

Practice Resources for Administrative, Zoning, and Tax Appeals

By Brent Domann

While many research guides do an excellent job of outlining appellate practice research for higher courts, appeals are pursued on many levels in Michigan's court system. This brief article with current hyperlinks provides resources for a few contexts: administrative agency appeals, zoning appeals, and tax assessment appeals.

Administrative appeals

Administrative appeals often differ both substantively and procedurally from other types of appeals.¹ They can be governed by the Michigan Constitution of 1963, specific statutes for agencies, court rules, the Michigan Administrative Procedures Act, and more.² Generally speaking, however, agencies will take action or make determinations subject to an appeals process within the agency and later, if requirements are met, appeal to the court system.

Appeals from administrative agency decisions can be a thorny area and guidance is crucial; failing to follow special review procedures can result in dismissal, and according to the *Michigan Appellate Handbook*, available for purchase at https://www.icle.org/modules/store/books/book.aspx?PRODUCT_CODE=2013550510, there are more than 200 special procedures in statutes and court rules in Michigan.³

For general information about agency and administrative practice and procedure, including appeals, Don LeDuc's treatise *Michigan Administrative Law*, available for purchase at <https://store.legal.thomsonreuters.com/law-products/Treatises/Michigan-Administrative-Law-2019-ed/p/106394236>, is an excellent resource. It offers an in-depth but readable examination of all aspects of

administrative law within the state, but is expensive and may be best found in a library for one-time use.

Workers' compensation and unemployment appeals are common and handled by the Michigan Compensation Appellate Commission. This organization maintains information on LARA's website, including Michigan Administrative Hearing System rules (Mich. Admin. Code R 792.10101–R 792.11903), and is available at http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/1742_2017-066LR_AdminCode.pdf [<https://perma.cc/N2M9-YAQG>].

Although many claimants will be pro se, attorneys may find Appellate Commission pages helpful when providing advice for other client needs. Resources include a searchable opinion database, dedicated pages for commission information by subject, and information regarding appeals to higher courts. An opinion database is linked at the bottom of the Appellate Commission's main page at https://www.michigan.gov/lara/0,4601,7-154-89334_10576_17495---,00.html [<https://perma.cc/G6NE-VEZ6>]. Appellate Commission pages for unemployment are available at https://www.michigan.gov/lara/0,4601,7-154-89334_10576_17495_68845---,00.html [<https://perma.cc/WX73-PSZ5>] and for workers' compensation at

https://www.michigan.gov/lara/0,4601,7-154-89334_10576_17495_68846---,00.html [<https://perma.cc/S7CT-8DDP>]. Information for appeals to higher courts are available at https://www.michigan.gov/lara/0,4601,7-154-89334_10576_17495_68845-306420--,00.html [<https://perma.cc/8JYV-T8WP>] (unemployment) and https://www.michigan.gov/lara/0,4601,7-154-89334_10576_17495_68846-340285--,00.html [<https://perma.cc/QE6C-HJCU>] (workers' compensation).

Additionally, ICLE's *Worker's Compensation in Michigan: Law and Practice*, available for purchase at https://www.icle.org/modules/store/books/book.aspx?PRODUCT_CODE=2007558010, has a detailed chapter on appeals to the Appellate Commission and courts.

For more information about administrative appeals moving to the circuit court level or above, *The Michigan Basic Practice Handbook*, available for purchase at https://www.icle.org/modules/store/books/book.aspx?PRODUCT_CODE=2013550510, and the *Michigan Appellate Handbook* (linked above) have useful chapters.

If applicable, Michigan Court Rules are available directly from the courts at <https://courts.michigan.gov/courts/michigan-supremecourt/rules/pages/current-court-rules.aspx> [<https://perma.cc/W2L2-CNP3>].

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Chapter 7 deals with appeals, though practitioners should keep in mind the potential nuances of statutory and administrative procedures that may also apply.

Zoning appeals

Zoning authority in Michigan is delegated to local governments by the Michigan Zoning Enabling Act (MCL 125.3101 *et seq.*). Administrative zoning functions like initial approval are handled locally under local ordinances and usually through a planning commission. Challenges are appealed to a zoning board of appeals where established by local ordinance. While not necessarily an attorney-focused resource, the Michigan Municipal League provides a handbook with a good overview of the zoning board of appeals and processes at http://www.mml.org/pdf/ZBA_Handbook_2015.pdf [<https://perma.cc/J4U2-AVPH>].

Practitioners interested in zoning appeals can find more information in ICLE's *Michigan Zoning, Planning, and Land Use*, available for purchase at https://www.icle.org/modules/store/books/book.aspx?PRODUCT_CODE=2008557140; chapter 7 covers administrative appeals and a portion of chapter 9 is dedicated to judicial remedies. Additionally, chapter 16 of the *Michigan Appellate Handbook* (linked above) has a brief but informative section on appealing administrative zoning decisions to circuit courts.

For more general procedural information, the *Michigan Zoning Guidebook: for Citizens and Local Officials* provided by Michigan State University and available at <https://www.canr.msu.edu/resources/michigan-zoning-guidebook-for-citizens-and-local-officials-3rd-edition> [<https://perma.cc/49XS-MB6P>] has some plain-English information about the processes and responsibilities of zoning boards of appeal.

Tax assessment appeals

Attorneys looking for information on how they or their clients can appeal tax assessments have several resources available. Initial appeals to local boards of review are streamlined so that attorneys may

not be necessary early in the process; various sources have published citizen-focused guides. Michigan State University has an overview of local boards of review available at https://www.canr.msu.edu/news/the_board_of_review [<https://perma.cc/7Y6X-X5SW>] and the Michigan legislature publishes a *Taxpayer's Guide* available at <http://www.legislature.mi.gov/Publications/TaxpayerGuide.pdf> [<https://perma.cc/PM5D-Y92G>].

Beyond local board appeals, claimants move to the Michigan Tax Tribunal and may seek the advice of an attorney if one has not already been involved. The tribunal has a website with helpful information, links, and forms at https://www.michigan.gov/taxtrib/0,4677,7-187-38248_38249-132318--,00.html [<https://perma.cc/622K-T2TW>], and resources are also available for residential, personal, and commercial property tax assessment appeals.

For more information on higher-court research, excellent articles by Randy Davidson and Barbara McDowell Bonge focus on courts of appeal and the Michigan Supreme Court.⁴ Printed works they mention have newer editions and some URLs they cite may have changed, but the resources themselves

remain great tools and a quick search online can provide updated access. ■



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ENDNOTES

1. Shannon & Gerville-Réache, *Michigan Appellate Handbook* (Ann Arbor: ICLE, January 2018), p 490.
2. *Id.*
3. *Id.* at 492.
4. Davidson, *Michigan Appellate Practice Resources*, 95 Mich B J 45 (January 2016) <<http://www.michbar.org/file/barjournal/article/documents/pdf4article2794.pdf>>; Davidson, *Online Resources for Appellate Oral Argument*, 92 Mich B J 50 (February 2013) <<https://www.michbar.org/file/barjournal/article/documents/pdf4article2161.pdf>>; and Bonge, *Research Resources for Michigan Appellate Practice*, 87 Mich B J 54 (February 2008) <<https://www.michbar.org/file/barjournal/article/documents/pdf4article1334.pdf>>. All websites cited in this article were accessed August 27, 2019.

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