

HOUSE BILL No. 4397

March 22, 2017, Introduced by Reps. Maturen, Chatfield, Miller, Hauck, Crawford, Pagel, LaFave, Ellison, Kivela, Phelps, Schor, Moss, Byrd, Wittenberg, Hoadley, Pagan, Dianda, Webber, Elder, Roberts, Inman, Howell, Howrylak, Sabo, Lucido, Bellino, Robinson, Chirkun, Faris, LaGrand, Victory, Vaupel, Canfield, Runestad, Barrett, Singh, Greig, Guerra, Camilleri, Brinks, Green, Kosowski, Yanez, Geiss, Cochran, Hammoud, Lasinski, Zemke, Kelly, LaSata, Calley, Leutheuser and Alexander 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**
9 **TRIBUNAL OTHER THAN THE RESIDENTIAL PROPERTY AND SMALL CLAIMS**
10 **DIVISION CREATED IN SECTION 61.**

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

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

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

10 (G) ~~(f)~~—"Property tax laws" does not include the drain code of
 11 1956, 1956 PA 40, MCL 280.1 to 280.630.

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

14 **SEC. 38. (1) SUBJECT TO SUBSECTION (2), IN AN ASSESSMENT**
 15 **DISPUTE BEFORE THE ENTIRE TRIBUNAL AS TO THE TRUE CASH VALUE OF**
 16 **REAL OR PERSONAL PROPERTY, THE TRIBUNAL SHALL, IN ACCORDANCE WITH**
 17 **SECTION 35A(2), MAKE AN INDEPENDENT DETERMINATION OF AND SEPARATELY**
 18 **STATE ITS FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO ALL OF THE**
 19 **FOLLOWING, IN THE FOLLOWING ORDER:**

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

25 **(B) THE REASONABLY PROBABLE USE TO WHICH THE PROPERTY SUBJECT**
 26 **TO ASSESSMENT CAN BE PUT IN THE IMMEDIATE FUTURE AND THE PRESENT**
 27 **USE OF THE PROPERTY THAT RESULTS IN THE HIGHEST AND BEST USE,**

1 SUBJECT TO ALL OF THE FOLLOWING:

2 (i) THE TRIBUNAL SHALL STATE ITS FINDINGS OF FACT AND
3 CONCLUSIONS OF LAW AS TO THE USES THAT ARE PHYSICALLY POSSIBLE.

4 (ii) THE TRIBUNAL SHALL STATE ITS FINDINGS OF FACT AND
5 CONCLUSIONS OF LAW AS TO THE USES THAT ARE LEGALLY PERMISSIBLE
6 UNDER APPLICABLE LAND USE LEGISLATION, REGULATIONS, EASEMENTS,
7 ORDINANCES, OR OTHER ENCUMBRANCES EXISTING ON THE TAX DAY.

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

17 (iv) THE TRIBUNAL SHALL STATE ITS FINDINGS OF FACT AND
18 CONCLUSIONS OF LAW AS TO THE MAXIMALLY PRODUCTIVE USE THAT MEETS
19 THE REQUIREMENTS OF SUBPARAGRAPHS (i) TO (iii) AND RESULTS IN THE
20 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 MARKET IN WHICH THE
26 PROPERTY SUBJECT TO ASSESSMENT COMPETES THAT HAVE THE SAME HIGHEST
27 AND BEST USE AS THE PROPERTY SUBJECT TO ASSESSMENT. IN DETERMINING

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

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

8 (ii) INCLUDE ONLY PROPERTY CONSIDERED TO BE COMPARABLE WITH A
9 USE THAT IS THE SAME AS THE HIGHEST AND BEST USE OF THE PROPERTY
10 SUBJECT TO ASSESSMENT IN ACCORDANCE WITH SUBDIVISION (B).

11 (iii) INCLUDE PROPERTY CONSIDERED TO BE COMPARABLE ONLY IF THE
12 SALE OR RENTAL OF THE PROPERTY OCCURRED UNDER ECONOMIC CONDITIONS
13 THAT WERE NOT SUBSTANTIALLY DIFFERENT FROM THE HIGHEST AND BEST USE
14 OF THE PROPERTY SUBJECT TO ASSESSMENT UNLESS THERE IS SUBSTANTIAL
15 EVIDENCE THAT THE ECONOMIC CONDITIONS ARE COMMON AT THE LOCATION OF
16 THE PROPERTY SUBJECT TO ASSESSMENT.

17 (iv) INCLUDE PROPERTY CONSIDERED TO BE COMPARABLE THAT WAS
18 VACANT AT THE TIME OF SALE ONLY IF THERE IS SUBSTANTIAL EVIDENCE TO
19 SUPPORT ALL OF THE FOLLOWING:

20 (A) THE CAUSE OF THE VACANCY IS TYPICAL FOR MARKETING
21 PROPERTIES OF THE SAME CLASS OR THERE IS SUBSTANTIAL EVIDENCE TO
22 SUPPORT A METHOD OF ADJUSTING THE VALUE OF THE VACANT COMPARABLE
23 PROPERTY, TO SUPPORT THE EXTENT OF THE ADJUSTMENT, AND TO SUPPORT A
24 CONCLUSION THAT THE FINAL ADJUSTED VALUE FOR THE VACANT PROPERTY IS
25 NOT SPECULATIVE.

26 (B) THE TIME OF THE VACANCY IS WITHIN THE MARKETING EXPOSURE
27 TIME PERIOD TYPICAL FOR PROPERTIES OF THE SAME CLASS OR THERE IS

1 SUBSTANTIAL EVIDENCE TO SUPPORT A METHOD OF ADJUSTING THE VALUE OF
2 THE VACANT COMPARABLE PROPERTY, TO SUPPORT THE EXTENT OF THE
3 ADJUSTMENT, AND TO SUPPORT A CONCLUSION THAT THE FINAL ADJUSTED
4 VALUE FOR THE VACANT PROPERTY IS NOT SPECULATIVE.

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

7 (D) THE VACANCY IS NOT THE RESULT OF ECONOMIC OR MARKET
8 CONDITIONS THAT ARE DIFFERENT FROM THE PROPERTY SUBJECT TO
9 ASSESSMENT OR THERE IS SUBSTANTIAL EVIDENCE TO SUPPORT A METHOD OF
10 ADJUSTING THE VALUE OF THE VACANT COMPARABLE PROPERTY, TO SUPPORT
11 THE EXTENT OF THE ADJUSTMENT, AND TO SUPPORT A CONCLUSION THAT THE
12 FINAL ADJUSTED VALUE FOR THE VACANT PROPERTY IS NOT SPECULATIVE.

13 (v) EXCLUDE PROPERTY CONSIDERED TO BE COMPARABLE THAT WAS MADE
14 SUBJECT TO A PRIVATE RESTRICTION OR COVENANT IN CONNECTION WITH THE
15 SALE OR RENTAL OF THE PROPERTY IF THAT PRIVATE RESTRICTION OR
16 COVENANT CAUSES THE COMPARABLE PROPERTY TO HAVE A SUBSTANTIALLY
17 IMPAIRED HIGHEST AND BEST USE AS COMPARED TO THE PROPERTY SUBJECT
18 TO ASSESSMENT OR IF THAT PRIVATE RESTRICTION OR COVENANT DOES NOT
19 ASSIST IN THE ECONOMIC DEVELOPMENT OF THE PROPERTY, DOES NOT
20 PROVIDE A CONTINUING BENEFIT TO THE PROPERTY, OR MATERIALLY
21 INCREASES THE LIKELIHOOD OF VACANCY OR INACTIVITY ON THE PROPERTY.

22 (E) THE BASIS FOR ALL OF THE FOLLOWING:

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

25 (ii) ADJUSTING THE COMPARABLE PROPERTIES FOR DIFFERENCES IN
26 LOCATION, AGE, SIZE, PHYSICAL CONDITION AND CHARACTERISTICS,
27 FUNCTION, RENTAL TERMS, FINANCING AND OTHER INCOME USE, ECONOMIC

1 CHARACTERISTICS, LEGAL CHARACTERISTICS, AND OTHER COMPONENTS THAT
2 INFLUENCE THE VALUE.

3 (iii) EXCLUDING ANY COMPARABLE PROPERTY PURSUANT TO
4 SUBDIVISION (D).

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

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

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

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

10 (I) COMPARABLE SALES.

11 (II) CAPITALIZATION OF INCOME.

12 (III) COST LESS DEPRECIATION.

13 (ii) IN USING, WEIGHING, AND RECONCILING THE METHODS OF
14 VALUATION UNDER SUBPARAGRAPH (i), THE TRIBUNAL SHALL STATE WHETHER
15 THE INFORMATION SUPPORTING EACH METHOD OF VALUATION IS ACCURATE AND
16 RELIABLE AND SHALL, AS IT CONSIDERS NECESSARY, REQUIRE ADDITIONAL
17 INFORMATION FROM THE PARTIES TO DETERMINE A VALUE THAT IS CREDIBLE
18 AND NOT SPECULATIVE.

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

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

25 (A) THE TRIBUNAL MAY CONSIDER THE PARTIES' STIPULATION TO A
26 FINDING OF FACT OR CONCLUSION OF LAW UNDER SUBSECTION (1) ONLY IF
27 THE PARTIES FURTHER PROVIDE A STIPULATED EXPLANATION OF THE

1 EVIDENTIARY BASIS FOR THAT FINDING OF FACT OR CONCLUSION OF LAW
2 THAT COMPORTS WITH THE EVIDENTIARY BASIS REQUIRED FOR AN
3 INDEPENDENT TRIBUNAL DETERMINATION UNDER SUBSECTION (1).

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

7 (C) IF THE EVIDENCE ON THE RECORD DOES NOT CONSTITUTE
8 SUBSTANTIAL EVIDENCE, THE TRIBUNAL SHALL REQUIRE ADDITIONAL
9 EVIDENCE FROM THE PARTIES SUFFICIENT TO SUPPORT A CONCLUSION THAT
10 THE TRIBUNAL HAS REACHED AN INDEPENDENT DETERMINATION.

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

15 (3) AS USED IN THIS SECTION:

16 (A) "PRIVATE RESTRICTION OR COVENANT" MEANS A REQUIREMENT,
17 PROVISION, OR STATEMENT IN A DEED, LEASE, OR CONTRACT THAT
18 RESTRAINS OR LIMITS THE USE OF THE PROPERTY OR REQUIRES A USE OF
19 THE PROPERTY.

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

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