

# Powers of Boards of Review and Tax Tribunal

## Authority of Board of Review: Case No. 1 FACTS:

Michigan Properties, L.L.C., purchased three apartment complexes located in Meridian Township in December 2004. Michigan Properties properly notified the township assessor of the transfers of property. The assessor did not, however, adjust or “uncap” the taxable values of the properties for tax year 2005. As a result, the taxable values for tax year 2005 were entered into the tax rolls using pretransfer values that were not in compliance with section 211.27a(3) of the General Property Tax Act (GPTA).

In 2006, Meridian notified Michigan Properties of the erroneous values and indicated that the tax bill for tax year 2005 would be revised and that the taxable values for 2006 would be revised by the board of review. Michigan Properties argued that Meridian did not have the authority to do so since it had not timely challenged the 2005 assessments. Litigation ensued in the Tax Tribunal and the parties ultimately entered into an agreement for tax years 2005 and 2006. However, litigation continued for tax year 2007 after the board of review uncapped the taxable values for 2007 based on the transfers in 2004. On appeal, the Tax Tribunal held that the board of review had acted appropriately to bring the taxable values into compliance. The Michigan Court of Appeals reversed.

## QUESTION & ANSWER According to the Michigan Supreme Court **Whether the failure of the taxing authority’s assessor to adjust the taxable value of real property in the year immediately after a transfer of property precludes the board of review from adjusting the taxable value in a later year?**

The Michigan Supreme Court held that although the GPTA does not grant a board of the review the authority to alter a previous year’s tax rolls, a board of review does have the power to correct previous errors for the purpose of updating the current year’s tax rolls. Accordingly, the board of review correctly brought the 2007 taxable values into compliance with the GPTA by adjusting the current values because of the uncapping of the 2004 taxable values.

## Authority of Tax Tribunal: Case No. 2 FACTS:

Toll Northville Limited Partnership, a residential developer, installed public service improvements to a parcel of land under development. The value of the improvements was included in

the taxable value for the parcel for tax year 2000 on the basis that the improvements were additions to the property substantially increasing its taxable value. Toll did not timely challenge the increase in taxable value for tax year 2000 and the parcel was divided into “child” parcels. For 2001, the assessor proportionately split the addition to the taxable values among the child parcels. Toll timely appealed the taxable values of the child parcels for tax year 2001 in the Tax Tribunal. Toll also instituted an action requesting that the circuit court declare unconstitutional the statutory provision permitting the improvements to be considered as “additions.” The Michigan Supreme Court ultimately declared the statutory provision, i.e., MCL 211.34d(1)(b)(viii) unconstitutional.

After the Supreme Court’s decision, the case in the Tax Tribunal was reopened. The tribunal concluded that it lacked jurisdiction to amend the taxable value of the original parcel for tax year 2000 since it had not been timely appealed. However, the tribunal prospectively amended the taxable value of the properties at issue to conform to the Court’s decision, removing the value of the improvement additions from the parcels’ taxable values for tax year 2001 and forward. The Court of Appeals reversed holding that the tribunal lacked the authority to reduce an unconstitutional increase in the taxable value of property if a challenge had not been made in the year of the increase.

## QUESTION & ANSWER According to the Michigan Supreme Court **Whether the Tax Tribunal has the authority to reduce an unconstitutional previous increase in taxable value for purposes of adjusting a taxable value that was timely challenged in a subsequent year?**

The Michigan Supreme Court agreed with the Tax Tribunal that it has the ability to prospectively adjust the timely challenged taxable values of the parcels for tax year 2001 and subsequent years because the tax year 2000 taxable value of the parent parcel was erroneous as a result of the inclusion of unconstitutional additions. The Court held that once the jurisdiction of the tribunal is property invoked, the Tax Tribunal possesses the same powers and duties assigned to a board of review under the GPTA.

*Michigan Properties, L.L.C., v Meridian Township*, Case Nos. 143085, 143086 and 143087 and *Toll Northville Limited Partnership v Northville Township*, Case No. 143281 (June 14, 2012).

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