

HOUSE BILL No. 5578

April 19, 2016, Introduced by Reps. Maturen, Chatfield, Aaron Miller, McBroom, Kivela, Dianda, Poleski, Townsend, Heise, Hovey-Wright, Howell, Pagan, LaVoy, Byrd, Robinson, Webber, Brett Roberts, Hoadley, Crawford, Franz, Inman, Moss, Price, Howrylak, Pagel, Schor, Wittenberg and Kosowski and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled "Tax tribunal act," by amending section 3 (MCL 205.703), as amended by 2008 PA 125, and by adding section 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Agency" means a board, official, or administrative agency
3 empowered to make a decision, finding, ruling, assessment,
4 determination, or order that is subject to review under the
5 jurisdiction of the tribunal or that has collected a tax for which
6 a refund is claimed.

7 (b) "Chairperson" means the chairperson of the tribunal.

8 (c) "ENTIRE TRIBUNAL" MEANS THE HEARING DIVISION OF THE

1 TRIBUNAL OTHER THAN THE RESIDENTIAL PROPERTY AND SMALL CLAIMS
2 DIVISION CREATED IN SECTION 61.

3 (D) ~~(e)~~—"Mediation" means a voluntary process in which a
4 mediator facilitates communication between parties, assists in
5 identifying issues, and helps explore solutions to promote a
6 mutually acceptable settlement.

7 (E) ~~(d)~~—"Mediator" means a neutral third party who is
8 certified by the tribunal under section 47 as a mediator in a
9 proceeding before the tribunal or as a facilitator in the court of
10 claims, and who is agreed to by the parties.

11 (F) ~~(e)~~—"Proceeding" means an appeal taken under this act.

12 (G) ~~(f)~~—"Property tax laws" does not include the drain code of
13 1956, 1956 PA 40, MCL 280.1 to 280.630.

14 (H) ~~(g)~~—"Tribunal" means the tax tribunal created under
15 section 21.

16 SEC. 38. (1) SUBJECT TO SUBSECTION (2), IN AN ASSESSMENT
17 DISPUTE BEFORE THE ENTIRE TRIBUNAL AS TO THE TRUE CASH VALUE OF
18 REAL OR PERSONAL PROPERTY, THE TRIBUNAL SHALL MAKE AN INDEPENDENT
19 DETERMINATION OF AND SEPARATELY STATE ITS FINDINGS OF FACT AND
20 CONCLUSIONS OF LAW AS TO ALL OF THE FOLLOWING, IN THE FOLLOWING
21 ORDER:

22 (A) THE SPECIFIC MARKET IN WHICH THE PROPERTY SUBJECT TO
23 ASSESSMENT COMPETES, THE SUPPLY AND DEMAND FOR THE PROPERTY, THE
24 DEMAND FOR POTENTIAL USES OF THE PROPERTY, AND THE ECONOMIC
25 VIABILITY OF THE PROPERTY AT THE SPECIFIC LOCATION WITHIN THE
26 SPECIFIC MARKET IN WHICH IT COMPETES.

27 (B) THE REASONABLY PROBABLE USE TO WHICH THE PROPERTY SUBJECT

1 TO ASSESSMENT CAN BE PUT IN THE IMMEDIATE FUTURE AND THE PRESENT
2 USE OF THE PROPERTY THAT RESULTS IN THE HIGHEST AND BEST USE,
3 SUBJECT TO ALL OF THE FOLLOWING:

4 (i) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS PHYSICALLY
5 POSSIBLE.

6 (ii) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS LEGALLY
7 PERMISSIBLE UNDER APPLICABLE LAND USE LEGISLATION, REGULATIONS,
8 EASEMENTS, ORDINANCES, OR OTHER ENCUMBRANCES EXISTING ON THE TAX
9 DAY.

10 (iii) THE TRIBUNAL SHALL DETERMINE THE USE THAT IS FINANCIALLY
11 FEASIBLE. FOR PURPOSES OF THIS SUBPARAGRAPH, A USE IS FINANCIALLY
12 FEASIBLE IF IT WILL PRODUCE INCOME FROM OR VALUE TO THE PROPERTY
13 AFTER CONSIDERING ALL RISKS AND COSTS NECESSARY TO CREATE AND
14 MAINTAIN THE USE. IN DETERMINING FINANCIAL FEASIBILITY, THE
15 TRIBUNAL SHALL DETERMINE THE VALUE OF THE LAND IN THE MARKET AREA,
16 THE VALUE OF ALL IMPROVEMENTS TO THE LAND, THE COST TO CONVERT OR
17 RENOVATE THE LAND, AND EXISTING IMPROVEMENTS TO SUPPORT THE USE.

18 (iv) THE TRIBUNAL SHALL DETERMINE THE MAXIMALLY PRODUCTIVE USE
19 THAT MEETS THE REQUIREMENTS OF SUBPARAGRAPHS (i) TO (iii) AND
20 RESULTS IN THE HIGHEST VALUE THAT CAN BE APPROPRIATELY SUPPORTED.

21 (C) THE CALCULATION OF A REPLACEMENT OR REPRODUCTION
22 CONSTRUCTION COST FOR PROPERTY THAT HAS THE SAME HIGHEST AND BEST
23 USE AND THE SAME UTILITY, FEATURES, AND AGE AS THE PROPERTY SUBJECT
24 TO ASSESSMENT.

25 (D) THE COMPARABLE PROPERTIES IN THE SPECIFIC MARKET IN WHICH
26 THE PROPERTY SUBJECT TO ASSESSMENT COMPETES THAT HAVE THE SAME
27 HIGHEST AND BEST USE AS THE PROPERTY SUBJECT TO ASSESSMENT. IN

1 DETERMINING COMPARABLE PROPERTIES, THE TRIBUNAL SHALL DO ALL OF THE
2 FOLLOWING:

3 (i) DETERMINE THAT THE INFORMATION FOR EACH PROPERTY
4 CONSIDERED TO BE COMPARABLE HAS BEEN VERIFIED AND ACCURATELY AND
5 COMPLETELY DISCLOSES ALL PRIVATE RESTRICTIONS AND COVENANTS ON THE
6 USE OF THE PROPERTY, THE IMPACT OF THOSE PRIVATE RESTRICTIONS AND
7 COVENANTS, THE TERMS OF THE SALE, THE METHOD OF FINANCING, AND
8 MARKET INFORMATION.

9 (ii) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE WITH A USE
10 THAT IS DIFFERENT FROM THE HIGHEST AND BEST USE OF THE PROPERTY
11 SUBJECT TO ASSESSMENT.

12 (iii) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE IF THE SALE
13 OR RENTAL OF THE PROPERTY OCCURRED UNDER ECONOMIC CONDITIONS
14 SUBSTANTIALLY DIFFERENT FROM THE HIGHEST AND BEST USE OF THE
15 PROPERTY SUBJECT TO ASSESSMENT UNLESS THERE IS SUBSTANTIAL EVIDENCE
16 THAT THE ECONOMIC CONDITIONS ARE COMMON AT THE LOCATION OF THE
17 PROPERTY SUBJECT TO ASSESSMENT.

18 (iv) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE THAT WAS
19 VACANT AT THE TIME OF SALE UNLESS THERE IS SUBSTANTIAL EVIDENCE TO
20 SUPPORT ALL OF THE FOLLOWING:

21 (A) THE CAUSE OF THE VACANCY IS TYPICAL FOR MARKETING
22 PROPERTIES OF THE SAME CLASS.

23 (B) THE TIME OF THE VACANCY IS WITHIN THE MARKETING EXPOSURE
24 TIME PERIOD TYPICAL FOR PROPERTIES OF THE SAME CLASS.

25 (C) THE VACANCY DOES NOT REFLECT A USE DIFFERENT FROM THE
26 HIGHEST AND BEST USE OF THE PROPERTY SUBJECT TO ASSESSMENT.

27 (D) THE VACANCY IS NOT THE RESULT OF ECONOMIC OR MARKET

1 CONDITIONS THAT ARE DIFFERENT FROM THE PROPERTY SUBJECT TO
2 ASSESSMENT.

3 (v) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE IF USE OF THE
4 PROPERTY WAS MADE SUBJECT TO A PRIVATE RESTRICTION OR COVENANT IN
5 CONNECTION WITH THE SALE OR RENTAL OF THE PROPERTY THAT OPERATES TO
6 PROHIBIT OR LIMIT THE CURRENT AND LAWFUL USE OF IMPROVED PROPERTY
7 BY THE SUBSEQUENT TRANSFEREE, UNLESS ALL OF THE FOLLOWING
8 CONDITIONS ARE MET:

9 (A) THE PRIVATE RESTRICTION OR COVENANT ASSISTS IN THE
10 ECONOMIC DEVELOPMENT OF THE PROPERTY AND PROVIDES A CONTINUING
11 BENEFIT TO THE PROPERTY.

12 (B) THE PRIVATE RESTRICTION OR COVENANT WAS IMPOSED FOR
13 PURPOSES OF DEVELOPING THE PROPERTY AND WAS NOT IMPOSED FOR ANY OF
14 THE FOLLOWING PURPOSES:

15 (I) TO REDUCE THE VALUE OF THE PROPERTY.

16 (II) TO REDUCE TAXES LEVIED ON THE PROPERTY.

17 (III) TO EXCLUDE COMPETITORS OF THE GRANTOR FROM THE MARKET.

18 (C) THE PRIVATE RESTRICTION OR COVENANT DOES NOT MATERIALLY
19 INCREASE THE LIKELIHOOD OF VACANCY OR INACTIVITY ON THE PROPERTY.

20 (E) THE BASIS FOR BOTH OF THE FOLLOWING:

21 (i) SELECTING THE MOST RELEVANT UNITS AND BASIS FOR COMPARISON
22 CONSISTENT WITH THE TREATMENT IN THE MARKET OF COMPARABLE PROPERTY.

23 (ii) ADJUSTING THE COMPARABLE PROPERTIES FOR DIFFERENCES IN
24 LOCATION, AGE, SIZE, PHYSICAL CONDITION AND CHARACTERISTICS,
25 FUNCTION, RENTAL TERMS, FINANCING AND OTHER INCOME USE, ECONOMIC
26 CHARACTERISTICS, LEGAL CHARACTERISTICS, AND OTHER COMPONENTS THAT
27 INFLUENCE THE VALUE.

1 (F) THE METHOD OF VALUATION, SUBJECT TO ALL OF THE FOLLOWING:

2 (i) IN DETERMINING THE METHOD OF VALUATION, THE TRIBUNAL SHALL
3 USE, WEIGH, AND RECONCILE ALL OF THE FOLLOWING:

4 (A) THE METHOD OF VALUATION USED BY THE ASSESSOR.

5 (B) ALL OF THE FOLLOWING METHODS OF VALUATION:

6 (I) COMPARABLE SALES.

7 (II) CAPITALIZATION OF INCOME.

8 (III) COST LESS DEPRECIATION.

9 (ii) IN USING, WEIGHING, AND RECONCILING THE METHODS OF
10 VALUATION UNDER SUBPARAGRAPH (i), THE TRIBUNAL SHALL STATE WHETHER
11 THE INFORMATION SUPPORTING EACH METHOD OF VALUATION IS ACCURATE AND
12 RELIABLE AND SHALL REQUIRE ADDITIONAL INFORMATION NECESSARY TO
13 DETERMINE A VALUE THAT IS CREDIBLE AND NOT SPECULATIVE.

14 (iii) THE TRIBUNAL SHALL NOT DISREGARD ANY METHOD OF VALUATION
15 IDENTIFIED IN SUBPARAGRAPH (i) ABSENT A REASONABLE JUSTIFICATION
16 SUPPORTED BY SUBSTANTIAL EVIDENCE OR A STIPULATION THAT COMPLIES
17 WITH THE REQUIREMENTS OF SUBSECTION (2) (A).

18 (2) THE TRIBUNAL'S DETERMINATIONS UNDER SUBSECTION (1) ARE
19 SUBJECT TO ALL OF THE FOLLOWING:

20 (A) THE TRIBUNAL MAY CONSIDER THE PARTIES' STIPULATION TO A
21 DETERMINATION UNDER SUBSECTION (1) ONLY IF THE PARTIES FURTHER
22 PROVIDE A STIPULATED EXPLANATION OF THE EVIDENTIARY BASIS FOR THAT
23 DETERMINATION THAT COMPORTS WITH THE EVIDENTIARY BASIS REQUIRED FOR
24 AN INDEPENDENT TRIBUNAL DETERMINATION UNDER SUBSECTION (1).

25 (B) FOR EACH FINDING OF FACT UNDER SUBSECTION (1), THE
26 TRIBUNAL SHALL SEPARATELY IDENTIFY SUPPORTING EVIDENCE THAT IS
27 SUBSTANTIAL AND RELIABLE AND HAS BEEN VERIFIED.

1 (C) IF THE EVIDENCE ON THE RECORD DOES NOT CONSTITUTE
2 SUBSTANTIAL EVIDENCE, THE TRIBUNAL SHALL REQUIRE ADDITIONAL
3 EVIDENCE SUFFICIENT TO SUPPORT A CONCLUSION THAT THE TRIBUNAL HAS
4 REACHED AN INDEPENDENT DETERMINATION.

5 (D) ALL OF THE TRIBUNAL'S DETERMINATIONS UNDER SUBSECTION (1)
6 SHALL BE MADE IN ACCORDANCE WITH GENERALLY ACCEPTED APPRAISAL
7 PRINCIPLES, INCLUDING THE "UNIFORM STANDARDS OF PROFESSIONAL
8 APPRAISAL PRACTICE" PROMULGATED BY THE APPRAISAL FOUNDATION.

9 (3) AS USED IN THIS SECTION:

10 (A) "PRIVATE RESTRICTION OR COVENANT" MEANS A REQUIREMENT,
11 PROVISION, OR STATEMENT IN A DEED, LEASE, OR CONTRACT THAT
12 RESTRAINS OR LIMITS THE USE OF THE PROPERTY OR REQUIRES A USE OF
13 THE PROPERTY.

14 (B) "TAX DAY" MEANS THAT TERM AS PROVIDED IN SECTION 2 OF THE
15 GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.2.

16 (C) "TRUE CASH VALUE" MEANS THAT TERM AS DEFINED IN SECTION 27
17 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.27.