FROM THE OFFICE OF THE CITY MANAGER

August 22, 2016

To: Mayor and City Council Members

From: Brian Kischnick, City Manager

Subject: City Council Member Questions and Responses

I have discussed questions advanced by Mayor and Council with Staff, and responses are attached. Thank you for asking questions in advance of the meeting.

Questions from Council Member Ellen Hodorek:

Subject: C-02 RESIDENT AND BUSINESS EDUCATION REGARDING FOG (FATS, OIL, AND GREASE) DRAIN CARE

- **I**s there a press release/further communication planned to reach residents?

Response:

Our plan is to send the tri-fold informational material out with the water bills. It will also be added to the web site and other social media outlets. Community Affairs will send out a press release as well.

Subject: I-05 SPR8 BEST VALUE AWARD - WEBSITE DESIGN SERVICES

- Will we begin using "new" logo?

Response:

Yes, we will be using the new logo.

Subject: I-07 MDOT I-75 WIDENING AND RECONSTRUCTION - ADAMS ROAD WATER MAIN RELOCATION - CHANGE ORDER 1 AND BUDGET AMENDMENT

- Will there be disruption to water service for the residents/businesses this serves?
- Will we need to communicate with them?
- Also, do we see anything else for this portion of the project we need to scrutinize? (Appreciate staff catching this potential issue and the conservative approach to mitigating possible issues.)

Response:

There will be a required water shut down once the new water main is in place, to allow connections to be made. When the connections are ready to be completed ,we will use our standard procedure that is used on any scheduled water shut down, " The area that will be affected by the shutdown will be determined, Water department personnel will go to each residence and business that will be affected and inform them of the need for a water shut off , this is done in advance of the shutdown to determine if there are any times of day or certain days that allow for the least amount of disruption of normal activities . This is most important in areas where businesses are present. After a desired time is decided upon we then inform all involved of the time and duration they can expect to be without water. On a connection of this type, it is usually a 5-6 hr. time period. The Water & Sewer Division stays onsite during the shutdown to monitor and address any issues that may come up.

Subject: I-08 PROCEDURE FOR FILLING VACANCY IN OFFICE

- Please note that my daughter gets married at the end of the week of the 12th. I will be leaving town on that Wednesday afternoon. The special session would need to be either that Monday or Tuesday for me. Otherwise, I won't be on hand to participate.

Response:

Available Dates for Council Member Ellen Hodorek are: Monday, September 12 and Tuesday, September 13.

Subject: Ryan Johnson Correspondence

Attached please find a correspondence from Ryan Johnson for your information.

c: Mark Miller, Director of Economic and Community Development
Tom Darling, Financial Services Director
Lori Grigg Bluhm, City Attorney
Table

BK/bt\Agenda\2016\08.22.16 – Council Questions and Responses

Dear Sir or Ma'am,

I, Ryan Johnson and my wife, Amnouy Johnson are requesting that the Michigan Tax Tribunal, review the 2016 assessed value for our property at 4968 Flowerhill Dr, Troy, MI 48098.

We believe the assessed value for the property, as it existed on Tax Day, was ridiculously high for the condition that the home was in after its foreclosure earlier in 2015. (we'll address that further below).

We would also like to say that since we were given notice of the summer tax bill (a bill that was $2,000 more than we had been expecting), we have attempted to address this at the city level and found the entire system highly dysfunctional and what little function there was seemed highly and easily abused by the city (or taxing unit if you will) at the detriment of the tax payer.

The Facts:

1) The House exited foreclosure in later 2015 (September, I think). It became owned by a very small regional credit union. That company engaged with a realtor to oversee the property and getting it onto the market. Initially listed at $449,000 (approx.. Forgive me as I do not have access to past realtor listings to verify this, so I am going by memory).
2) The first part of the listing (still viewable on Zillow) read: "**INVESTOR ALERT/PRICED $100,000.00 BELOW ZILLOW'S ZESTIMATE!!!! CASH SALE ONLY***DUE TO EXTERIOR WORK". The Zillow estimate at that time was approx. $557,000 (and Zillow estimates were trending fairly high on all houses we comparison shopped for in our house search. Average between 5-10% high. For house in good shape, that is, as I do not believe Zestimates have access to the structural condition of houses).
3) After 2-3 months, the credit union changed realtors and dropped the price significantly, down to $405,000, though changed virtually nothing on the house listing (the selling text).
4) We reached out to place an offer for the property in mid January, but our first two offers were rejected with no counter offers. Given the extreme amount of structural and cosmetic work that the house required to make it tenable and bring it up to par, we still thought the asking price too high so dropped it to pursue viewing other listings.
5) In early February we returned to negotiate for the house once more and eventually agreed to a purchase price of $399,000. Given its condition, we still thought that price a bit high, but liked the school district, the houses relative location to the high school and close proximity to our existing business in Clawson, so we decided the price differential wasn't worth it (to us) to resume looking for alternatives, especially considering the summer months are very busy months for us at our business.
6) After closing in early March (March 8th, I believe), we began a very extensive renovation project on the property. This was a part of our mortgage structure for the house, with $65,000 built into the loan for renovations. 5 months later, as I write this, there is one line item on the renovation list in the process of being completed. The renovations included:

    6a) Roof. Complete shingle replacement and replacement of 10 roof boards (the roof leaked in 7 different places, leading to damaged floors in the master bath and mold in drywall in several places.)

    6b) Replace Rotting Stucco. Replace approx. half the stucco sheeting along the exterior of the house.

    6c) Replace Rotting Trim Boards. Replace roughly half the wooden trim boards along exterior of the house.

    6d) Caulk all new stucco and trim lines on outside of the house. Paint the entire exterior of the house (except for stone portions of the exterior).

6e) Replace all windows (58 of them) except for the rear doorwalls. Existing windows were wooden and rotting extensively, with multiple glass panes not falling out solely due to the duck tape placed on by the previous owner.

6f) Extend several gutters so they drained fully from the 2nd floor gutter system down into the first.

6g) Install French drain across the back yard and alongside house, to drain surplus water building up along the foundation of the house, causing ty-rod leaks and molding in the basement.

6h) Stretch, trim and repair carpets.

6i) Cut out drywall with mold (garage panel, hallway, master bath), mitigate mold and spray, replace drywall.

6j) Remove damaged kitchen counters. Install granite counters (mixed types).

6k) Replace poor condition light fixtures in master bath.

6l) Remove wallpaper from kitchen, breakfast nook, great room, down and upstairs foyer and hallways, master bathroom and master bedroom.

6m) Paint all interior rooms where wallpaper had been removed.

6n) Replace kitchen sink.

6o) Replace and install new cook top range.

6p) Replace kitchen fawcett.

6q) Replace master bathroom sinks and fawcetts.

6r) Remove damaged tile floor throughout breakfast nook, kitchen, and main floor hallways.

6s) Install new tile floor in kitchen and breakfast nook.

6t) Install hard wood floor in main floor hallways.

6u) Spray microbea (or other anti-mold not sure which they used) in attic due to previous roof leaks.

6v) Install additional insulation (+R18) to the attic (existing R value was just 19).

Other major work that had to be done on the house that we did outside of the projects listed on the bank renovation were:

- Radon Mitigation. Radon levels read at 5.5. Mitigation system suppose to lower to 2 or below.
- Basement moisture mitigation. Grinded approx. 60 ty-rod holes and patched with hydraulic cement.
- Replaced both furnace and AC units, including adding fan assistant system.
- Extensive cleaning of carpets (good quality carpets but kept horribly over 20 years)
- Major repairs to the deck. Replacing multiple boards and painting.

Further items of supposed value on the assessor's worksheet that are currently not operable and we still have to spend money to repair them, include:

Fireplace
Jaccuzie Bath Tub

In total we have spent approximately $100,000 to fix up and renovate this house. Projects that still need to be done include some extensive landscaping work, including replacing major rock wall surrounding front yard tree, paver brick walls along front and side walkways, rerouting front drainage, paver retaining wall along back of house, fixing the sprinkler system, fixing external grounds lighting and planting of flower beds. Only once that is done, will the totality of the renovations to this property have brought it up to be on par with the "average" condition of other houses in this neighborhood from which sales data was compared when making the tax assessment for this house.

(We can provide complete bank renovation project paperwork and receipts and contractor data for all of the cited expenditures).

7) On March 11th (2016) I visited the City of Troy to submit our principle residence paperwork.
8) We did not realize that the foreclosure in 2015 would uncap the taxes for 2016. No one told us. Not our real estate agent, the seller, the mortgage company, either title company at closing day, or even the city of troy assessing office on March 11th.
9) In late June or early July (2016) my wife and I received our summer tax bill, saw it was much higher than we had anticipated, then went to the City of Troy's assessing office to figure out what happened. That is when we learned that the taxable value had uncapped and the city had reassessed the property with an assessed value much higher than which the property could support.
10) When trying to address the city assessor initially we were told there was nothing we could do; that we would just have to pay those higher taxes and could challenge the assessment the following year. He did not mention the possibility of addressing the issue with the July board of review or the possibility of appealing to MTT. We were only appraised of the possibility of both through a conversation had with the city manager.
11) We appealed to the July board of reviews based on what we believe to be a Mutual Mistake of Fact in regards to our situation (we'll explain that below).
12) At the July board of review, the argument of a Mutual Mistake of Fact was not allowed to be heard. The assessor used, what we believe to be a very improper interpretation of the law to deny our case to be heard on its merits, meaning we can now only seek resolution through a MTT hearing and must wait, I am told, approximately 16 months for that process the conclude. This, we believe, was a matter that could have and should have been heard at the July board of review and resolved there. We believe the Troy City Assessor by refusing to inform us of our rights of appeal when initially asked, and his persuasion over the July board of review to dismiss the case on (flawed) technical merits has shown a complete disregard for our rights as tax payers in this matter.

Since falling into this situation we have begun reading up on all aspects of the process, from reading all 186+ pages of the THE GENERAL PROPERTY TAX ACT Act 206 of 1893, the assessors handbooks, the State Tax Commissions 47 page Q&A publication on the board of review (doc https://www.michigan.gov/documents/treasury/BOR_QA_423899_7.pdf) and other resources, including Michigan Supreme Court rulings on Mutual Mistakes of Fact.

What I have found is the clear intent of the law, some obvious texts in the law designed to avoid manipulations of the system, that unfortunately are all too easily applied by assessors to manipulate the system and deny reasonable recourse to tax payers under certain circumstances.

Ok, so the basics, for anyone reading this that hasn't read the same as recently as I:

1) Properties are supposed to be taxed on their True Cash Value. Nowhere in law is it ever suggested that any process that leads to assessments that differ from the True Cash Value are deemed acceptable.
2) There are multiple clauses that talk about the sales data for a single property not being the presumptive True Cash Value of that property and the logic for this is pretty clear. It is to prevent a variety of special circumstances of sale, generally "Not At Arms Length Sales" giving up ridiculously low sales prices as a means of cheating the tax system. And situations like foreclosure auctions, short sales, etc. Those are practical precautions and really designed to close loopholes. But then, I have found the Troy assessor using the same clauses to easily dismiss sales data that is clearly was not subject to those influences, or to suggest that a foreclosure sale by default cannot be trusted data. When I challenged that assertion, he later back pedaled and claimed that sometimes he used foreclosure sales data.

   He's argued that banks are under financial distress to sell a property because they will face a penalty if they fail to do so within _18 Months_ so that disqualifies the sales data. Excuse me? To suggest that the average home owner in selling a home won't be under considerable financial stress if they have had their house listed for 18 months without a sale. Further, most houses priced to market sell within weeks, not years. Nearly any property listed for 18 months without a sale is almost certainly only because the sellers are asking for a price the market

will not support. In the case of the foreclosure we bought, the house was on the market for 5 months. They had received many offers under our buy price (including two earlier ones from us) but because they were willing to wait 5 months, they found someone like us willing to pay a bit over market due to our own circumstances.

3) Aggregate sales for comparable homes is generally the approved method for making mass comparisons and a means to blanket assess a lot of homes sight unseen. This is certainly the case that was applied to our home. Upon request, the city assessor gave us the comps they used when comparing and assessing our house. The thing that became instantly apparent was the assessment was done boilerplate, with no notation on condition and the effective age for the assessment being assigned being the default per the assessors handbook based on the age of the home. In earlier discussion with the Troy City Assessor, I asked if he had any idea of the condition of the house, he admitted, he did not.
4) While the law states that assessors must use the same methodology when gathering the data and making assessments, I have found nothing in the law that suggests that aggregate data should be used at only broad meta levels. In the case of foreclosures, it is generally true (there will always be outliers to this of course) that the owner of said properly generally lacks the financial resources to keep the property and structures well maintained. The general practice of meta level assessments seems to willfully ignore that fact, and concludes that all foreclosures are of equal condition of all other houses from which the comp data was drawn. I believe a statistical examination of a multitude of foreclosure listings will prove this to be false. I have requested this data from the city for examination and will present all parties with my findings once I have had the necessary time to parse the data.
5) If you assume that, on average, foreclosures likely do NOT have the same effective upkeep, there is an easy and simple mechanic in the current assessing guidelines and processes to properly account for this factor and adequately achieve the stated goal of the law and arrive at the True Cash Value, and that is in properly examining the foreclosed property and assessing it a proper “Effective Age/Depreciation” according to its condition.
6) I have been told that #5 above is not reasonable for the city to do because they lack the resources to handle such reviews. Numbers as presented to me by persons representing the city, there are approximately 30,000 taxable residential properties in the City of Troy and there were 400 foreclosures in 2015. Yet the Michigan Tax Commission has published guidelines suggesting that taxing units get out and physical inspect 20% of their field in a given year.

> “The executive director of the Michigan Tax Commission said local tax assessors are supposed to be getting inside all homes to see if they are correctly taxed.
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> "[That] is the goal," said Kelli Sobel, executive director of the Michigan Tax Commission. "They should try to get inside every house so they can assure that the info on the card is correct."

Applying this principle to the City of Troy, that would suggest that 6000 residences get reviewed and have their info card updated annually. When you know that foreclosures are likely to get incorrect assessments with the meta level assessment process without a physical review, are expected to review 6000 units for accuracy, are we really to believe that reviewing the 400 foreclosures as a part of that 6000 units is a task that cannot be accomplished? When failing to do so knowingly fails the legal requirement of assessing the “True” Cash Value? Is it as simple as the taxing unit gets more money this way, and if some tax payers are forced to overpay, so sorry? And you really can’t make the argument that the City didn’t know to inspect them, since they knew enough to uncap the taxes on them.

7) The simple reality is there is a willful blind spot being applied to foreclosed properties because assessing units know that the checks and balances written into the law do not apply to foreclosures. The check and balance in the system is the assessing unit provides the new year’s assessment and is legally required to send notice of that assessment to the home owner of record so that home owner may read it, then decide if it is fair and accurate or appeal it if they do not. Home owners are given the opportunity to challenge assessments they deem to be

too high. But in the case of foreclosures, there are several factors rending the check and balance system that prevent the system from being abused, next to useless. And it is not surprising to find assessing authorities thusly abusing it. Firstly, we must recognize that banks and credit unions, unlike a regular homeowner, have very little reason to ever appeal an assessment. A higher assessment, to a degree, is a quasi-legitimate piece of government data that supports their want to get a higher sale price, when they are listing it for sale. Further, the bank and credit union will sell the property and the way that tax pro-rations work, they almost never actually incur the expensive of an incorrect, higher assessment; the new home owner will. The new home-owner who usually lacks any standing to challenge the taxes they will be asked to pay. And lastly, unlike home owners who work, sometimes for years, to build equity in a house before selling it, banks and credit unions are not equally vested in the selling process and often leave most of those details to a chosen realtor and they themselves have very little comprehension of the actual condition of the property.

8) Given all of the above, the current law and the process of checks and balances that makes the law work is largely dysfunctional when it comes to foreclosed properties. An assessing unit that is both following the published guidelines AND recommendations set forth by the Michigan Tax Commission, operates with the utmost intent to follow the written intent of the law which is to assess the True Cash Value of each property and operates in the modern era with computer systems and files that allow them to know which houses have gone through foreclosures (and certainly, since Troy was able to uncap the taxes on this property in proper timely fashion, they are), then they have all the power to accurately review foreclosures to assign a proper Effective Age/Depreciation based on the actual apparent (or at least approximate) actual condition, to arrive at a more realistic and accurate True Cash Value. I would argue any assessing unit failing to do this is not trying very hard to following the written intent of the law. I would wonder, since the assessing unit draws additional tax revenue from failing to assess foreclosures accurately, if the assessing unit was failing due to lack of capacity to accomplish the task or because of a willful intent to abuse the law.
9) Lastly, and this is my argument that I wish many to hear, and where this relates to our particular case. In talking with a city councilman from the City of Troy, he called the published guideline to physically inspect that 20% of the field annual as an unfunded mandate. If he is correct, which I am unsure that is true or not, then if we assign no malice or intent to fail in this regards to the city, then at the absolute minimum the city has to recognize that its system of meta, sight unseen, assessments of foreclosed properties is flawed and without action, is abusing the rights of the tax payers who buy such properties. If recognize the faults of the system they must, then it must stand to reason that the city must accept the additional burden of using the board of review opportunities to work with tax payers who bring such flawed assessments to a board of review, to remedy the flaw. Be in a March, July or December board of review, this must be the city's obligation IF it intends to apply the law as it was written and intended rather than abuse the law for additional revenue because it can.

That being said, now let me tell you, THAT IS NOT HOW OUR BOARD OF REVIEW WENT!

We attempted to bring this flawed assessment to the city through the July board of review. Why the July? As stated above, we had zero indication that the taxes had uncapped and this very high assessment had been made until we received the summer tax bill. Researching the situation, I found an easy argument for Mutual Mistake of Fact and filed to be heard at the July board of review (after the City Manager informed me of the dates, since the City Assessor did not).

Our argument for Mutual Mistake of Fact is pretty clear cut. The City Assessor admits that his assessment of the property did not take its actual, severe state of disrepair, into consideration when making the assessment. The small credit union that owned the house at the time of the tax assessment being issued, AND to whom the city sent the notice of the tax assessment to, had no real clue as to extremities of the damage to the house. I support this claim as evidenced by the text of their sales listing (see above, under #2 for facts). They cited a reduced price for the house due to "DUE TO EXTERIOR WORK". And while there certainly was exterior work that was needed, that certainly in no way addresses the multitude of work that was ALSO necessary on the inside. Given that the sale and general management of the company also fell to the realtor contracted to sell it, it is very likely no one at the credit union truly knew the condition of the

house. Therefore, with the physical condition of the house unknown to both the City Assessor and Credit Union, neither knew the actual condition of the house and were both mistaken as to its value. Later the credit union would fire that first realtor and assign a second who likely had a better grasp on its condition, hence the severe price drop (though actual knowledge of condition likely sat with the realtor, not the credit union). I once attempted to contact the credit union with questions regarding the property when their realtor was being unresponsive and found that no one over there actually know who was responsible for the house! The previous person had been let go and no one knew who it fell to afterwards.

That makes for a solid argument for a Mutual Mistake of Fact as to why the credit union may not have entertained a challenge at the March board of review. But let us also explore the reality that banks and credit unions rarely have an incentive to appeal, that the check and balance in this instance may have also failed, and that the city should have a fundamental obligation to review an assessment known to be systemically faulty and address it.

What Actually Happened at Our Board of Review:

The City Assessor told the board that no mutual mistake of fact was possible. Because we (my wife and I) had closed on March 8th and that the city was undergoing the March board of review at that time, the assessor claimed that WE should have been considered the owner of record for assessing and appeal purposes. That because WE KNEW the condition of the home, and the assessor did not, that rendered the "Mutual" part of the Mutual Mistake of Fact invalid.

We have a great many problems with THAT interpretation of the law:

1) That is a technical argument to deflect from the obviously flawed assessment. Being a foreclosure, assessed via computer with no physical review, the city had already failed the most basic rule of the Law, which was to assess based on its True Cash Value. NOT, its theoretical cash value if you ignore most obviously flaws with the meta approach to assessing with regards to foreclosures. Seeking a technical merit to dismiss the opportunity to fix such an obvious flawed assessment, when presented, smacks of avoiding the intent of the law (assessing against the True Cash Value)
2) If WE were the owners of record, the law says the assessing unit MUST send US the assessment. They did not. The only owner of record sent the assessment was the credit union, back in February. IF, however, we had been sent the assessment, then surely we would have appealed at the March board of review. We were denied that opportunity.

   I presented the above fact to the City Assessor and he strove to find another technical merit to dismiss our claim. He claimed that our failure to receive the assessment notice was not a defense or justification for missing the March board of review. I will quote some portions of the law:

   > "211.24c (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first-class mail of an increase in the tentative state equalized valuation or the tentative taxable value for the year. The notice shall specify each parcel of property, the tentative taxable value for the current year, and the taxable value for the immediately preceding year. The notice shall also specify the time and place of the meeting of the board of review. The notice shall also specify the difference between the property's tentative taxable value in the current year and the property's taxable value in the immediately preceding year"
   >
   > "(4) The assessment notice shall be addressed to the owner according to the records of the assessor and mailed not less than 14 days before the meeting of the board of review. The failure to send or receive an assessment notice does not invalidate an assessment roll or an assessment on that property."

The law on this is pretty clear. I only copied a couple relevant snippets, but section 24 goes on and on in great detail with regards to what the assessing unit must provide and when it must provide it. Paragraph 4 shows the intent that the home owner shall have approximately two weeks (minus a day or two for mail delivery) to receive this information. That a failure to send it or a failure for the home owner to receive it simply can't hold up the entire tax roll or make it so that the property wasn't assessed, but in no way does it say that the assessing unit failing to send the home owner the assessment is grounds for dismissal at an appeal. It is very clear that the law intends for the home owner to receive it and with time enough to act upon if they want to appeal. The Troy City Assessor seized upon that small loophole under paragraph 4 to try and deny us our appeal rights, again.

3) The City Assessor's argument that we should be treated as the owner of record because our closing date fell within the time frame that the March board of appeals was happening, and using that as the legal loophole to convince the board members that there was no Mutual Mistake of Fact argument for them to ponder flies directly in the face of the text of the law. The law states that notices must be sent out AT LEAST (14 days) before the meeting of the board of reviews. Not 2 days, nor 3 days.
4) Even if one presumes 2 to 3 days to be sufficient time to act upon being given notice, you have to remember, we as the new owners were GIVEN NO NOTICE. Additionally, since we closed on the 8th (I think the day the March board of reviews began) and were at the city assessing office on March 11th filing our principle residence affidavit, you might conclude that would have been a perfect time for staff at the city assessing office to hand deliver to us the assessing notice. Clearly it cannot be claimed at that point that they didn't yet know we have purchased the property, as filing the principle residence and showing the necessary proof of purchase very clearly told them. When bringing up this argument with the Troy City Attorney, I was told it was simply unreasonable for us to assume that the persons, who's daily job is working in the assessing office, could not have known that procedurally that was information we should have and that it was time sensitive a well. Yet, my wife and I, who are not professionally engaged in the process of assessing and actually operate a store that sells games and comics, should be held to a standard where WE SHOULD KNOW this stuff, be able to act upon it within 3 to 4 days, with no notice given to us. If the persons who handle this topic for a living cannot reasonably be expected to be held to such a standard, I cannot fathom anyone holding to an interpretation of the law where the average citizen who knows little about such procedures can be denied their rights of appeal based on such a narrow time frame. Certainly, those who crafted the law assumed 14 days or so was the appropriate minimum time to be allowed.
5) If you assume it unreasonable in time frame to hold us as the owner of record for the purposes of the March board of reviews, then it was also unreasonable for the city assessor to convince the sitting board members that we should be treated as the owner of record so the merits of the Mutual Mistake of Fact could be dismissed on technical merits rather than heard and ruled on. The City Assessor claims to have decades of experience at this job, but truly, it would appear those decades have only empowered him to be very nuanced in the subtle technical aspects of the law that may be bent and presented in such fashion to be in actual opposition to the intent of the law as written. I sincerely suggest that the City Assessor advising the sitting board of review members in this fashion, who likely do not have nearly the same familiarity of the law, is an abuse of his position in the board of reviews process.
6) Lastly, during our board of review, the City Assessor also advised the sitting board that, even if our Mutual Mistake of Fact were to be valid, that the board lacked the authority to address the incorrect assessment. That, I also find to be a mis-application of the law. I quote from the Michigan State Tax Commission 47 page guide on Board of Reviews:
https://www.michigan.gov/documents/treasury/BOR_QA_423899_7.pdf

"Do the July and December Boards have different authorities than the March Board of Review?
Yes, the July and December Boards of Review meet to correct qualified errors and to consider appeals related to Principal Residence Exemptions, Qualified Agricultural Exemptions, the Eligible Personal Property Exemption (the Small Business Taxpayer Exemption), the Eligible Manufacturing Exemption, Taxable Value uncapping, the

Qualified Start-up Business Exemption, the Disabled Veteran's Exemption and Poverty Exemptions. A fuller discussion of the July and December Board of Review jurisdiction is set forth in the Appendix.
What is a qualified error? (Please see Bulletin 16 of 2013. (Appendix))
Qualified errors are defined in the act as:
• A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.
• A mutual mistake of fact.
• An adjustment under section 27a(4) – taxable value or an exemption under section 7hh(3)(b)– qualified start-up business exemption.
• An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
• An error of omission or inclusion of a part of the real property being assessed.
• An error regarding the correct taxable status of the real property being assessed.
• An error made by the taxpayer in preparing the statement of assessable personal property under section 19.
• An error made in the denial of a claim of exemption for personal property under section 9m, 9n or 9o.

The July and December Boards of Review do not have jurisdiction to revisit the Assessor's determinations which were made through the exercise of professional judgment, such as Quality Class (D, CD, C, BC, B or A for residential construction, depreciation and land value determinations, Economic Condition Factors, etc.), even if the Assessor or a Successor Assessor later believes that the original determination was mistaken. (Valuation appeals must be protested to the March Board and/or appealed to the MTT"

Ok, so first, the second entry under which the July and December board of reviews may handle are Mutual Mistakes of Fact. The City Assessor told the board, based on the language of that last paragraph, that they had no authority to correct the incorrect assessment stemming from the Mutual Mistake of fact. That is simply not true from the reading of the law. That statement suggests that claims based purely on the exercise of the assessor's "Professional Judgment" cannot be heard or acted on here. Professional judgment would first assume that his professional judgment was applied to the assessment in question, which it was not. The data and card all show the assessment was rendered by on an automated meta method of computerized comparison of sales comparisons, with no knowledge of the property itself, for which the City Assessor admitted to. Indeed, if a professional judgment had in fact been rendered, with City Assessor applying his judgment with the condition of the home known, then there could have been no Mutual Mistake of Fact in the first place, and thusly, it would not have been valid case to bring to the July board for review. However, since the City Assessor did not know the condition of the property, no professional judgment was rendered, and a Mutual Mistake of Fact case was indeed what the sitting board members at that hearing should have been considering. If they had found that a Mutual Mistake of Fact had occurred, then they were fully empowered to make corrections caused by the Mutual Mistake of Fact.

We know we have the right and power to challenge the assessment at the Michigan tax Tribunal without having addressed the events that transpired at the July board of review, but we truly believe we have a case where an assessor has systemically withheld information regarding our rights of appeal from us, coupled with advised the board of appeals members of incorrect interpretations of the law on three different technical issues, all accumulating to a denial of judicial rights of a timely appeal with a matter that should have been corrected and put to bed at the local level. We have been told our "rights" were to appeal this to the Michigan Tax Tribunal, but in fact, that is merely where we must now appeal now that our rights have been trampled upon. In the best case scenario now, we get to pay $2,000 in higher taxes for a period of 16 months until we have our hearing with MTT, then some number of months afterwards, assuming MTT finds in our favor, the city will theoretically have to give us a refund check. That is, frankly, about a 2 year interest free loan the city now gets, with absolutely no downside for having not addressed and fixed the matter locally and having pushed it down the road for MTT to deal with instead. When the local government can excise a 2 year, several

thousand dollar tax free loan from a citizen willing to fight an unjust application of the legal process, with no recourse, just imagine the potential for abuse when the VAST MAJORITY OF PEOPLE NEVER APPEAL. 2% actually, is the statistic I have found online. And that's just to the local board of appeals. I do not have data on the percent who appeal and wait 16 months for resolution at the MTT, but I can only imagine it to be infinitely smaller.

So we can only conclude one of three things is happening here:

1) The entire system is broken in general.
   Or
2) We have a local tax assessor who is breaking the system
   Or
3) A little bit of both.

It is difficult for us to know which. We only know, as the tax paying citizen now forced to pay a wrongful tax (amount) and having been given no effective representation on the issue (to date), the system is not working. So we have taken the time to write this up in detail and are submitting it as a part of our Michigan Tax Tribunal case, submitting it to the Michigan Tax Commission, the Attorney General's Office, to our local Congressman, Congrassman Dave Trott's office and generally any news media that will take it. Its broken folks, and it needs fixing. I'll let the investigations that come figure out where its broken.

To that end, for our Michigan Tax Tribunal case.

If you also agree that the assessment rendered for our property for 2016 does not accurately reflect its True Cash Value, then below are our thoughts on its value, with what evidence we can present.

1) 2016 assessed value currently $253,150
2) Actual Purchase price $399,000 (on the market for 5 months. Nearest other bid $387,000)
3) The comp data the assessor showed us they used when assessing our property shows 32 listings. Of those, only 10 of them do not have fully or partially finished basements, which surely has driven up their sale prices per square foot. Our home does not have any finished basement square footage.
4) The condition of this home, at the time of our purchase was far, far worse condition than that assigned to it by the assessor. If I am reading this data sheet right, the assessor pegged the house condition with modifiers of .74 and then .9 for depreciation, so arriving at 66.6% good. Per the assessing handbook (see link below page 9) that suggests the home was "Average: Normal wear and tear is apparent, average attractiveness and desirability". But given the condition of the house, with rotten and falling apart windows, leaking roof, mold in the roof and drywall and basement, leaking basement, furnace and AC needing replacement, higher than safe radon rating and general decay of the exterior, at best I think you would have had to classify it as: "Poor: definite deterioration is obvious, definitely undesirable and barely useful – 30 – 44% good, mid 37%.

   If you applied a 37% effective good age/depreciation qualify onto the new build estimate of $506, 545 as presented by the assessing data sheet, you would arrive at $187,427 then x 1.199 = $224,724, then you add back in the land value of roughly $102K and arrive at a True Cash Value of roughly $326,724.

   Now, we were willing to pay $399,000 for the house, so I guess it is rather hard to say it was only worth $326,000, but then really, that has more to do with location and desirability of the neighborhood than the actual value of the house itself. When trying to compare this house to others in the neighborhood, we can find no examples of foreclosures, or really any other house with such a poor state of upkeep, so most any comparison to comps is truly difficult to make. I think looking at what we, ultimately, were willing to pay, the realistic depreciated value of the building before we began to fix it up, and then the $100,000 we've had to dump into it to begin to bring it up towards the standard of the neighborhood are the fairest indicators of the properties True

Cash Value that you can find. We won't try and argue for the $326,725 depreciated value of the property since we proved to pay more, but with 5 months on the market and how desirable to sub division is, that no one was willing to pay more makes that $399,000 purchase price look pretty realistic as towards its True Cash Value at the time of purchase. Tax day, of course, was 3 months prior to that, but nothing had substantially changed in those 3 months except perhaps maybe it had sprung maybe one more leak in the roof and the rotting wooden windows had perhaps rotted a bit more.

Thank you for your time and consideration:

Ryan and Amnouy Johnson