivalent of actually showing the cost calculations specifically applied to the subject improvements. Testimony merely identifying a cost manual and property record cards, in conjunction with deference to the STC, did not result in cost details. The admission that the county's sales were in fact properties, with noted TCVs used for an extraction of improvements for a ratio determination, is equally unpersuasive. For these reasons, Respondent's mass appraisal cost approach is given no weight or credibility in the determination of market value for the subject property.³⁰

The present case, which involves the same assessor is subject to the same criticism. Regarding the development of an ECF, the STC Assessor's Manual states in relevant part:

It is critical that the ECF analysis be based upon a sufficient number of verified arms-length sales transactions and that the sales be representative of the properties being assessed using the ECF. In some rural townships, there may be insufficient sales to develop an ECF. In this case, the assessor may have to analyze sales in

²⁸ *Antisdale*, *supra* at 277.

²⁹ See *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

³⁰ *Rough Road v Surrey Twp*, MTT Docket No 15-001839 Decided May 25, 2017 at 9-10

adjoining communities to assist in developing an ECF. The assessor may need to include sales having occurred outside the normal period, requiring the use of a market conditions adjustment (i.e., time). It may be necessary to compare the subject area to another area with a known ECF and make adjustments in much the same way as comparable sales are adjusted to a subject property in a market appraisal.³¹

Gentz testified as follows regarding the development of the Economic Condition Factor:

The ECF is essentially a comparison of what was assessed previously to what the new value would be. Typically it would be a sale, but with the industrials we don't have sales to work with so we work with the county's appraisal study.³²

Earlier, Gentz had testified that there were no relevant industrial sales in the county.³³ It is therefore problematic as to how his ECF was developed, if there were no sales of the same type of property in which to base this factor. Gentz did include a list of 7 sales, four of which were highlighted, but the sales prices ranged from \$19,500-\$75,000.³⁴ How these particular sales could possibly be representative of the subject was unexplained at hearing and remain a mystery.

Despite Respondent's lack of support for its valuation, Petitioner acknowledged that Gentz's valuation in fact resulted in a smaller TCV than Sill's cost approach, except for the fact that Gentz chose 0% for functional and economic obsolescence, while Sill chose 50%. Respondent based his determination of zero functional and economic obsolescence on the fact that in the local market, six new construction projects, including a portion of the subject have been recently completed. Gentz stated:

The local market of which the subject is part has a demand for replacement cost new as is evidenced by the new construction, which would represent the lowest price and therefore the highest indication of value for the subject property. And therefore, I did not use an obsolescence on the property for my valuation disclosure.³⁵

The first problem with that statement is his claim that new construction would represent the lowest price. Generally, new construction costs more than an older facility and indicates the highest price that market participants are willing to pay. The second problem is Gentz's non-

³¹ State Tax Commission, *Michigan Assessor's Manual Vol III* published February 2018, at 41.

³² T at 135-136.

³³ T at 131.

³⁴ R1 at 83

³⁵ T at 19.

sequitur that highest indication of value means zero obsolescence. The fact that other businesses are building new facilities may in fact indicate functional obsolescence, as the subject did not meet the needs of other businesses. As to economic obsolescence, new construction is more likely an indicator of the fact that Respondent is selling acreage sites for \$1.00,³⁶ rather than a lack of said obsolescence. Finally, the presence of new construction increases supply, which has a negative impact on the price of an existing building. For all of these reasons, the Tribunal rejects Respondent's choice of zero for functional and economic obsolescence.

The Tribunal also takes issue with Gentz's sole reliance on the cost approach. In his valuation, Gentz justifies this reliance on the Court of Appeals decisions in *Menard* as well as *Clark Equipment*. In *Menard*, the subject property was a big box retail store, and the sales comparables used by Petitioner's appraiser had deed restrictions. The Court of Appeals relied in part on the existence of deed restrictions to hold that there were no valid sales comparables. In the present case, Gentz agreed with Sill that highest and best use is as an industrial building.³⁷ No evidence of deed restrictions on Sill's comparables was discussed or put into evidence. Accordingly, the Tribunal holds that *Menard* is distinguishable from the present case.

As to the application of *Clark Equipment*, that case is also distinguishable. First of all, the parties had determined that the highest and best use was its present use, rather than as an industrial building. As noted by the Court of Appeals in *Menard*, buildings with their highest and best use as their present use "are constructed or built to order to conform to the specifications of the purchasing user and are rarely sold on the open market for their current use."³⁸ In contrast, the subject was valued as an industrial building. While sales of such buildings in rural areas are not frequent, such sales do occur. Sill was able to locate four comparables in other rural areas, which sold in a relatively narrow range of price per square foot.

Moreover, the holding in *Clark Equipment* as discussed by the Court of Appeals in *Menard* was limited by its holding in *Great Lakes Div of National Steel v Ecorse*.³⁹ The *Menard* court stated:

³⁶ Sill notes that sites in Farwell Enterprise Park are selling for a dollar with the condition that the building is constructed within 1 year. P1 at 39.

³⁷ T at 20. Sill also reached that conclusion. T at 45-46.

³⁸ *Menard v Escanaba*, 315 Mich App at 529.

³⁹ *Great Lakes Div of National Steel v Ecorse*, 227 Mich App. 379; 576 NW2d 667 (1998).

Therefore, *Great Lakes* states that the holding of *Clark* should not be applied when (1) no facility like the subject facility would actually be built, and (2) a buyer has the ability to see what is occurring in the marketplace of existing facilities.⁴⁰

Here, Gentz testified that facilities such as the subject are in fact being built. Further, there was no evidence that a buyer would not have the ability to see what is occurring in the marketplace for existing facilities. Therefore, per *Menard*, the rule in *Clark Equipment* does not apply.

Lastly, if the Tribunal were to accept Gentz's argument that only the cost approach is appropriate for rural industrial properties, then rural properties will generally be valued higher than urban or suburban industrial properties. The cost approach typically gives a higher value than the sales or income approaches, especially when functional and economic obsolescence are also eliminated from consideration. Such a result is anomalous when one considers that an industrial property located closer to a skilled labor force, closer to its market and closer to its suppliers is worth less to the market than the identical property in the middle of nowhere, because nearby sales cannot be found. The Tribunal therefore rejects Gentz's methodology and valuation in this case.

Petitioner presented the appraisal of Andrew Sill, MAI. It is noteworthy to compare and contrast the credentials of a Member of the Appraisal Institute ("MAI") versus a Michigan Certified Assessing Officer, ("MCAO"). While the MAI designation from The Appraisal Institute typically takes at least 5 years of practice and study, the MCAO designation (formerly Level II assessor) takes 6 months to attain. Appraisers are familiar with all three approaches to value,⁴¹ while an MCAO assessor will mostly be performing assessments using the mass appraisal cost approach and using the state's BSA software. All things being equal, the Tribunal is more likely to place more weight on the testimony and work product of an MAI over an MCAO based on training and familiarity with all three approaches. The present case sets forth those differences. While Gentz only used the mechanical mass appraisal cost approach, Sill used all three approaches.

⁴⁰ *Menard v Escanaba*, 315 Mich App at 528-529.

⁴¹ The development and application of each approach by appraisers is governed by his or her scope of work and assignment conditions.

Sill performed a pro forma income approach, but placed no weight on the conclusion of value, noting “a lack of truly comparable data from this market... .”⁴² Sill used asking rents, and noted that it was rare for rural industrial property to be built for purposes of leasing. The Tribunal agrees, and also places zero weight on the income approach.

While performing all three approaches, Sill relied exclusively upon the sales comparison approach. He found four sales of rural industrial buildings ranging in size from 50,000 to 75,240 square feet. The sales prices ranged from \$720,000 to \$845,000. While none of the sales comparables are geographically close to the subject, Sill testified that all four comparables were located in rural areas similar to the area the subject is located in. He also testified that all comparables reflect the current market conditions.⁴³ He made adjustments for economies of scale, office area, difference in land area, average height, effective age, storage mezzanine and cold storage. The adjusted prices per square foot were \$9.39 for Comp #203, \$10.45 for #204, \$14.95 for #201 and \$15.45 for #202. Adding adjustments for cold storage and mezzanine storage and applying the adjusted prices per square foot to the subject’s 56,767 square feet, Sill had an array of adjusted values of \$552,141 for #203, \$612,002, for #204, \$798,221 for #201 and \$893,506 for #202.⁴⁴ Sill’s value was in the middle of that range and he concluded to a value of \$750,000 by the sales comparison approach. In his appraisal, Sill gave the most weight to comparable #202. He states:

Comparable #202 is a recent sale with the most similar location to the subject. It requires moderate adjustments for site size, average wall height and fire suppression. It was not listed for sale to the open market, but after a conversation with the buyer, it appears to reflect an arm’s length transaction. This comparable is the most influential comparable due to its similar building configuration and location.⁴⁵

Given this statement, it is curious as to why his value was only \$750,000, when Comparable #202 had an adjusted value of \$893,506.

Sill also prepared a cost less depreciation approach. As part of that approach, he extracted a factor for combined functional and economic obsolescence from his sales data. For

⁴² P1 at 65

⁴³ T at 64.

⁴⁴ P2 at 3.

⁴⁵ P1 at 63.

each comparable, he determined the cost to build, and determined physical depreciation, as well as land value. He then took the depreciated cost of the improvement at the time of sale and subtracted it by its contributory value based on the sales price and concluded to a dollar amount of obsolescence. He then divided this dollar amount by the total replacement cost new of the improvement and came up with a percentage of obsolescence for each comparable. Those percentages were 42.03% for comp #202, 44.23% for #201, 61.61% for #203 and 63.36% for #204.⁴⁶ From this range, he chose 50% combined obsolescence, and applied it to the subject building. Using this method, he determined that the subject's value under the cost approach is \$895,876. The Tribunal finds that this method properly takes into account functional and economic obsolescence. The fact that the range of obsolescence for all four comparables is narrow gives credence to this methodology for the cost approach in this case. The Tribunal holds that the cost approach properly performed in a rural market should be given some weight. Further, doing so is consistent with the holding in *Menard*.

The Tribunal further notes that the adjusted sales price of #202 is very close to the value under Sill's cost approach. The nearly exact fit between comparable #202's adjusted sales price of \$893,506 and Sill's cost approach conclusion of \$895,876 appears to the Tribunal to be a very strong indicator of value, and reconciling these two numbers and rounding, the Tribunal holds that the subject's true cash value is between the two approaches, at \$894,000. While this value is at the high end of the sales range, it remains within that range, and is supported by the other sales.

Finally, Petitioner asked at hearing for the award of costs against Respondent for failing to follow the Tribunal's opinion in *Rough Road*. While the Tribunal placed no weight on Respondent's valuation, and found Gentz's presentation at hearing to be lacking, the Tribunal holds that costs are inappropriate as there was no showing of bad faith, and further, Petitioner did not prevail in full.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that the subject property's TCV, SEV, and TV for the tax year(s) at issue are as stated in the Introduction section above.

JUDGMENT

⁴⁶ P1 at 43.

IT IS ORDERED that the property's state equalized and taxable values for the tax year(s) at issue are MODIFIED as set forth in the Introduction section of 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 true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the 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 within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, and (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

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

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.⁴⁷ 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.⁴⁸ 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.⁴⁹ Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.⁵⁰

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."⁵¹ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.⁵² The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.⁵³

By David B. Marmon

Entered: August 22, 2018

⁴⁷ See TTR 261 and 257.

⁴⁸ See TTR 217 and 267.

⁴⁹ See TTR 261 and 225.

⁵⁰ See TTR 261 and 257.

⁵¹ See MCL 205.753 and MCR 7.204.

⁵² See TTR 213.

⁵³ See TTR 217 and 267.