

## Property Tax and Real Estate Appraisal Services

### Appraisers/Consultants

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Micheal's background includes:

- Former Michigan Tax Tribunal Judge
- Former assessing officer
- MAI – Appraisal Institute
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- Instructor and author for various professional organizations and universities.

#### Victoria L. Enyart, CMAE IV

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Victoria's background includes:

- Level IV Assessor Certification
- Former Michigan Tax Tribunal Judge
- Former assessing officer
- Former equalization director
- Former multi-state real and personal property tax consultant
- Instructor and author for various professional organizations and universities.

### PROPERTY TAX

Property tax represents one of the largest expenses incurred by organizations and individuals. Virchow Krause provides expert appraisal services as a means for ensuring fair and equitable property taxation. Our appraisers are nationally recognized leaders in the profession, holding the highest accolades and the greatest depth of experience.

### PROPERTY TAX ASSESSMENT SERVICES OFFERED

Examining Petitioner's valuation methodologies used.  
Working with Assessor's and municipality staff in property tax appeals.  
Preparing impact studies for tax incentives applications.  
Preparing valuation and impact studies for establishing special assessment districts.  
Identifying real estate versus personal property.

### APPRAISAL SERVICES OFFERED

Appraisal reports and review appraisals.  
Expert witness and litigation support services.  
Sale/leaseback analysis.  
Cost and lease analysis.  
Portfolio valuations.  
Eminent domain valuation.  
Obsolescence studies.  
Damage evaluations.  
Community impact studies.  
Market analysis.  
Highest and best use studies.  
Feasibility studies/Investment analyses.  
Land use studies.  
Cost-benefit studies for capital improvement planning.  
Alternative use analysis.  
Evaluating real estate portfolios.

### PROPERTY TYPES APPRAISED

Apartments.  
New construction developments.  
Retail and shopping centers.  
Hotels/motels.  
Distribution warehouses.  
Warehouses.  
Refrigeration and Cold Storage Facilities.  
Fuel Terminals.  
Special purpose properties.  
Test tracks.  
Industrial.  
Vacant land.  
Automotive facilities.  
Machinery and Equipment.  
And more.




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Mid Michigan Assessor's Association

May 16, 2007 Presentation

Valuation Disclosures for Assessor's

 **Valuation Disclosure** – Documentary evidence provided by the parties' which supports the parties' contention of true cash value and the data, analysis, and reasoning in support thereof (i.e. appraisals).

Here's why as an assessor you may care about defending your assessment:

**MCL 205.737** *Determination of property's taxable value; equalization; burden of proof; joinder of claims; fee; interest; jurisdiction of residential property and small claims division over certain petitions; notice of hearing; appeal without prior protest. [M.S.A. 7.650(37)]*

(3) The **petitioner has the burden of proof** in establishing the **true cash value** of the property. The **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.

Tax Tribunal Rule ("TTR") describes or makes mention of "valuation disclosures" in the following:

**TTR 101.01 (1m)** "Valuation disclosure" means documentary or other tangible evidence in a property tax appeal which a party relies upon in support of the party's contention as to the true cash value of the subject property or any portion thereof and which **contains** the party's value **conclusions** and **data**, valuation **methodology**, **analysis**, or **reasoning** in support of the contention. See also R 205.1252 and R 205.1283.

**R 205.1252 Valuation disclosure; witness list.**

**Rule 252.(1)** A party's **valuation disclosure** in a property tax appeal shall be **filed** with the tribunal and **exchanged** with the opposing party as provided by order of the tribunal. However, a party may, if it has reason to believe that the opposing party may not exchange its valuation disclosure as provided by order of the tribunal, submit its valuation disclosure to the tribunal together with a motion and appropriate filing fee requesting the tribunal's leave to **withhold and place a protective order** on the valuation disclosure until the opposing party actually exchanges its valuation disclosure with the party.

**R 205.1283 Conduct of hearings.**

**Rule 283.(1)** The tribunal may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the **rules of privilege** recognized by law.

(2) **Witnesses** in a proceeding shall **swear** or affirm before the presiding member or hearing officer to give full and **truthful testimony**.

3) Without leave of the tribunal, a **witness may not testify as to the value of property without submission of a valuation disclosure** containing that person's **value conclusions** and the **basis for the conclusions**. This does not, however, preclude an expert witness from rebutting another party's valuation evidence or testifying as to the value of the property in issue if the expert witness's value conclusions were adopted by the party and included in the party's valuation disclosure.

The difference in valuation disclosures depends upon whether you're in the Small Claims or Entire Tribunal division.



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## Small Claims

### **R 205.1342 Conduct of hearing.**

2) A copy of a valuation disclosure or other written evidence to be offered in support of a party's contentions as to the subject property's value shall be filed with the tribunal and served upon the opposing party not less than 14 days before the date of the scheduled hearing. Failure to comply with this sub rule *may result in the exclusion of the evidence* at the time of the hearing because the opposing party may have been denied the opportunity to adequately consider and evaluate the evidence before the date of the scheduled hearing.

(3) A witness who testifies at a hearing shall swear or affirm to give full and truthful testimony.

### **MCL 205.746 Evidence; written decision; rules of privilege; objection; official report of proceeding; availability of writings to public; costs for transcripts.**

**Sec. 46 (1)** In a proceeding before the tribunal all parties may **submit evidence**. The tribunal shall make its **decision in writing**. The tribunal may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. An **objection** to an offer of evidence **may be made**.

For Small Claims the rules are slightly different and require you to at a minimum to exchange your property record card. (Usually this is done at the time of your answer to the petition.) However, if time permits a simple market approach on a grid is a great visual way of determining if the subject property is at market value.

Additional information that could be persuasive in a small claims hearing;

Property Record Card with documentation for land value as well as type and number of sales used to determine the economic condition factor. This is especially relevant when the property appealed is new construction. The Tribunal will look at the actual costs of the construction and what sales were used for the ECF. Many times the assessor does not provide the sales or explains that the ECF was based on sales of all properties within the residential class in a small governmental unit. The Tribunal may determine if the ECF used was appropriate for new construction.

If there is an issue just sending in property record cards without an explanation is not of great value. The Tribunal cannot determine what if any adjustments should be made without the written documentation.

In summary for the Small Claims Division:

Put the information in a logical format that describes the subject property and all of its attributes both positive and negative. If all three approaches to value are appropriate use them, if not explain.

Because Michigan is a "Market Value State" the market approach should be considered.

Describe the unit of government and what influences the market value of the subject property.

Is the subject property in a local market or would the property appeal to a larger market area?

Do you have to cross governmental lines to find sales of similar properties?

And keep in mind that generally the Tribunal has NOT been to the property.

Therefore, photographs, maps and good basic descriptions are important.

### Small Claims:

- ☺ If a subsequent year will be addressed at the hearing, be prepared to discuss/defend that year.
- ☺ Submit the assessment card into evidence.
- ☹ Don't rely on a prior year assessment increased by the rate of inflation.
- ☺ Attempt to identify comparable sales; prepare an appraisal.
- ☹ Don't compare comparables based on a value per square foot
- ☹ Don't compare comparables based on relationship of sales price to assessed.



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## Entire Tribunal:

This is the formal hearing process. If as an assessor you have prepared a valuation disclosure for the ET, then it needs to be in greater detail than the small claims. Generally a property record card can be part of the evidence however, if after looking at the property on an individual basis (When at the Tribunal properties are considered on an individual basis not a mass basis.) you find a different value. And offer that value to the Tribunal you need to be prepared to defend the appraised value. The burden of proof will be on you if you've asked for an increase in value based upon an appraisal. You will have to prove the increase (after Petitioner has presented their case.)

If proffering a different value, you will need to use good appraisal techniques that you have learned over the years. If you are dually certified as an appraiser and an assessor you will need to answer to the higher burden of proof. If you're an appraiser your report should comply with USPAP.

MTT is NOT a regulatory agency. The Valuation Disclosure will be the basis for how credible your valuation is, and the testimony that results from the report will determine the weight that the MTT will give a valuation disclosure.

Several MTT opinions in the last year or so have addressed inadequate valuation disclosures. The Tribunal has opined recently in a case that both Petitioner's and Respondent's appraisal "due to inconsistencies and unreliable indicators of value, neither Petitioner nor Respondent met the burden of proof." *Ferndale Laboratories Inc v City of Ferndale*. Part of the issues were the inability for the parties to agree on the appropriate highest and best use of the property; what type of property it was (light industrial, office or laboratory), and the appropriate method of determining the value of the property. The assessor determined that the property was a special use and the cost approach was the most applicable. The tribunal stated in part "*The floor plan is choppy, as the building was created over the years by acquisition of various facilities. The difficulty is valuing such varied areas as to original age and use cannot be overcome.*" "*The Tribunal finds that the Respondent's cost approach analysis was absurd and not at all credible.*"

The point of this is to make sure that before you partake in determining market value for a subject property that your aware of what goes into each approach and that someone neutral to the appeal reads the valuation disclosure to (i) make sure that the highest and best use is sufficient, (ii) the approach (es) to value are proper and (iii) does it make sense.



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- ⊗ PRIOR TO the filing and exchange of valuation disclosures, assist your authorized representative, if any, in discovery by identifying issues and needed facts.
- ⊗ After filing and exchanging valuation disclosures:
  - ⊗ Compare the appraisals to identify their strengths and weaknesses. Alert your authorized representative as to the strengths and weaknesses and be prepared to testify regarding those strengths and weaknesses.
  - ⊗ Compare computational and theory differences. Alert your authorized representative as to the differences and be prepared to testify regarding the differences. Consider other witnesses to discuss the differences.
  - ⊗ Revisit and inspect the comparables utilized in both appraisals and the adjustments to the comparables. Consider other witnesses to discuss the comparables or adjustments
  - ⊗ Check facts relied upon by the opposing party in preparing your appraisal. Consider other sources or witnesses to verify said facts.
  - ⊗ Prepare a chart as a visual aid to demonstrate the differences between the appraisals.
  - ⊗ Prepare your resume' – no "puffing." Review the resume' of the opposing appraiser and alert your authorized representative as to its strengths and weaknesses.
  
- ⊗ Good testimony begins with good appraisal and assessing practices.
- ⊗ Understand applicable appraisal theory:
- ⊗ Attend continuing education classes regarding appraisal methods.
- ⊗ Utilize recognized appraisal principals in developing your valuation disclosure.
- ⊗ Verify all facts in the appraisal, check all arithmetic. Proofread carefully, and reconsider all appraisal principals utilized in preparing appraisal.
- ⊗ Verify that your appraisal states your value conclusion and contains the data (i.e., land studies, ECF studies, etc.), analysis, and reasoning in support of said conclusions. Remember that the hearing person has not been to the property VLE



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