

The Committee solicits comment on the following proposal by July 15, 2018. Comments may be sent in writing to Timothy J. Raubinger, Reporter, Committee on Model Civil Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

PROPOSED

The Committee is proposing a new general instruction for use when there is expert testimony and deleting the specific instruction addressing valuation witnesses in condemnation cases.

[NEW] M Civ JI 4.10 Weighing Expert Testimony [Recommend No Instruction]

You have heard opinion testimony from one or more witnesses who have been offered as experts. As in the case of other witnesses, you are free in your considered judgment to accept all, part, or none of the testimony of an expert witness.

Comment

The committee recommends that no instruction on “weighing expert testimony” be given.

To the extent that matters affecting the weighing of expert testimony are not covered by M Civ JI 4.01, the matter can be left to argument of counsel.

The factors listed in former M Civ JI 90.22A are left to argument of counsel.

History

M Civ JI 4.10 was SJI 2.10.

[DELETION] M Civ JI 90.22A Valuation Witnesses

Witnesses have testified as valuation experts to assist you in arriving at a conclusion as to the value of the property taken. In weighing the soundness of such opinions, you should consider the following:

(a) the length and diversity of the witness's experience;

(b) the professional attainments of the witness;

(c) whether the witness is regularly retained by diverse, responsible persons and thus has a widespread professional standing to maintain;

(d) the experience that the witness has had in dealing with the kind of property about which [he/or/she] has testified; and

(e) whether the witness has accurately described the physical condition of the property, or has made inaccurate statements about its physical characteristics that may have been reflected in the valuation the witness placed on such property.

The opinion of a valuation witness is to be weighed by you, but you must form your own intelligent opinion. In weighing the testimony of any witness as to value, you should consider whether [he/or/she] has accompanied [his/or/her] opinion with a frank and complete disclosure of facts and a logical explanation of [his/or/her] reasons that will enable you properly to determine

the weight to be given to the opinion the witness has stated.

Comment

See *In re Dillman*, 256 Mich 654, 239 NW 883 (1932); *George v Harrison Twp*, 44 Mich App 357, 205 NW2d 254 (1973).

History

M Civ JI 90.22A was added October 1981. Amended July 2017.

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.512(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.

The members of the Committee on Model Civil Jury Instructions are:

Chair: Hon. Mark T. Boonstra

Reporter: Timothy J. Raubinger

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