

IF YOUR PROPERTY TAXES AREN'T APPEALING

by Jumana Judeh, MAI, CCIM, MCAO

Michigan property taxes can be extremely confusing and the appeal process can be frustrating and intimidating. This article is an oversimplification of the tax appeal process but does provide sufficient information to allow you to ask the right questions.

Every year in late February or early March, everyone who owns property in the state of Michigan will receive their adjusted *Notice of Assessment, Taxable Valuation and Property Classification* (Form L-4400) for that year. (Note: Detroit includes different dates discussed later in this article.) This notice can be overwhelming. It is mostly printed

in fine print and many property owners will not recognize its effect until they receive their summer tax bill. The importance of this notice is that it dictates the tax level of your property for the rest of the year. The notice should be read carefully in its entirety and a call or visit to your assessor with any questions is your right. If you are concerned about your current tax liability, you need to take the time to understand this document because it does provide a window of appeal that if missed will forgo any rights you had to appeal until the following year.

The first items most people look for in this document are the changes in Taxable Value (TV) and Assessed Value (AV). If your AV rises, then the assessor in your community has determined that values of similar homes in your neighborhood have appreciated, and the actual rise is based on a mass study comprised of arm's-length sale transactions. While this figure is important, the level of taxes one pays on their property is NOT based on the AV but rather on the TV.

Your AV, also known as State Equalized Value (SEV), should be at 50 percent of your market value, which is also known as True Cash Value (TCV). Your TV, however, is the figure on which you pay taxes and includes a mathematical formula as established by state law.

All things being equal (the absence of major construction on the property, etc.), the TV will rise every year based on the Inflation Rate Multiplier (IRM) or 5 percent, whichever is less. The IRM is annually established by the State Tax Commission (STC) and will apply to all properties in the entire state of Michigan equally. This figure is not controlled by local assessors and they have no power to make any alterations in this matter. For 2019, the IRM is 2.4 percent, which means, all things being equal, everyone's property taxes will increase by 2.4 percent, hence the complaint, "How can my value go down and my taxes go up?"

If you have owned your home or commercial property for several years, the TV and AV will mostly likely be different, with the AV higher than the TV. If you recently purchased your home, then both figures will be adjusted from what existed prior to your purchase to reflect current market conditions and will be the same figure. From that point forward, the TV will rise based on the IRM (all things being equal) and the AV will rise and fall with market conditions.

But what happens to the TV if all things are not equal? Then the new TV is calculated as follows:

Start	2018 TV
Minus	Market value of any demolition to your property
Multiplied by	2019 IRM 1.024
Plus	Market value of any additions to your property
Equals	2019 TV

The above is an oversimplification; however, it does provide an initial understanding of one's tax level.

When is the Assessment Level Determined?

Your 2019 assessment level is based on market conditions and the condition of your home or commercial property on tax day, which is December 31. That is when time stops for assessment purposes. Keep in mind that the key point here is the condition of your home or commercial property. In other words, if your home was under construction and was not completed until January 31, then you can only be taxed on the specific level of construction that existed on tax day, December 31.

For multi-tenant commercial or industrial properties, the level of vacancy can also be a strong argument to lower your taxes. However, this would require the engagement of an appraiser who is experienced in credibly developing such values for purposes of tax appeals.

When is the Local Appeal Window Open?

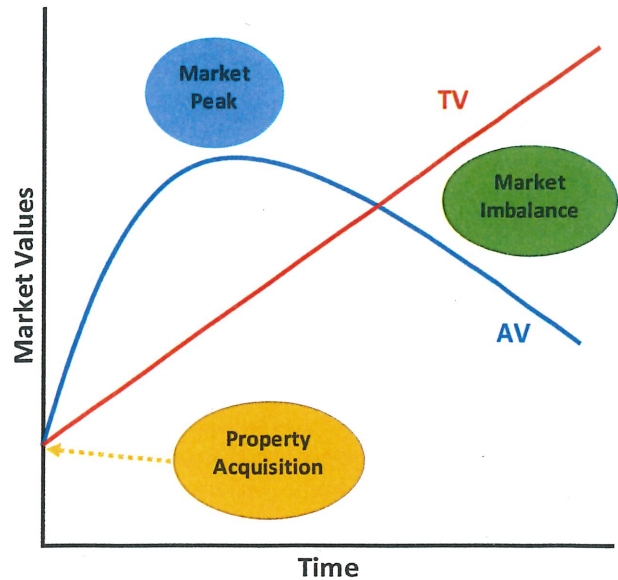
Most communities will include a March window; however, the City of Detroit requires those wishing to appeal to first file with the Assessor's Board, which is open February 1 through 15. If the homeowner is not successful during this appeal, then a second appeal is made to the March Board of Review (MBOR).

How can My Value Go Down and My Taxes Go Up?

Remember that the AV rises and falls based on market conditions and the TV mathematically will continue to rise (assuming no major construction occurred on the property). As can be seen by the graph at the top of the next column, once the market begins to decline, your value can in fact go down and your taxes continue to rise. However, that is possible only to the point where AV drops below TV, in which case the TV will be lowered to equal the AV.

How Does the Market Imbalance Help in Appealing My Taxes?

Remember that the AV cannot be lower than the TV, which, as seen on the previous graph, will result in a market imbalance. This is the time to appeal one's property taxes. The burden of proof is on the property owner to prove that AV has dropped below the TV. Remember also that your AV is approximately 50 percent of your market value. Let's look at an example: You have your home appraised and the value is established at \$250,000, which means your AV should be \$125,000 and your TV should be



equal to or less than that figure. However, based on your Notice of Assessment, your AV is \$150,000 (which means a market value of your home of \$300,000) and your TV is \$150,000. So, the difference between your TV of \$125,000 and your assessment TV of \$150,000 is \$25,000, which could be an appealable case.

Your home value is	\$250,000	Your assessor's value is	\$300,000
Your AV then should be	\$125,000	Your assessor's AV is	\$150,000
Your TV should be equal to or less than	\$125,000	Your assessor's TV is	\$150,000
Difference between your TV and the assessor's TV			\$25,000

Your potential savings from the above market imbalance can be calculated as follows:

Established market imbalance from previous example	\$25,000
Difference in TVs divided by 1,000	\$25
Multiplied by your millage rate (includes 1 percent administrative fee). Call your assessor's office to obtain your specific millage rate	47.000
Your potential savings	\$1,175

If you are successful in appealing your taxes and lowering your current assessment, your new TV is now locked in at \$125,000 and will only go up by the IRM or 5 percent, whichever is less. In other words, the \$1,175 savings continues as long as you own your home and do not undertake major construction.

What Do I Need to Appeal My Property Taxes?

If the property is classified on the Notice of Assessment as residential, meaning it is a one- to four-unit residential property, then you must first appeal to the MBOR. This is where reading the fine print of your Notice of Assessment is critical because the window to appeal your assessment is extremely short.

Some property owners have submitted comparable sales of homes in their neighborhood as evidence of value; how-

ever, the courts have ruled that such evidence alone can be misleading without an adjustment grid. Others submit a survey of everyone's tax level on their street as evidence that they pay higher taxes. Evidence MUST be based on market value of your specific home. What other homeowners are paying in taxes is irrelevant to your home's market value.

You can either call to make an appointment to appear in front of the MBOR or submit your appeal in writing depending on your community's rules. Given that the schedule of the MBOR fills up very quickly, call as soon as you receive your notice to make the appointment and then take your time preparing your evidence. The only credible evidence for a reduction in property value is an appraisal report establishing value of the property on tax day, December 31. The MBOR will consider whatever evidence you might have, but the strongest evidence is an actual appraisal report. You can either send in the appraisal report with the appropriate paperwork in the mail, deliver it by hand, or bring enough copies with you when you appear in front of the board.

If you do appear in front of the board personally, the burden of proof is on you to make your case and you are typically given five to 10 minutes to do so. For luxury or unique homes, this time constraint can be impossible and not effective. Nevertheless, you are required to appeal to the MBOR first before you can make your case to the Michigan Tax Tribunal (MTT).

If your property is not a one- to four-unit residential dwelling, then you don't have to appeal to MBOR but may instead go straight to the MTT. Any property not classified as residential will include a more complex method of establishing value and, due to the time constraints of presenting one's case to the MBOR, it is probably best to skip that local step and file directly with the MTT, which must be done by May 31. If you do decide to file directly with the MTT, simply file the appropriate application (see www.michigan.gov/taxtrib) but refrain from submitting any evidence of value reduction with the application until such time as negotiations begin with the assessor or the case is prepared for trial/hearing. Once you file the case with MTT, you will be notified of a docket number and be provided with the process that should be followed and the time constraints that apply.

What if the MBOR Declines My Appeal?

A few weeks after your appeal to the MBOR, you should receive a letter notifying you of their decision. That notification will provide you with your right to appeal to the MTT, which must be done no later than July 31.

Homestead Classification

Level of homestead is very important and dictates the degree of taxes you will pay on your home. If you live in your home, then the *Notice of Assessment* should clearly designate your property as 100 percent homestead. Most new homeowners just assume that since they are purchasing the home to live in, the assessor will automatically be notified of this information and thus designate the property at 100 percent. However, such an assumption is inaccurate, and the

assessor is only aware of this information if the new homeowners visit their office. Let's assume that the home a person purchased had been an investment property and was occupied by a tenant, which means that it was at zero (0 percent) homestead. The assessor will be notified of the new purchase; however, the *Property Transfer Affidavit* that is required to be filed with the assessor does not include the question of who will be occupying the home. Therefore, the assessor will continue to assume the home is investment property at zero (0 percent) homestead unless notified otherwise.

Homestead determination is not limited to zero (0 percent) or 100 percent. If one owns a duplex, lives in one unit and rents out the other, then the homestead is 50 percent. Similarly, if one lives in one of the units of a four-unit complex, the homestead would be 25 percent.

Frequently Asked Questions

My neighbor's house is identical to mine, yet I pay more taxes. Why?

Your neighbor probably has owned their house for decades and you purchased your home within the last few years, which means your neighbor's Taxable Value has been locked in since they purchased their home based on older marketing values. Your Taxable Value was locked in based on more current market values.

Why is the assessment level higher than what I paid for my house?

Your assessment level is based on a mass study of similar homes in your neighborhood. It is not, and cannot be, solely based on what you paid for your home or property. So, if you got a good deal on a home and paid \$250,000 but the market value of that home is higher, then in all likelihood your assessment will be adjusted based on market conditions. However, if what you paid for the home is the result of the home being listed for sale, going through its marketing period and then selling, then you might have a case to present when you appeal your taxes.

Why did the taxes on my new home increase from what existed for the previous owner?

Proposal A, which was enacted in 1994 by the Michigan Legislature, was initially designed to protect homeowners from an increase in their taxes based on market appreciation levels. So it capped the rise in TVs at IRM or 5 percent, whichever is less. What it also did is lock the TV until such time as the property changes ownership, after which it would "pop up" to current market conditions. So, if a home had been under the same ownership for an extended period of time and sells, the new TV will start at 50 percent of current market value.

My home cost me more to build than its market value. Do I have a case to appeal my taxes?

While theoretically it can be possible to convince an MTT judge that what it cost you to build your home does not equal value, it is an extremely long stretch. Typically,

SUMMARY OF IMPORTANT DATES			
Type of Appeal	Property Type	MBOR	MI Tax Tribunal
Assessed or taxable value	1- to 4-unit residential	Must appeal to local board	July 31 if lose at MBOR
Assessed or taxable value	Non-residential	Not a requirement	May 31
Poverty exemption	Personal residence	Must appeal to local board	June 30 or 30 days after denial from MBOR
*Detroit initial residential appeal start at the Assessor's Board, which opens 2/1-2/15, and then if denied, appeal to the MBOR			

the cost of new construction is very close to its value and the courts have agreed with this understanding. However, let's say that your home has something unique that the market will not absorb. Maybe the home is designed to accommodate a handicapped resident or maybe the home is built in a flood plain or the soil is inferior to what is required to support construction. These are unique circumstances that, if argued and supported effectively, could make for a successful appeal. However, for new construction, the courts typically have erred on the side of cost.

I just received my summer tax bill and want to appeal my taxes.

Tax appeals are ONLY possible during the appeal window, which is typically in March for residential and by May 31 for all other properties. By the time summer tax bills are received, it is too late and homeowners must wait until the following year to appeal their taxes. Even if a homeowner meets with the assessor after they receive their tax bill and the assessor agrees that the home is over-assessed, legally the assessor cannot change the assessment level for a home or any property without the direction of the MBOR or the MTT.

I did some updating/remodeling to my home. Will that affect my assessment?

Remember we said earlier that your TV rises with the IRM or the rate of inflation, whichever is less, as long as it does not undergo major construction. In this case, construction is occurring to update the home to meet today's consumer taste. However, according to the Mathieu Gast Act (PA 293 of 1976 as amended, MCL 21127(2), Non-Consideration of the True Cash Value of Normal Repairs, Replacements, and Maintenance of Residential Property), any of these repairs or replacements should have NO bearing on your level of assessment:

- 1) Outside painting
- 2) Repairing or replacing siding, roof, porches, steps, sidewalks or drives
- 3) Repainting, repairing or replacing existing masonry
- 4) Replacing awnings
- 5) Adding or replacing gutters and downspouts
- 6) Replacing storm windows or doors
- 7) Insulating or weather stripping

- 8) Complete rewiring
- 9) Replacing plumbing and light fixtures
- 10) Replacing a furnace with a new furnace of the same type or replacing an oil or gas burner
- 11) Repairing plaster, inside painting or other redecorating
- 12) New ceiling, wall or floor surfacing
- 13) Removing partitions to enlarge rooms
- 14) Replacing an automatic hot water heater
- 15) Replacing dated interior woodwork

Conclusion

Michigan property tax laws can be intimidating, preventing some from practicing their right to appeal simply due to lack of complete understanding of the process. One of the primary responsibilities of the assessor's office is to communicate this process to their residents. So, don't hesitate to reach out. You could save yourself a bundle.

Jumana Judeh, MAI, CCIM, MCAO, is an appraiser who specializes in tax appeals. She regularly testifies at the Michigan Tax Tribunal and lectures on this topic to various groups. Her experience spans 25 years and includes being certified as a second-level assessor, which has trained her on the process of assessing to better service her clients. She has experience appraising a wide variety of properties throughout the entire state of Michigan.