

Testimony on SB 39 (McBroom) – Tax Tribunal Act

Senate Finance Committee

Mr. Chairman, and committee members, thank you for the opportunity to share our views on SB 39. I am Mike Johnston, VP of Government Affairs for the Michigan Manufacturing Association.

Manufacturing remains the largest sector of the Michigan economy generating about 19% of the gross state product, and employing, 628,700 people, as of January 2020.

Our members have made tremendous capital investments over many decades – centuries, really - in Michigan. Those long-standing investments and future investments decisions are rooted in the predictability and confidence in the property valuation process. In addition, the right to appeal the property's valuation made by local units of government is fundamental to the property tax system. We view our confidence in the property tax valuation process as a critical business climate issue for Michigan.

I am here today to express our concerns about SB 39, as we believe the bill would create tremendous uncertainty and would likely result in dramatic property taxes increase on commercial and industrial properties statewide.

In our view, the General Property Tax Act, and the court system, including the Michigan Tax Tribunal is working well. The *Menard's* case has been reviewed at every level of the court system, even with a remand back down to the tax tribunal. While not everyone agrees with every decision at every stage, I think we can all agree, this case has been reviewed in great detail. The *Menard's* case impacts not just retail – but all commercial and industrial properties.

This bill amends the Tax Tribunal Act and not the General Property Tax Act. That means only those taxpayers that challenge their property tax assessments will be prohibited from using all of the valuation methods available under the General Property Tax Act.

This creates several problems. First, it means taxpayers are not treated equally under the law. Because SB39 only affects how the Tax Tribunal values property and does not affect how assessors or the State Tax Commission do so, properties that are appealed would be subject to different valuations standards than properties that were not appealed, creating disparity in the uniformity of property valuations statewide. This is very likely a constitutional problem. In addition, this is a business climate issue. The policy would not only limit the ability of a taxpayer to appeal their property taxes, it punishes those who dare to complain about the actions of government.

More specifically, the bill would expressly instruct the tax tribunal to “exclude” certain properties with deed restrictions for value comparison purposes. Ignoring deed restrictions undermines the comparable sales approach to valuation of large industrial properties in Michigan and would be inappropriate for several reasons:

- Market value or True Cash Value for real estate taxes, should consider the amount a willing buyer and a willing seller agree is the value of the property. Restrictions on use of the property are a necessary part of what a buyer is willing to offer and are present in nearly all transactions involving manufacturing sites. For industrial properties, those restrictions may be based on a number of items – noise/light pollution ordinances, environmental considerations, zoning/use issues, etc.
- Other methods for valuing industrial properties do not adequately reflect the market conditions influencing the price a buyer would be willing to pay. Precluding use of a significant population of comparable sales could result in requiring valuation of industrial properties based only on cost and income approaches; and those approaches are widely known by experts to be inadequate for this type of property. The relative age and size of industrial properties makes using an approach based on cost minus depreciation impractical. The income approach doesn’t typically work well when the owner of the property isn’t using the real estate to generate income – but the activity that takes place inside the building he owns is what generates the income.

- Valuation experts need access to all three industry-standard methods of valuing property. The property tax law should not restrict the use of any particular method. Valuation experts are widely utilized by taxpayers, governments and real estate investors to evaluate their properties for many reasons. Property taxes are just one. Professional training and credentials are required for experts in this field and their judgement should be respected as to selection of the appropriate methods to use to value properties they are trained to determine.

Conclusion

Mr. Chair we appreciate the opportunity to share our views on SB 39. Property valuation is clearly complicated process, but we think the current process is working. Changes to the system would tend to erode confidence in the process and undermine Michigan's business climate, and very likely, result in dramatic property tax increases for commercial and industrial properties statewide. We urge caution in making changes to this well-established process.