

HOUSE BILL NO. 4047

January 16, 2019, Introduced by Reps. Brixie, LaFave, Slagh, Ellison, Tyrone Carter, Hoadley, Hope, Markkanen, Cambensy, Wittenberg, Coleman, Lasinski, Miller, Rabhi, Elder, Pagan and Haadsma and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
(MCL 205.701 to 205.779) by adding section 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 38. (1) Subject to subsection (2), in an assessment
2 dispute before the entire tribunal as to the true cash value of
3 real or personal property, the tribunal shall, in accordance with
4 section 35a(2), make an independent determination of and separately
5 state its findings of fact and conclusions of law as to all of the
6 following, in the following order:

1 (a) The market in which the property subject to assessment
2 competes, the supply and demand for the property, the demand for
3 potential uses of the property, and the economic viability of the
4 property at the specific location within the market in which it
5 competes.

6 (b) The reasonably probable use to which the property subject
7 to assessment can be put in the immediate future and the present
8 use of the property that results in the highest and best use,
9 subject to all of the following:

10 (i) The tribunal shall state its findings of fact and
11 conclusions of law as to the uses that are physically possible.

12 (ii) The tribunal shall state its findings of fact and
13 conclusions of law as to the uses that are legally permissible
14 under applicable land use legislation, regulations, easements,
15 ordinances, or other encumbrances existing on the tax day.

16 (iii) The tribunal shall state its findings of fact and
17 conclusions of law as to the uses that are financially feasible.
18 For purposes of this subparagraph, a use is financially feasible if
19 it will produce income from or value to the property after
20 considering all risks and costs necessary to create and maintain
21 the use. In determining financial feasibility, the tribunal shall
22 determine the value of the land in the market area, the value of
23 all improvements to the land, the cost to convert or renovate the
24 land, and existing improvements to support the use.

25 (iv) The tribunal shall state its findings of fact and
26 conclusions of law as to the maximally productive use that meets
27 the requirements of subparagraphs (i) to (iii) and results in the
28 highest value that can be appropriately supported.

29 (c) The calculation of a replacement or reproduction

1 construction cost for property that has the same highest and best
2 use and the same utility, features, and age as the property subject
3 to assessment.

4 (d) The comparable properties in the market in which the
5 property subject to assessment competes that have the same highest
6 and best use as the property subject to assessment. In determining
7 comparable properties, the tribunal shall do all of the following:

8 (i) Determine that the information for each property considered
9 to be comparable has been verified and accurately and completely
10 discloses all private restrictions and covenants on the use of the
11 property, the impact of those private restrictions and covenants,
12 the terms of the sale, the method of financing, and market
13 information.

14 (ii) Include only property considered to be comparable with a
15 use that is the same as the highest and best use of the property
16 subject to assessment in accordance with subdivision (b).

17 (iii) Include property considered to be comparable only if the
18 sale or rental of the property occurred under economic conditions
19 that were not substantially different from the highest and best use
20 of the property subject to assessment unless there is substantial
21 evidence that the economic conditions are common at the location of
22 the property subject to assessment.

23 (iv) Include property considered to be comparable that was
24 vacant at the time of sale only if there is substantial evidence to
25 support all of the following:

26 (A) The cause of the vacancy is typical for marketing
27 properties of the same class or there is substantial evidence to
28 support a method of adjusting the value of the vacant comparable
29 property, to support the extent of the adjustment, and to support a

1 conclusion that the final adjusted value for the vacant property is
2 not speculative.

3 (B) The time of the vacancy is within the marketing exposure
4 time period typical for properties of the same class or there is
5 substantial evidence to support a method of adjusting the value of
6 the vacant comparable property, to support the extent of the
7 adjustment, and to support a conclusion that the final adjusted
8 value for the vacant property is not speculative.

9 (C) The vacancy does not reflect a use different from the
10 highest and best use of the property subject to assessment.

11 (D) The vacancy is not the result of economic or market
12 conditions that are different from the property subject to
13 assessment or there is substantial evidence to support a method of
14 adjusting the value of the vacant comparable property, to support
15 the extent of the adjustment, and to support a conclusion that the
16 final adjusted value for the vacant property is not speculative.

17 (v) Exclude property considered to be comparable that was made
18 subject to a private restriction or covenant in connection with the
19 sale or rental of the property if that private restriction or
20 covenant causes the comparable property to have a substantially
21 impaired highest and best use as compared to the property subject
22 to assessment or if that private restriction or covenant does not
23 assist in the economic development of the property, does not
24 provide a continuing benefit to the property, or materially
25 increases the likelihood of vacancy or inactivity on the property.

26 (e) The basis for all of the following:

27 (i) Selecting the most relevant units and basis for comparison
28 consistent with the treatment in the market of comparable property.

29 (ii) Adjusting the comparable properties for differences in

1 location, age, size, physical condition and characteristics,
2 function, rental terms, financing and other income use, economic
3 characteristics, legal characteristics, and other components that
4 influence the value.

5 (iii) Excluding any comparable property pursuant to subdivision
6 (d).

7 (f) The method of valuation, subject to all of the following:

8 (i) In determining the method of valuation, the tribunal shall
9 use, weigh, and reconcile all of the following:

10 (A) The method of valuation used by the assessor.

11 (B) All of the following methods of valuation:

12 (I) Comparable sales.

13 (II) Capitalization of income.

14 (III) Cost less depreciation.

15 (ii) In using, weighing, and reconciling the methods of
16 valuation under subparagraph (i), the tribunal shall state whether
17 the information supporting each method of valuation is accurate and
18 reliable and shall, as it considers necessary, require additional
19 information from the parties to determine a value that is credible
20 and not speculative.

21 (iii) The tribunal shall not disregard any method of valuation
22 identified in subparagraph (i) absent a reasonable justification
23 supported by substantial evidence or a stipulation that complies
24 with the requirements of subsection (2) (a).

25 (2) The tribunal's determinations under subsection (1) are
26 subject to all of the following:

27 (a) The tribunal may consider the parties' stipulation to a
28 finding of fact or conclusion of law under subsection (1) only if
29 the parties further provide a stipulated explanation of the

1 evidentiary basis for that finding of fact or conclusion of law
2 that comports with the evidentiary basis required for an
3 independent tribunal determination under subsection (1).

4 (b) For each finding of fact under subsection (1), the
5 tribunal shall separately identify supporting evidence that is
6 substantial and reliable and has been verified.

7 (c) If the evidence on the record does not constitute
8 substantial evidence, the tribunal shall require additional
9 evidence from the parties sufficient to support a conclusion that
10 the tribunal has reached an independent determination.

11 (d) All of the tribunal's determinations under subsection (1)
12 shall be made in accordance with generally accepted appraisal
13 principles, including the "Uniform Standards of Professional
14 Appraisal Practice" promulgated by the Appraisal Foundation.

15 (3) As used in this section:

16 (a) "Private restriction or covenant" means a requirement,
17 provision, or statement in a deed, lease, or contract that
18 restrains or limits the use of the property or requires a use of
19 the property.

20 (b) "Tax day" means that term as provided in section 2 of the
21 general property tax act, 1893 PA 206, MCL 211.2.

22 (c) "True cash value" means that term as defined in section 27
23 of the general property tax act, 1893 PA 206, MCL 211.27.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No.____ or House Bill No.____ (request no.
28 00629'19) of the 100th Legislature is enacted into law.