

How to Appeal Your Residential Property Tax Assessment

It is absolutely critical for all Michigan property owners to review their upcoming Notice of Assessment from their local assessor. With declining property values and a 4.4% increase in taxable values under Proposal A, many property owners may be hit with a substantial property tax increase on a home that has gone down in value.

Liberty Title is here to help you with a “do it yourself” guide explaining how to appeal your assessment. It is your right as a taxpayer to have a fair assessment on your property. But you have to act. This guide will explain how you go about protecting your rights, and hopefully, reducing your property taxes.

Property Tax Basics

In order to protect your rights, you need a basic understanding of Michigan property tax law – you do not need to be an expert, you just need to know the basics to get your appeal started.

Real estate in Michigan is given two values in the property tax system. When you purchased your property, your local tax assessor had a duty to value your property and establish its “True Cash Value”. “True Cash Value” has been defined by the Michigan Supreme Court as the “fair market value or usual selling price” of the property. The Assessor establishes “True Cash Value” as of December 31st annually. The Assessor reviews sales data for each neighborhood over a certain period of time to see trends and applies a percentage increase/decrease to each neighborhood. This along with any actual physical changes on your property creates a market value. 50% of that market value is your State Equalized Value (SEV). Your property also has a “Taxable Value”, which is the SEV, as modified by the limitations on increases set forth in Proposal A. Those limitations mean Taxable Value cannot exceed SEV.

Property taxes in Michigan are calculated by multiplying the tax or “millage” rate times the “Taxable Value” of the property. If your millage goes up and/or your “Taxable Value” goes up, your taxes go up, and vice versa.

The Assessor revalues your property every year, and sends you a “Notice of Assessment” that sets out the proposed SEV and proposed Taxable Value for the next tax year. You will receive the “Notice of Assessment” sometime between February 15 and March 15. Timing is critical and you need to anticipate your “Notice” and schedule your appeal right away. Your Board of Review (BOR) will meet shortly thereafter and you have to meet during that week they’re in session. The proposed SEV is supposed to be 50% of the property’s value as of December 31. If property values have gone up or you have made improvements

to your home, your SEV will go up. If property values go down or your home has been damaged, the SEV goes down.

Your Taxable Value is also supposed to rise and fall with property values and improvements or losses. But increases in Taxable Value were limited by Proposal A to the lesser of 5% or the rate of inflation. This was a great benefit to property owners in the past when property values were going up faster than inflation. For example, your SEV could rise by 10%, but your Taxable Value could only rise by 2% if that was the inflation rate. This led, however, to a “value gap” between SEV and Taxable Value, with the most properties Taxable Value being lower than SEV. It was this gap that allowed for a “catch up” over the last few years as Assessor’s increased Taxable Values by the inflation rate, while slightly decreasing SEV’s due to the decline in property values

This year we are probably at a “tipping point” with respect to Taxable Values. Property values in Michigan decreased on average by 17% in 2008. The inflation rate used to increase Taxable Value was 4.4%, the highest in 15 years. As property values are now at 2000-2001 levels, there is a distinct possibility that the proposed SEV and Taxable Value may very well exceed 50% of the value of your home. This gives you grounds to appeal your proposed assessment and possibly reduce your taxes.

Starting Your Appeal

Your appeal starts when you rip open the envelope that contains your Notice of Assessment. The Notice of Assessment will contain last year’s SEV and Taxable Value and a proposed SEV and Taxable Value for 2009. You probably will see that your SEV has gone down – except if you bought your home in 2008, in which case the “pop up” tax will have equalized your SEV and Taxable Value at current values. If you believe that your proposed SEV exceeds 50% of the value of your home as of the end of last year, you should consider appealing your assessment.

You then need to contact the assessor of your City or Township to see if they have any procedure in place that you must follow before filing your appeal with the Board of Review. If there is a pre-Board of Review procedure, obtain any necessary forms and note down any other requirements that they may have with respect to pre-Board of review proceedings.

You should also ask your Assessor for a copy of your home’s assessment card. Review it with the Assessor and make sure you understand all the information on the card. Look carefully for any inaccuracies.

Board of Review Basics

The Board of Review consists of 3, 6 or 9 residents of your community who are appointed by the Township Board or City Council. They meet on the Tuesday following the second Monday in March to hear protests of assessments.

You must file a petition with the Board of Review. The State Department of Treasury has created the form which you submit to the Board of Review. A copy of the Form is in the Appendix and can also be found online at http://www.michigan.gov/taxes/0,1607,7-238-43535_43537-154822--,00.html. The form requires you to state an estimate of the true cash value and set out your reasons for protesting the Assessor's valuation.

At your Board of Review hearing you must present evidence to the Board showing that the Assessor has set your assessment too high. Stating that your property taxes are "too high" is not evidence! You must show the Board of Review that the Assessor has made a mistake in setting your assessment. The evidence you present to the Board can consist of many things – a report you have prepared of recent comparable sales in your neighborhood, a "Broker Price Opinion" or "BPO" from a Realtor or even a formal appraisal. You can also submit evidence as to why your specific property has issues, e.g. the roof is shot or you need a new septic system. The better your evidence, the more likely you are to prevail.

DO I NEED AN EXPERT?

You do not need to hire a professional like a lawyer, consultant or appraiser to handle your appeal – but it may be a good idea. An expert can give you professional advice on the likelihood of success and can usually present a more well prepared appeal that has a better chance of succeeding

The Board of Review will weigh the evidence you present against the evidence supporting the Assessor's value, and make a determination of your new SEV and Taxable Value. They might not give you a decision at the hearing and you may not get a reasoned decision- just revised values. If you feel that the decision of the Board of Review was fair, you may stop the appeal process at this point and your property will be taxed at the new Taxable Value, subject to some minor adjustments through the State and County "equalization" process mentioned earlier.

Key Point – the Taxable Value established by the Board of Review becomes your new “baseline” amount for future assessment increases. It cannot go up by more than the lesser of inflation or 5%. This means you will get a permanent reduction in your property taxes if your appeal is successful.

Your Appeal-Step by Step

STEP 1. Go to your local assessor’s office and obtain a copy of the worksheet or appraisal card for the property. This should list the size of your house, the type of construction, special features, etc. The worksheet contains other information such as style (ranch, colonial, contemporary, etc.) of your home, utilities, construction date, number of baths, fireplaces, and kitchen range hoods. Ask the assessing department to explain the document until you completely understand the abbreviations and numbers. You can also obtain worksheets on similar properties which recently sold in the area which the assessor may be using to determine the value of your property.

If you live in a Charter Township or City, you must also ask the Assessor if they have any procedures that require you to protest your assessment with their office or any other agency prior to going to the Board of Review. If they have such a procedure, ask them for any required forms or documents and follow their procedures.

STEP 2. Carefully check the assessor’s worksheet for errors. The assessor may agree to change some of the information or figures at that time, or you may have to make your case with the local Board of Review. There should be a “percent good” calculation on your worksheet which shows you how much your house has depreciated. If your house is ten years old, it will be about 90% good. Percent good is another factor to use when comparing your home with other homes (See Step 4).

STEP 3. If your tentative taxable value increased by more than 4.4% above your 2008 taxable value and you did not improve your home with additions, then your taxable value may exceed the statutorily mandated assessment cap. Call your assessor immediately and inquire as to why your taxable value increased by more than the rate of inflation.

Remember, taxable value is capped at the rate of inflation or 5%, whichever is less, until the property transfers or additions are added to your home. SEV is not capped but must reflect 50% of your property’s true cash value. Either taxable value or SEV, or both, may be appealed to the Board of Review.

STEP 4. As noted in Step 2, the “percent good” is the way an assessor depreciates the value of a home based on its age. For this reason, normal issues common to all homes of that age are not considered in the specifics on the assessment. However, many homes have problems that are not associated with general aging. Examples might be cracked foundations, wall construction problems, or poor masonry work. The impact of these problems on the value of the home should be specifically addressed.

Therefore it is necessary to perform a complete inside inspection of your home. Written repair estimates and photographs of structural damage are very good evidence of defects which could effect property value.

STEP 5. Realtors say that location is the single most important feature which determines the value of your home. If you live near a major road, landfill, business, or industry, your home may be less desirable than the same home located in a purely residential neighborhood. You may live in a mixed zoning area which includes commercial, industrial, and residential property. You may have a well, septic system, or dirt road. Obtain copies of citizen complaints about area drug houses, rowdy party homes, and neighborhood eyesores. Tape record factory, truck, or party noise.

If these characteristics have changed, they may contribute to a deteriorating value of your home and you should be able to show this to the Board.

STEP 6. If you do not have the time or patience to collect comparables, many local Realtors will help you determine the value of your property. Call several and ask for comparable sales in your area. The Realtor may even do an appraisal for free hoping you might work with them when you sell your home. Or, you may wish to have your home professionally appraised. A professional appraisal is the best evidence against an improper assessment and the best proof of value.

STEP 7. One of the most common mistakes home buyers can make is that they fail to inform the assessor of personal property and other valuable items which were included in the sale. Personal property items often included in a home’s sale price such as furniture, curtains, washer, dryer, etc. are exempt from assessment. If you do not inform your assessor in writing about these items, your assessment may erroneously include this value.

STEP 8. Comparable property assessments are one of the most important tools for a property tax assessment appeal. If comparable properties are assessed lower than your property, you may argue that your property is over assessed. Make your comparable study by asking for the

worksheets on similar homes which have recently sold in your area. Check the assessed value, the state equalized value, taxable value, type of house, and zoning.

STEP 9. The final step in the process is to put all your information into letter form and to file your formal Petition with the Board of Review. Complete form L-4035, the Petition to Board of Review, required by State law and, complete any forms required by your local assessor.

STRATEGY. Bring a presentation copy for yourself and each of the Board of Review members. Read your presentation to the Board. You may have about five minutes, so make your points, show photographs, and stay professional.

REMEMBER-.
You must appeal to the local Board of Review before you can appeal to the Michigan Tax Tribunal.

SAMPLE APPEAL LETTER

Date
Name, Address, Telephone
To the Board of Review/Tax Tribunal:

I wish to appeal my property tax assessment for the following reasons:

1. According to my Worksheet/Property Record, I have noted the following discrepancies:

- A. I do not have a fireplace as indicated.
Estimated value..... \$1,800
- B. I do not have a tile bath as indicated.
Estimated value..... \$1,200
- C. According to my worksheet, I have 1,500 square feet of living space.
I have 1,000 square feet.
Reduced value.....\$6,920

This amount should be deducted from my true cash value.....\$9,920

2. I have noted the following structural defects on my property. They reduce the value of the property by the following amounts:

- A. Cracked foundation \$3,800
- B. Cracked exterior wall.....\$2,200

This amount should be deducted from my true cash value.....\$6,000

3. I live in an area that has mixed zoning and next door there is a new junkyard which emits loud noises and noxious odors. This affects the value of my property. I feel my true cash value has been reduced by.....**\$3,000**

3a. Grand Total, add #1, 2 and 3 above \$18,920

4. I wish to make the following comparables:

231 Main Street, assessed value: _____
(List all comparables and ask for an average reduction. Note: add all items you noted as discrepancies, comparable amounts, etc.)

EXAMPLE:

True cash value.....	\$60,000
Minus Discrepancy/Grand Total.....	\$18,920
New True Cash Value.....	\$41,080
One half = Assessed Value (SEV).....	\$20,540

NOTE: This sample letter indicates many of the grounds for a reduced assessment. It is very unlikely that an assessment could be reduced by nearly one-third, as illustrated here, but every reduction is important.

Thanks to State Senator Bev Hammerstrom for providing the format and much of the information for this section.

Appeal to the Tax Tribunal

If you disagree with the Board of Review's determination, your next step is to appeal to the Michigan Tax Tribunal. Do not be intimidated by the scary name – the Tribunal is there to protect your rights if the Board of Review has made a mistake.

Your appeal to the Tribunal can be processed in two ways – either through the cheap and efficient “Small Claims Procedure” or through a more formal appeal to the whole Tax Tribunal sitting in Lansing.

Small Claims vs. Formal Appeal

Most residential taxpayers choose the Small Claims route. Your appeal is free and the case is heard in a more informal setting in the County where the property is located, as opposed to a formal appeal heard in Lansing.

If you have a major dispute over value, a formal appeal is probably needed. You will need to pay a filing fee and your case will be heard in Lansing. More formal rules apply; it probably is a good idea to have a lawyer involved.

In order to appeal the decision of the Board of Review, you must file an appeal with the State Tax Tribunal before July 31 for residential property – even if you have not received the results of your appeal to Board of Review. Commercial and other types of property have a May 31 deadline. **Remember, you cannot appeal to the Tax Tribunal unless you have gone through the Board of Review process.**

The appeal process is simple, but fairly lengthy. Due to the overwhelming volume of appeals, Small Claims appeals usually take between one-two years to go from filing to your hearing. Formal appeals take two- three years to come to a hearing. During the appeal process you have to pay taxes based upon the contested assessment. You also need to protest any subsequent assessments with the Board of Review. Your chances of success with the Board of Review on your second appeal of your assessment are greatly increased when they see that you are serious about the process.

Small Claims Appeals

You start a small claims appeal by filing a completed Petition for Appeal Form with the Tax Tribunal. The Tax Tribunal web site (www.michigan.gov/taxtrib) has specific consumer friendly instructions as to how to file a Small Claims appeal claim and what rules govern the small claims process. A sample Petition is found in the Appendix.

The City or Township must then file an Answer to your Petition with the Tribunal and send you a copy of their Answer. After the Petition and Answer have been filed, the Tribunal will schedule a hearing in your County or an adjoining County. You will receive a Notice of Hearing roughly 30 days before the hearing date. At least 14 days before the hearing, both sides must exchange any documentary evidence and send copies to the Tribunal. No “discovery” is allowed in Small Claims. You cannot request documents from the City/Township or question their witnesses in advance of the hearing and they cannot make you produce documents or submit to questioning before the hearing. If you do not wish to speak at the hearing, you can request that the Tribunal conduct the hearing “on the file”. You can also hold these hearings on the telephone. If you want to have a hearing in person, you must request a personal hearing.

At the hearing, your case will be heard by either one member of the Tribunal or a "hearing officer". Hearings are generally less than 30 minutes in length. If a member of the Tribunal presides at your hearing, his/her order will be a "Final Judgment" and your only appeal will be to the Michigan Court of Appeals. If a hearing officer presides over your hearing, you can file "exceptions" to the Proposed Judgment and request a rehearing. The case will then be reheard before a member of the Tax Tribunal and a final Judgment will be issued.

FORMAL APPEAL

A taxpayer may choose to have a formal appeal of the decision of the Board of Review heard by the entire Tax Tribunal. This is a much more complicated process. . There is a \$100 filing fee for appeals of assessments of homesteaded residential property. Given the complexity of the process, you have little chance of success in a formal hearing if you are not represented by an attorney. Because of the added expense, a formal appeal should only be considered if the annual amount of taxes that are in dispute exceeds \$2,000.

The formal appeal is started by filing a Petition with the Tax Tribunal and serving it on the City/Township. They must then file and serve upon the taxpayer an answer to the Petition. Discovery is permitted-either side can request that their opponent produce documents and other evidence that supports their position for review and each side can examine the other side's witnesses prior to the hearing. There is a required "prehearing general call" which will set dates for the parties to exchange their valuation evidence and property prehearing statements. After these have been exchanged, the Tribunal will schedule a mandatory prehearing conference.

Prehearing conferences generally run for about 45 minutes. After the conference, the presiding Judge will issue a Summary of the Prehearing Conference and Scheduling Order that will establish dates for filing motions, exchanging witnesses and evidence lists, stipulate to facts that are not in dispute and schedule the hearing.

The Hearing is a formal proceeding, governed by the Tax Tribunal rules and Michigan court rules. It is held in Lansing and can range in length from ½ day to several weeks. The Tribunal member who presided over the prehearing conference usually acts as presiding Judge. At the conclusion of the Hearing, an Opinion and Final Order will be issued, which can be appealed to the Michigan Court of Appeals.

CONCLUSION

Taxpayers in Michigan have had a very rough time over the past three years. The Income tax has increased, business taxes have gone up and every level of government has discovered a sudden need to raise fees or charge new fees for services that used to be viewed as part of general government services. Property taxes have also continued to go up, even as property values have gone down. But taxpayers can have a say about their property taxes through an appeal of their assessment. We hope this Guide will help you make sure that your property taxes are fair and are an accurate reflection of you home's value.

APPENDIX

- How to read your Assessment Notice**
- Petition to Board of Review Form (3 pages)**
- Property Tax Appeal Petition Form (2 pages)**
- Petition Instructions**
- A Taxpayer's Guide (4 pages)**