

HOUSE BILL NO. 5866

June 26, 2024, Introduced by Reps. Brixie, Wilson, Hill, Xiong, Wegela, Tsernoglou, Hope, Rheingans, Rogers, Hood, Steckloff, Breen, Brabec, Paiz, McKinney, Price, McFall, Mentzer, Byrnes, Dievendorf, Edwards, Roth, Morgan and Markkanen and referred to the Committee on Tax Policy.

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

1 following, in the following order:

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

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

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

13 (ii) The tribunal shall state its findings of fact and
14 conclusions of law as to the uses that are legally permissible
15 under applicable land use legislation, regulations, easements,
16 ordinances, or other encumbrances existing on the tax day. For
17 purposes of this subparagraph, the tribunal's failure to clearly
18 explain in its findings of fact and conclusions of law the full
19 effect of any private restrictions or covenants on the subject
20 property constitutes a reversible error on appeal.

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

1 (iv) The tribunal shall state its findings of fact and
2 conclusions of law as to the maximally productive use that is
3 physically possible, legally permissible, and financially feasible
4 and results in the highest value that can be appropriately
5 supported.

6 (c) The calculation of a replacement or reproduction
7 construction cost for property that has the same highest and best
8 use and the same utility, features, and age as the property subject
9 to assessment.

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

14 (i) Determine that the information for each property considered
15 to be comparable has been verified and accurately and completely
16 discloses every private restriction or covenant on the use of the
17 property, the impact of each private restriction or covenant, the
18 terms of the sale, the method of financing, and market information.

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

22 (iii) Include property considered to be comparable only if the
23 sale or rental of the property occurred under economic conditions
24 that were not substantially different from the highest and best use
25 of the property subject to assessment, unless there is substantial
26 evidence that the economic conditions are common at the location of
27 the property subject to assessment.

28 (iv) Include property considered to be comparable that was
29 vacant at the time of sale only if there is substantial evidence to

1 support all of the following:

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

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

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

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

22 (v) Exclude property considered to be comparable that was made
23 subject to a private restriction or covenant in connection with the
24 sale or rental of the property if that private restriction or
25 covenant causes the comparable property to have a substantially
26 impaired highest and best use as compared to the property subject
27 to assessment or if that private restriction or covenant does not
28 assist in the economic development of the property, does not
29 provide a continuing benefit to the property, or materially

1 increases the likelihood of vacancy or inactivity on the property.

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

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

5 (ii) Adjusting the comparable properties for differences in
6 location, age, size, physical condition and characteristics,
7 function, rental terms, financing and other income use, economic
8 characteristics, legal characteristics, and other components that
9 influence the value.

10 (iii) Excluding any property pursuant to subdivision (d).

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

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

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

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

16 (I) Comparable sales.

17 (II) Capitalization of income.

18 (III) Cost less depreciation.

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

25 (iii) The tribunal shall not disregard any method of valuation
26 identified in subparagraph (i) without a reasonable justification
27 supported by substantial evidence or a stipulation that complies
28 with the requirements of subsection (2) (a).

29 (2) The tribunal's determinations under subsection (1) are

1 subject to all of the following:

2 (a) The tribunal may consider the parties' stipulation to a
3 finding of fact or conclusion of law under subsection (1) only if
4 the parties further provide a stipulated explanation of the
5 evidentiary basis for that finding of fact or conclusion of law
6 that comports with the evidentiary basis required for an
7 independent tribunal determination under subsection (1).

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

11 (c) If the evidence on the record does not constitute
12 substantial evidence, the tribunal shall require additional
13 evidence from the parties sufficient to support a conclusion that
14 the tribunal has reached an independent determination.

15 (d) All of the tribunal's determinations under subsection (1)
16 must be made in accordance with generally accepted appraisal
17 principles, including the "Uniform Standards of Professional
18 Appraisal Practice" promulgated by the Appraisal Foundation.

19 (e) The tribunal shall defer to the assessing agency's
20 determinations pertaining to true cash value to the extent that the
21 assessing agency followed proper procedures in making those
22 determinations pursuant to section 27 of the general property tax
23 act, 1893 PA 206, MCL 211.27.

24 (3) As used in this section:

25 (a) "Private restriction or covenant" means a requirement,
26 provision, or statement in a deed, lease, or contract that
27 restrains or limits the use of the property or requires a use of
28 the property.

29 (b) "Substantial evidence" means evidence sufficient to meet

1 the constitutional standard of evidence for an administrative
2 hearing described in section 28 of article VI of the state
3 constitution of 1963.

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

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

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 102nd Legislature are
10 enacted into law:

11 (a) Senate Bill No. _____ or House Bill No. 5867 (request no.
12 00446'23).

13 (b) Senate Bill No. _____ or House Bill No. 5868 (request no.
14 00449'23).