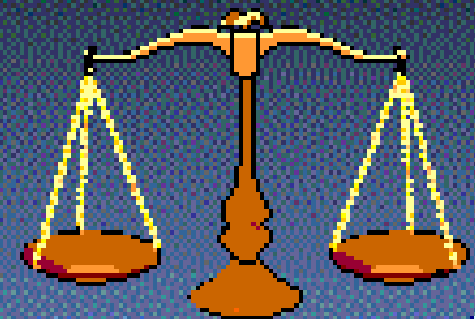
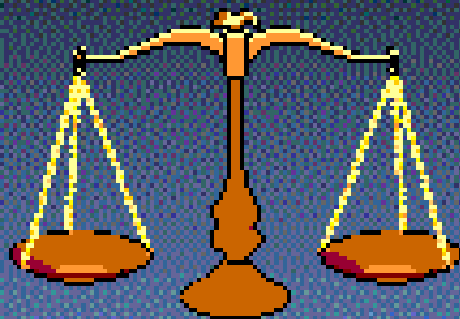


Michigan Department of Labor & Economic Growth

Michigan Tax Tribunal

Patricia L. Halm, Chair

Victoria L. Enyart, Member



What is MTT

- The Tribunal functions as the State's Tax Court,
- An administrative court that hears tax appeals for all Michigan taxes;
- Appeals typically involve property tax;
- Also business and individual tax disputes;
- There are two divisions: Entire Tribunal and Small Claims.

ENTIRE TRIBUNAL (ET)

↳ Formal hearing process

- ✦ Legal petition must be filed.
- ✦ Typically large dollar amount or complex issues.
- ✦ Parties are generally represented by professionals.
- ✦ Counsel Conferences are required.
- ✦ Motions to add subsequent year are required.
- ✦ Prehearings required.
- ✦ Average trial 2-4 days, some lasting several weeks.

↳ Held in Lansing

- ✦ Presided by Tribunal member or Administrative Law Judge

SMALL CLAIMS (SC)

↳ Informal hearing process

- ✦ Must submit required Tribunal Petition Form
- ✦ Designed for non-complex appeals with smaller dollar amounts at issue.
- ✦ Parties typically represent themselves.
- ✦ Hearings are approximately 30 minutes in length
- ✦ No formal record is taken

↳ Held in person

- ✦ Presided by Tribunal member or Administrative Law Judge

The MTT Small Claims

- Within county or adjacent county of jurisdiction
- May be telephonically
- Presided by Tribunal member, Referee or ALJ.
- Referee and ALJ issue Proposed Decisions

Small Claims Division

Types of appeals include:

- Residential property (principal residence or value)
- Agricultural property (exemption or value)
- Rental residential property that has 4 or less units
- Other property where the SEV in contention is NOT more than \$100,000
- Poverty Exemption Requests
- Special Assessment where the amount in contention is NOT MORE than \$20,000

Today's discussion centers around the Special Assessment and Small Claim appeal.

Initial Filings

Small Claims (SC)



Respondents must have documentation of who attended the hearing(s).



A letter of appeal begins the appeal process.



The letter of appeal for special assessments is 35 days after the hearing confirming the SA District as determined **by the postmark** on the envelope containing the letter.

Processing the SC Appeal Letter or what really happens at the Tax Tribunal?



Enter appeal letter in Tribunal's automated system and assigns a docket number.



Tribunal sends Petitioner a petition form.



Tribunal receives completed petition form by annotated due date on the form. NOTE: If the petition form is NOT returned by due date, the appeal IS dismissed! SEE TTR 320.







Requests for extension of time to complete petition form may be granted if good cause is shown.

Processing the SC Petition cont.

- 👁 Tribunal reviews petition form for timeliness, completion, fees, & content.
- 📄 Tribunal sends an answer form with a copy of petition form to the assessor of the local unit of government (respondent). Respondent **has 28 days to return** completed answer form.

Processing the SC Answer Form

-  Tribunal reviews the answer form for completion, timeliness, & content.
-  The appeal will be ready for scheduling a hearing on the day after the answer form is due back at the Tribunal i.e., the 29th day.
-  Parties are notified in writing approximately 45 days in advance of the hearing. Have your information ready!
-  Discovery and subpoenas are typically **NOT** allowed in Small Claims hearings unless granted by the Tribunal.

What to Expect at a Hearing

- ET
- Small Claims

SPECIAL ASSESSMENTS

Lake Improvement and Lake Level Special Assessments

One of the most restrictive forms of special assessment levies is that related to dams and impounded waters as authorized under Michigan's Natural Resource and Environmental Protection Act. These assessments focus on public safety issues with their primary concern being on the welfare of the public and the safety of dams and similar structures.

For example, in Part 307 of the Natural Resources and Environmental Protection Act, the emphasis of law is not on the rights of the individual taxpayer. In the matter of Van Etten Lake 149 Mich App 517; 386 N.W. 2d 572 (1986) the court said, "It cannot be reasonably argued that the purpose of the act is to also create or protect individual rights as to inland lake levels. The focus of the act is clearly on the public welfare and not on individual riparian rights."

Lake Front SA cont.

Notwithstanding this language, there is protection of individual rights pursuant to Part 307 special assessment levies. That protection is implemented through the establishment of Special Assessment District boundary lines. This fundamental concept is central to the directive found at M.C.L.A. 324.30711 "the cost of a project ...shall be defrayed by special assessments against the following that are benefited by the project." Boundary lines are established for one purpose; to determine who pays and doesn't. Michigan Assessor 2004, Joe Turner

Benefit

Boundaries are located by identifying “benefiting” properties. The term “benefit” has been clarified and well defined through two court cases *Kadzban v City of Grandville; supra* (1993) and *Dixon Road Group v City of Novi*, 422 Mich 858, 365 N.W. 2d 749 (1986).

Benefit means a measurable, factual increase in an individual property’s market value directly resulting from a public improvement. Special assessments may only be levied against properties receiving a benefit greater than that conveyed upon the public at large. Special assessments need not be apportioned in an amount exactly equal to the dollar increase in value a specific property receives from the public improvement, but the apportionment must be reasonable.

Value and Boundaries

Value is established through measurements made before and after the public improvement's creation. There are "indirect benefits" which identify the service district and a sometimes a distribution of "Directly Benefiting" properties. It is the latter which determine the geographic area to be bounded as a Special Assessment District (SAD).

The Special Assessment District (SAD) boundaries are to be established in a manner consistent with this mandate by first determining which properties benefit from a public improvement and which do not. That determination is followed by a determination of directly "benefiting properties" that may be specially assessed.

SA as Tools

- Special assessment levies are useful tools to repair infrastructure and they offer opportunity for new revenue to the state's cash strapped jurisdictions. The most common types of improvements that are financed through the SAD process include:
 - Road improvements
 - Sanitary sewers
 - Water mains
 - Storm sewers
 - Street lighting
 - Sidewalks
 - Parking Facilities
 - Clean-up of toxins
 - Weed eradication for lakes
 - Creation of Assessor's Plat

SA – Fair and Equitable

Q: How important is it for special assessments to be spread in a fair and equitable manner?

A: A SA MUST be spread fairly and equitably and provide a benefit.

*Examples of fair and unfair assessments.

Special Assessment Appeals



There are two types of Special Assessment appeals:



Appealing the special assessment district creation and/or....



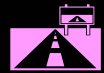
The special assessment itself.



\$20,000 or less in contention to remain in the Small Claims division. There is a filing fee for SA Appeals. **principal residence exclusion does not apply** to Special Assessment appeals. SEE TTR 305 and 202

Special Assessment continued next slide

Special Assessments con't



Petitioners appealing a Special Assessment are not required to go to the BOR but they are required to protest at the special assessment hearing. Then Petitioner would send their **letter within 35 days** from when the **special assessment roll was confirmed**.



If the amount of the special assessment is less than \$20,000, Petitioner will receive a petition form to complete by the due date at the top of the form and Respondent will receive an answer form to complete by the due date at the top of this answer form. If amount exceeds \$20,000 a formal petition has to be filed in the Entire Tribunal.

Special Assessments Cont.

- Parties need to document the amount a special assessment adds to or detracts from the market value of the property.
- Special assessments proof may include an appraisal before and after the special assessment to determine benefit.
- An example is a special assessment for sewer when the property has a functioning septic system. An appraisal would indicate differences in market value for a property with and without a sewer system.
- Because the property already has a functioning septic system is not an argument.
- What has the special assessment added to or detracted from the market value of the property? Based on appraisal techniques.

Special Assessments con't



The Petitioner has the burden of proof in indicating how the special assessment will not benefit their property.



Petitioners rarely understand their burden of proving that the special assessment will not benefit the property.



Petitioner has to prove that the value of the property will not increase because of the improvement.



The assessor has to specify the statutory authority under which the special assessment district was created.



Tribunal has no authority over Drain Assessments levied by Drain Commissioner.

Special Assessments continued next slide

What next?

- If the taxpayer prevails in their challenge of a special assessment district only the challenged parcel's special assessment is nullified.
- The Tribunal's determination on a specific case does not impact the other assessments under the SA district!