



Resolution

Support for Senate Bill 19 and Senate Bill 20 of 2023

WHEREAS, the City of Marquette, Michigan has responsibility for ensuring the health, safety, and welfare of residents and visitors; and,

WHEREAS, the financial resources necessary for the provision of such services are derived from taxable value assessment, collection, and distribution to reliant entities; and,

WHEREAS, such tax collection and distribution generally occur after services are committed or rendered to constituents; and,

WHEREAS, local Assessors are required to apply provisions of the formal Assessors Manual as issued by the Michigan Tax Commission in determining said taxable values; and,

WHEREAS, the Michigan tax Tribunal is not required to apply the provisions of the formal Assessors Manual in their review of appeals; and,

WHEREAS, the Michigan Tax Tribunal is required to follow Michigan law contained in statute and in binding appellate court decisions and the Michigan Supreme Court has required the Tribunal to adhere to standard appraisal practices; and,

WHEREAS, the Michigan Tax Tribunal has accepted and applied the “dark store” theory in their decisions regarding commercial properties since 2010; with the most significant ruling yet in the recent Court of Appeals remand decision of the Menards Inc. v City of Escanaba case written by Victoria Enyart; and Preeti Gadola; and,

WHEREAS, the Tax Tribunal, on numerous occasions, has valued such properties through comparisons to sales of other big box or junior box stores that have “gone dark,” i.e., have failed to produce retail sales due to their location in the market; and,

WHEREAS, the Tax Tribunal has also valued box stores by comparisons to sales of other box stores that were sold with a private deed restriction in place, which precluded the use of the sold box store for use as a box store; and,

WHEREAS, these Tax Tribunal decisions across the state have resulted in artificially reduced values for thriving box stores due to comparisons to stores that either failed or were sold for some other secondary purpose, such as redevelopment for some other commercial use; and,

WHEREAS, multiple municipalities in the Upper Peninsula and Michigan have lost revenue and incurred legal expenses as a result of “Dark Store” property tax appeals,

which has impaired the ability to provide services to residents and to the dark stores themselves; and,

WHEREAS, the Tax Tribunal is comprised of a chairperson and four members. The members include an appraiser, an assessor, an attorney and an at-large member. The purpose of these different members was to ensure that appropriate expertise (in the fields of assessing, appraising, and the law) was applied to all Tribunal cases and proceedings, and each member is appointed by the Governor; and,

WHEREAS, due to an increase in the Tribunal's case load, a single member now presides over a case instead of a panel of all members; and,

WHEREAS, the Tribunal's current operations have resulted in criticisms, not limited to delays in case processing, a growing backlog of cases, a lack of transparency in decision-making, and members presiding over complex cases without any legal training or experience in property tax matters; and,

WHEREAS, Representative of Michigan's 38th Senate District, Senator Ed McBroom, seeks to introduce two bills, Senate Bill Nos. 19 and 20 intended to respond to criticisms of the Michigan Tax Tribunal and to create County Boards of Revision with jurisdiction over certain property tax disputes; and,

WHEREAS, the legislation seeks to remedy these issues by requiring the Tax Tribunal to assure that box stores are valued according to their "highest and best use" by excluding the use of sale comparables sold with private restrictions in place if those restrictions substantially impair the comparable's highest and best use as compared to the property being valued; and

WHEREAS, the legislation seeks to require the use of sale comparables that are adequately comparable to the property being valued; and,

WHEREAS, Senate Bills 19 and 20 provide for the creation of County Boards of Revision, which would obtain jurisdiction over larger, more complex property tax matters that involve over \$1.2 million in dispute; and,

WHEREAS, Senate Bills 19 and 20 are intended to provide a neutral and competent adjudicatory process that is driven by standard legal processes, overseen by experienced legal professionals and tax professionals certified by the Michigan State Tax Commission; and,

WHEREAS, County Boards of Revision provide for greater input from local units on property tax matters and the ultimate review of County Board of Revision decisions by judges in local County Circuit Courts; and,

NOW, THEREFORE, WE, the Marquette City Commission, do hereby resolve to support the legislation introduced by Senator McBroom

Dated this 13th day of March, 2023.

Cody O. Mayer
Mayor
City of Marquette