Order

Michigan Supreme Court
Lansing, Michigan

March 25, 2026

167593

KNIER, POWERS, MARTIN, & SMITH, LLC,
Petitioner-Appellant,

v

SC: 167593
COA: 366114
MTT: 22-001900-TT

CITY OF BAY CITY,
Respondent-Appellee.
_____/

On November 6, 2025, the Court heard oral argument on the application for leave to appeal the August 8, 2024 judgment of the Court of Appeals. On order of the Court, the application is again considered. See MCR 7.305(I)(1). In lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals and REMAND this case to that court for further consideration. In the Michigan Tax Tribunal, petitioner argued that the newly installed roof was not an "addition[]" as the term is used in Const 1963, art 9, § 3 or MCL 211.27a(2)(a). The Tax Tribunal concluded that the roof replacement was "new construction" as defined by MCL 211.34d(1)(b)(*iii*) because the newly installed roof was property not in existence on the immediately preceding tax day. The Tax Tribunal did not address the constitutional argument. On appeal in the Court of Appeals, petitioner again argued that the roof replacement was not an "addition[]" within the meaning of Const 1963, art 9, § 3 and contended that the statutory definition of "additions" impermissibly conflicted with Const 1963, art 9, § 3. Despite respondent's assertion to the contrary, the Court of Appeals concluded that the Tax Tribunal had jurisdiction to consider this constitutional argument, but that the argument nevertheless lacked merit. On remand, the Court of Appeals shall reconsider whether the Tax Tribunal possessed jurisdiction to decide the constitutional question and determine the impact, if any, the resolution of that issue has on Part III(B) of the judgment of the Court of Appeals. See MCL 205.731; MCL 600.605; *Wikman v Novi*, 413 Mich 617, 646-647 (1982). To resolve this issue, the Court of Appeals must determine whether petitioner was required to raise the above-stated argument in a circuit court action. See, e.g., *Toll Northville LTD v Northville Twp*, 480 Mich 6, 9-10 (2008); *WPW Acquisition Co v Troy*, 466 Mich 117, 120 (2002). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

We do not retain jurisdiction.

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I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 25, 2026

Clerk