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STATE OF MICHIGAN

COURT OF APPEALS

MANUEL FERNANDEZ and FAY FERNANDEZ, Petitioners-Appellants, v CITY OF ANN ARBOR, Respondent-Appellee.	UNPUBLISHED November 12, 2026 9:55 AM No. 378275 Tax Tribunal LC No. 24-001181

Before: M. J. KELLY, P.J., and RIORDAN and RICK, JJ.

PER CURIAM.

Petitioners appeal as of right the Michigan Tax Tribunal's final opinion and judgment determining the true cash value (TCV) of their Ann Arbor residence for tax year 2024 and denying their requested reduction in taxable value. We affirm.

I. FACTUAL BACKGROUND

This property tax dispute concerns petitioners' residence in Ann Arbor, Michigan. Built in 2017, the two-story home has approximately 3,853 square feet of above-grade living area, four bedrooms, three full bathrooms, one half-bathroom, and an unfinished basement. The approximately 0.30-acre lot fronts Liberty Street and has an irregular shape and drainage issues. Petitioners purchased the home in October 2020 for $940,000, after it had been on the market for an extended period and the developer reduced the asking price. Manuel Fernandez believed that the home's proximity to Liberty Street, small backyard, irregular lot shape, and drainage features detracted from its market appeal.

Petitioners' primary complaint concerned the construction of a neighboring home. They asserted that their principal windows faced the side and rear of their residence, where they had previously enjoyed open views and privacy. The neighboring home was built approximately five feet from their property line, leaving several windows facing walls and mechanical equipment. Petitioners also described reduced privacy, noise from the neighboring home's air conditioner, a wind-tunnel effect on the patio, and runoff associated with the neighboring property's rain garden. They supplied photographs depicting the property before and after construction.

Petitioners maintained that these conditions substantially reduced their home's market value and proposed a TCV of approximately $900,000. They relied in part on general material concerning the premium associated with desirable views and lakefront properties but did not identify sales of other residences similarly affected by neighboring construction.

For 2024, the City initially assessed the property at $714,500, with a taxable value of $535,274. Petitioners protested to the March 2024 Board of Review (BOR), which reduced the assessed value to $615,000, equivalent to a TCV of $1,230,000, but left the taxable value unchanged. Petitioners then appealed to the Tribunal, seeking a valuation corresponding to their proposed $900,000 TCV. The Tribunal thereafter scheduled a telephone hearing for May 27, 2025, at 10:30 a.m. Its notice required the parties to submit their evidence to the Tribunal and opposing party at least 21 days before the hearing. The notice warned that untimely evidence could be excluded and permitted service on the opposing party by email if the parties agreed.

On May 6, 2025, the City filed a residential valuation report prepared by appraiser Harley Day. The City's proof of service indicated that the report was emailed to petitioners that day. The report proposed a 2024 TCV of $1,315,000 and state equalized value (SEV) of $657,500, while retaining the $535,274 taxable value. The report considered the cost, income-capitalization, and sales-comparison approaches. Although the cost approach indicated a value of $1,429,000, the City considered the sales-comparison approach more reliable for the owner-occupied residence and found the income approach inapplicable. The City analyzed four residential properties sold in 2023: 602 Linda Vista Avenue, 1005 South Seventh Street, 1108 Meadowbrook Avenue, and 2 Ridgemor Drive.

The City adjusted those transactions for differences in property characteristics and amenities, including location, square footage, bathrooms, and basement improvements. It concluded that the adjusted sales supported a TCV of $1,315,000, emphasizing the similarity between petitioners' residence and the Linda Vista property.

An administrative law judge (ALJ) conducted the May 27, 2025 hearing, at which Manuel Fernandez and Day appeared. Manuel objected that the City had submitted its evidence on May 6 at 4:34 p.m.,[1] which he characterized as seven hours and four minutes short of a full 21-day interval preceding the 10:30 a.m. hearing. He acknowledged receiving the report but stated that he had been out of the country and had limited time to review it. The ALJ found the report timely filed and served under the hearing notice and Tribunal rules and admitted the parties' evidence.

At the hearing, Manuel described the neighboring construction's effect on petitioners' views and privacy and challenged the City's appraisal, including an inconsistency in the basement measurements. Day explained that the 1,975-square-foot basement was treated as unfinished in the sales analysis and described the factors guiding his choice of comparable properties. Manuel

[1] The proposed opinion and judgment identifies the submission time as 4:34 p.m. Petitioners, however, state in their appellate brief that the report was emailed at 5:34 p.m. This discrepancy does not affect our analysis because either submission time falls within the same calendar day.

acknowledged that petitioners' $900,000 valuation was an estimate and that he had not developed a valuation model for their residence.

On July 9, 2025, the ALJ issued a proposed opinion and judgment determining that the property's 2024 TCV was $1,315,000, its SEV was $657,500, and its taxable value was $535,274. The ALJ found that petitioners had not adequately quantified the neighboring construction's impact on market value or shown that the 2020 purchase price reflected TCV as of December 31, 2023. The ALJ declined to rely on the City's cost approach because its land-value and depreciation components lacked sufficient explanation but found that the adjusted comparable sales provided the most reliable evidence of TCV.

Petitioners filed exceptions challenging the report's timeliness, the City's appraisal methodology, and the treatment of the neighboring construction. They also explained that their $900,000 estimate resulted from applying approximately half of a cited 48% lakeview premium to the BOR's $1,230,000 TCV and reducing the resulting figure further for noise and wind.

On September 26, 2025, the Tribunal adopted the ALJ's proposed findings and conclusions. It held that the May 6 report was submitted timely under the applicable calendar-day calculation and that exclusion would not have been required even under petitioners' proposed calculation. The Tribunal also rejected petitioners' view-premium adjustment as insufficiently tied to this property's market value.

Petitioners moved for reconsideration, again challenging timeliness and asserting that they had not agreed to service by email. They cited travel and a family death as limitations on their preparation time and sought further explanation of the selection of comparable properties and the adjustments used in the City's report. The Tribunal denied reconsideration on October 28, 2025, concluding that petitioners had not demonstrated a palpable error affecting the determination. This appeal followed.

II. ANALYSIS

A. STANDARD OF REVIEW AND GOVERNING PRINCIPLES

Our review of a Tax Tribunal decision concerning property valuation is limited. Under Const 1963, art 6, § 28, absent fraud, we review the Tribunal's decision for an error of law or adoption of a wrong principle. *New Covert Generating Co, LLC v Covert Twp*, 334 Mich App 24, 45; 964 NW2d 378 (2020). The Tribunal's factual findings must be supported by competent, material, and substantial evidence on the whole record. *Id*. at 71. Substantial evidence is "more than a scintilla of evidence," although it may be substantially less than a preponderance. *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992). We review questions of statutory interpretation and the interpretation of administrative rules de novo. See *New Covert*, 334 Mich App at 45; *Mich Props, LLC v Meridian Twp*, 491 Mich 518, 527-528; 817 NW2d 548 (2012).

In general, real property must be assessed at no more than 50% of its TCV. Const 1963, art 9, § 3. "True cash value" refers to the usual selling price obtainable in a private sale under ordinary conditions and is synonymous with fair market value. MCL 211.27(1); *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974). The taxpayer bears the burden of

establishing TCV before the Tax Tribunal. MCL 205.737(3). That burden encompasses two separate concepts: "(1) the burden of persuasion" and "(2) the burden of going forward with the evidence." *Jones & Laughlin*, 193 Mich App at 354-355.

The Tribunal must make an independent determination of value when that duty is triggered. *Id*. at 355-356. It "may not automatically accept a respondent's assessment" merely because the petitioner failed to establish the exact value claimed. *Id*. The Tribunal may accept one party's valuation theory, reject both, or combine their methods, but must select an approach that most accurately reflects the property's TCV under the circumstances. *Id*.; *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 484-486; 473 NW2d 636 (1991). The familiar appraisal approaches include the cost-less-depreciation approach, the capitalization-of-income approach, and the sales-comparison approach. *Meadowlanes*, 437 Mich at 484-485. Variations of those approaches and entirely new methods may be accepted if they are "accurate and reasonably related to the fair market value" of the property. *Id*. at 485.

B. ACCEPTANCE OF THE CITY'S RESIDENTIAL VALUATION REPORT

Petitioners first argue that the Tribunal erred by accepting the City's residential valuation report because it was not filed and served at least 21 days before the hearing and was served exclusively by email without their consent. They also contend that their travel and a family death made the asserted loss of preparation time particularly prejudicial. These arguments do not establish an error requiring reversal.

Michigan Administrative Code, R 792.10289(1) (Rule 289), provides that "[a] copy of all evidence, other than rebuttal evidence," must be filed with the Tribunal and served on the opposing parties "not less than 21 days before the date of the scheduled hearing," unless otherwise ordered. Noncompliance "may result in the exclusion" of the evidence because the opposing parties may have been denied the opportunity to adequately consider and evaluate it before the hearing. Mich Admin Code, R 792.10289(1). Rule 205 directs that a period be computed by "excluding the first day, and including the last day," and specifies that, unless otherwise provided, a period of time "means calendar days, not business days." Mich Admin Code, R 792.10205(1) and (2). A submission through the Tribunal's electronic filing system, or to its designated email address, "by 11:59 p.m. on a business day is considered filed on that business day." Mich Admin Code, R 792.10225(5).

The City filed its report on May 6, 2025, and the hearing occurred on May 27, 2025. Excluding May 6 and including May 27 produces a 21-day interval: May 7 through May 27. Petitioners instead end the count on May 26, thereby excluding both the submission date and the hearing date. Rule 205 does not direct that both endpoints be excluded. Additionally, Rule 289's reference to the date of the scheduled hearing does not require 21 intervening days in addition to the excluded submission date. Petitioners' calculation therefore does not establish that May 6 was an untimely filing date.

Petitioners also argue that, because the hearing was scheduled for 10:30 a.m. on May 27, the City was required to submit its report by 10:30 a.m. on May 6, rather than later that afternoon. Petitioners are wrong. The hearing's scheduled time does not establish a corresponding filing deadline. The rules measure the interval in calendar days and expressly recognize electronic filings

made before midnight as filed on that business day. Mich Admin Code, R 792.10205(2) and 792.10225(5). Accordingly, the City timely filed the report.

Next, petitioners contend that the City improperly served the report by email without their consent. The hearing notice permitted service by mail or, if the parties agreed, by email. The City's proof of service identified email as the method of service. On reconsideration, petitioners asserted that they had not agreed to email service and had not received the report by mail. Rule 227(11) provides that "[a]nswers, motions, and documents filed with the tribunal must be served concurrently by first-class mail or personal service on all other parties of record," unless an attorney or authorized representative has appeared on their behalf. Mich Admin Code, R 792.10227(11). The rule further provides that such documents "may also be served by email utilizing the email addresses identified in the pleadings," unless advance notice of an address change has been provided. Mich Admin Code, R 792.10227(11). Rule 289(2) specifically requires that "[s]ervice of the evidence must be made on the opposing parties," or, if an attorney or authorized representative has appeared, on that representative. Mich Admin Code, R 792.10289(2). The provision governing electronic filing does not independently establish compliance with these service requirements.

We need not decide whether the parties' earlier communications established an agreement to email service because, even if service was improper, exclusion of the report was not mandatory. Rule 289(1) makes exclusion a possible consequence of noncompliance, not a mandatory one, and ties that consequence to the opportunity to evaluate the evidence before the hearing. See Mich Admin Code, R 792.10289(1); see also *Georgetown Place Coop v City of Taylor*, 226 Mich App 33, 50-51; 572 NW2d 232 (1997) (explaining that procedural error does not warrant reversal absent prejudice). The record does not establish that the manner of service prejudiced petitioners' ability to challenge the City's valuation report. Although petitioners argue that their travel and family circumstances limited their preparation time, Manuel acknowledged receiving the report before the hearing.[2] At the hearing, he identified inconsistencies in the basement measurements and questioned whether the City's methodology adequately accounted for the property's disadvantages, particularly the effects of the neighboring construction. Petitioners did not request an adjournment to obtain additional time to evaluate the report or prepare evidence. Indeed, they acknowledged on reconsideration that they had not sought to reschedule the hearing because of the family death and requested additional review time only after the Tribunal issued its final decision. Thus, although petitioners maintain that their preparation was constrained, the hearing record does not demonstrate that the manner of service prevented them from meaningfully challenging the City's evidence.

More importantly, petitioners have not identified any material evidence or specific challenge they were unable to present because the report was served by email rather than mail. Although they subsequently questioned the City's selection of comparable properties and its valuation adjustments, they have not demonstrated that service by mail would have enabled them to develop additional evidence or otherwise meaningfully respond to the report before the hearing.

[2] Arguably, service by email gave petitioners earlier notice than if it were delivered by postal mail, as email can be accessed anywhere.

We recognize that subsequent opportunities to file exceptions or seek reconsideration do not substitute for an adequate opportunity to prepare for the hearing itself. Nevertheless, petitioners received the report and challenged its substance at the hearing. They have not shown that the manner of service impaired their ability to respond or otherwise prejudiced their case. Accordingly, any error in service does not require exclusion of the report or reversal of the Tribunal's decision.

C. SUPPORTING DETAILS FOR THE CITY'S VALUATION REPORT

Petitioners next argue that the Tribunal should have required the City to provide additional information supporting its selection of comparable properties and the adjustments applied to those properties. They contend that, without the underlying criteria and data, the Tribunal could not determine whether the City's sales-comparison analysis was reliable. We disagree.

The Tribunal must independently determine TCV from the evidence presented and select the valuation approach that most accurately reflects the property's market value. *Jones & Laughlin*, 193 Mich App at 355-356; *Meadowlanes*, 437 Mich at 485-486. Although petitioners were not required to submit an alternative appraisal to challenge the City's evidence, they bore the burden of going forward with competent evidence supporting their valuation challenge. *Jones & Laughlin*, 193 Mich App at 354-356.

Contrary to petitioners' contention, the City identified criteria for selecting comparable properties. Its report described proximity, physical characteristics, condition, amenities, and square footage as relevant considerations and explained that sales were verified through recorded deeds, while photographs and street inspections were used to evaluate property conditions and neighborhood characteristics. Day further testified that he considered construction quality, location, lot shape, and age, selecting homes of similar age or those that had been newly renovated. The four comparables were located approximately 500 feet to one mile from petitioners' residence, and the appraisal grids disclosed their sale prices, dates, characteristics, data sources, and adjustments.

Petitioners nevertheless question whether the selection process introduced bias, offering as a hypothetical example the selection of properties above a predetermined price threshold. They also identify a property offered for sale in October 2025 at a lower asking price than the City's comparables. But the hypothetical does not establish that the City actually used biased criteria, and petitioners acknowledge that the later listing could not have been included in the 2024 analysis. Moreover, the asking price did not establish a completed sale price or reliable evidence of value as of December 31, 2023. Petitioners therefore have not demonstrated a deficiency in the selection process requiring additional supporting evidence.

The City also disclosed the adjustments applied to the comparable sales and their general basis. The report identified housing-price and local-market sources for time adjustments and stated that feature adjustments were extracted from market data. It specified adjustments of $125 per square foot for living area, $20 per square foot for finished basement area, $10,000 for a full bathroom, and $5,000 for a half-bathroom, among others. Although the report did not reproduce the underlying transactions used to derive each adjustment, it provided the Tribunal with an identifiable appraisal method and disclosed adjustments that could be evaluated against the comparable sales and Day's testimony.

Petitioners specifically challenge the $10,000 adjustment for an additional full bathroom and the $75,000 adjustment for the larger lot at 2 Ridgemor Drive. Regarding bathrooms, they rely on general information suggesting that an additional bathroom can increase a home's value by 10% to 20%. But they did not connect that percentage to transactions involving comparable properties or explain the application to a residence already containing three full bathrooms and a half-bathroom. Nor did they establish that the general value attributable to adding a bathroom corresponds to the contributory value of differences in bathroom count between existing homes. The City's comparison grid disclosed how its bathroom adjustments were applied.

Similarly, petitioners question the $75,000 downward adjustment for the larger lot at 2 Ridgemor Drive, which contained approximately 1.784 acres compared with the subject property's approximately 0.30 acres. Although petitioners considered that adjustment insufficient, they identified no comparable transaction or other market evidence establishing a different contributory value for the additional land. Moreover, the Tribunal did not rely exclusively on that sale. The City identified the Linda Vista property as the most comparable to petitioners' property, with an adjusted value of $1,314,000. The Tribunal considered all four adjusted sales and found that they supported a TCV of $1,315,000.

The record also demonstrates that the Tribunal independently evaluated the City's evidence rather than accepting its conclusions without scrutiny. It rejected the cost approach because the City had not adequately supported its land-value and depreciation calculations and addressed the basement-area discrepancy through Day's testimony. In contrast, it found the adjusted comparable sales sufficiently reliable to support its determination of TCV. Although petitioners identified areas in which additional explanation might have been useful, their objections did not establish deficiencies requiring further evidentiary development. Accordingly, petitioners have not demonstrated an error of law or adoption of a wrong principle warranting reversal. *New Covert*, 334 Mich App at 45.

D. RELIANCE ON THE CITY'S VALUATION REPORT

Finally, petitioners argue that the Tribunal erred by using the City's report as the basis of its value determination. They maintain that the sales-comparison analysis did not address the neighboring construction and would yield the same value with or without the resulting loss of views, privacy, and residential desirability. They also contend that their proposed discount better addresses those conditions and that the Tribunal should have adopted their method or independently developed another value. We conclude that the Tribunal independently evaluated the competing evidence and that its selected value is supported by competent, material, and substantial evidence.

For 2024, the Tribunal expressly found that petitioners met their burden of going forward with evidence but did not meet their ultimate burden of persuasion. It was therefore required to determine TCV independently. *Jones & Laughlin*, 193 Mich App at 355-356. The Tribunal considered the available valuation methods and found that the City's adjusted comparable sales provided the most reliable evidence of TCV. It rejected the cost approach for inadequate support and found the income approach inapplicable. The Tribunal's adoption of the City's proposed valuation did not itself violate its obligation to independently determine TCV because that

obligation does not require reaching a value different from either party's proposed valuation. *Jones & Laughlin*, 193 Mich App at 356.

The City's evidence provided an affirmative market basis for the selected value. It analyzed four closed 2023 sales, adjusted for differences from the subject, with indicated values of $1,314,000; $1,411,000; $1,395,000; and $1,277,000. The report identified the Linda Vista residence as most similar to petitioners' property, and the ALJ considered Day's explanation of its selection and adjustments. The Linda Vista residence was built in 2017, had the same construction-quality and condition classifications as the subject, and received adjustments for location, living area, bathroom count, and basement finish, among other differences. The property's adjusted sale price of $1,314,000 closely supported the Tribunal's determination of a $1,315,000 TCV. The other comparable sales provided additional evidence supporting that determination. The Tribunal's valuation rested on identified transactions and their relationship to this residence, rather than simply on petitioners' failure to prove a lower value.

The record also shows that the Tribunal considered the property disadvantages petitioners described. The ALJ recounted Manuel's testimony about obstructed windows, loss of privacy, mechanical noise, wind, drainage, the irregular lot, and the adjoining home's elevation and proximity. The City's submission included maps depicting the subject's relationship to neighboring properties, and Day testified that location and irregular shape informed his selection of comparable properties. The sales grid made downward location adjustments to every comparable sale, including a $155,000 adjustment to the Linda Vista sale. These features of the evidence support the conclusion that the valuation addressed differences between the subject and the comparable properties.

We do not infer, however, that the location adjustments necessarily quantified every effect of the neighboring construction. The report classified the views from the subject property and the comparable properties as residential and made no adjustment for differences in those views. It also did not assign a specific reduction in value for the obstructed windows, mechanical noise, or wind. Nor do adjustments shown in the property record's cost calculation establish that those same conditions were incorporated into the sales-comparison conclusion. The absence of a separate construction-related adjustment limits the precision of the City's analysis. The question, however, is whether the Tribunal's valuation remains supported by competent, material, and substantial evidence on the whole record, including petitioners' evidence of these conditions. The Tribunal evaluated the adjusted transactions together with petitioners' testimony and photographs and found no reliable basis for assigning an additional quantitative reduction.

Petitioners presented evidence of the neighboring house's adverse effects on their property. However, they did not establish how those conditions affected the property's market value relative to the comparable properties. The photographs depicted the changed views, and Manuel described their effects, but neither supplied a market-derived adjustment to the sales or a reliable calculation of the resulting usual selling price. The Tribunal could recognize that a condition might affect desirability without accepting petitioners' proposed dollar reduction. Its findings concerning that distinction did not require it to find that the construction had no adverse effect whatsoever. Rather, it determined that the evidence did not support the additional reduction petitioners sought and that the adjusted sales remained the best available evidence of TCV.

Petitioners' proposed methodology did not cure that evidentiary gap. They relied on data suggesting that Michigan homes with lake views command a 48% premium and applied half that percentage as a discount to account for their home's obstructed residential views. Petitioners reasoned that some of the premium reflected recreational benefits unrelated to views and privacy, but supplied no market data supporting their decision to halve the premium. Applying the resulting 24% discount to the BOR's $1,230,000 valuation yielded approximately $935,000, which petitioners rounded down to $900,000 to account for noise and wind. Although desirable views may increase a property's value, petitioners did not establish that the cited lakeview premium bore a reasonable relationship to the loss of residential views at their property or otherwise supported the additional reduction for noise and wind.

Further, the BOR value to which petitioners applied that discount was derived from a cost-based assessment, not a market valuation shown to represent the home with unobstructed views. Petitioners therefore did not establish that their starting value and proposed adjustment measured the same market conditions. The Tribunal was entitled to reject that combination as insufficiently related to this property's fair market value. *Meadowlanes*, 437 Mich at 484-486. The Tribunal's reference to a 48% premium did not require reconsideration merely because petitioners had applied a 24% discount. The Tribunal rejected the adjustment because petitioners had not established a sufficient relationship between the generalized premium and the property's market value. Reducing the premium by half did not remedy that deficiency.

Petitioners also relied on the residence's extended marketing period and the reduction in its original asking price as evidence that standard valuation techniques did not capture its unusual characteristics. The ALJ considered that history and their October 2020 purchase for $940,000, including Manuel's explanation that the purchase occurred under time pressure. Those circumstances were relevant background but did not establish the usual selling price as of December 31, 2023. The purchase price does not necessarily establish the property's TCV. MCL 211.27(6). Further, the Tribunal was not bound by the BOR's valuation and could reach a different conclusion based on the evidence presented at the hearing. MCL 205.735a(2).

Our review does not require petitioners to prove that a sale was noncomparable as a matter of law. Their criticisms instead must be considered in determining whether the Tribunal's valuation is supported by competent, material, and substantial evidence on the whole record. *New Covert*, 334 Mich App at 71. Here, the Tribunal considered the City's comparable-sales evidence and Day's supporting testimony alongside petitioners' evidence concerning the property's disadvantages. It addressed the discrepancy in the basement measurements and rejected the inadequately supported cost approach. It also explained why it accepted the adjusted comparable-sales evidence. Petitioners' criticisms do not establish that this evidence was insufficient to support the selected value, and we may not substitute our own weighing of the property's disadvantages for the Tribunal's supported valuation judgment. *Id.*; *Jones & Laughlin*, 193 Mich App at 352-353.

Petitioners' requested reduction in SEV and taxable value rests on their proposed TCV of $900,000. Because they have not demonstrated reversible error in the Tribunal's TCV determination, they are not entitled to the corresponding relief. The Tribunal's reliance on the City's sales-comparison analysis, after independently considering the competing evidence and the

subject property's circumstances, does not establish an error of law or adoption of a wrong principle.

Affirmed.

/s/ Michael J. Kelly
/s/ Michael J. Riordan
/s/ Michelle M. Rick