



Woodward #1 v City of Royal Oak

November 17, 2016 - Docket No. 15-002832

**Woodward #1,
Petitioner,**

v MTT Docket No. 15-002832

**City of Royal Oak
Respondent.**

**Tribunal Member Presiding
Steven H. Lasher**

**ORDER GRANTING
RESPONDENT'S MOTION FOR
RECONSIDERATION**

**ORDER VACATING
OCTOBER 1, 2016 ORDER
DENYING RESPONDENT'S**

**MOTION FOR COSTS ORDER
GRANTING RESPONDENT'S
MOTION FOR COSTS**

On November 4, 2016, Respondent filed a Motion for Reconsideration of the Tribunal's October 31, 2016 Order Denying Petitioner's Motion to Withdraw and denying Respondent's Motion for Costs. In the Motion, Respondent states that "Petitioner forced Respondent's hand and then attempted to withdraw the appeal after the valuation disclosure file and exchange deadline had passed without ever providing a single piece of evidence to support that its appeal had any merit at all." Respondent further alleges that "the Tribunal's refusal to award costs in light of the facts of this appeal only serves to affirm the correctness of Petitioner's actions. "Finally, Respondent states that the Tribunal's Order "provides Respondent absolutely no relief from Petitioner's extremely prejudicial actions. Instead, by only leaving Respondent the option to proceed to hearing, the Tribunal has effectively told the City of Royal Oak that it has to spend more money to possibly

obtain a remedy that will have absolutely no effect on Petitioner."

The Tribunal has considered the Motions and the case file and finds that "[t]he moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error."¹ A palpable error is one that is easily perceptible, plain, obvious, readily visible, noticeable, patent, distinct, or manifest.² Here, Respondent claims a palpable error occurred when the Tribunal denied Respondent's Motion for Costs because the Tribunal failed to consider how the denial "severely prejudices every municipality in the State, while at the same time providing absolutely no recourse against petitioners for the filing of utterly baseless appeals." The Tribunal has made an obvious error as the Tribunal's decision to deny Respondent's Motion for Costs is not consistent with how this issue has, generally, been decided in other cases. The Tribunal finds that Respondent was prejudiced by the late-filing of Petitioner's Motion to Withdraw as it was required to expend money on an appraiser in order to adhere to the Tribunal's scheduling order. Even though Petitioner's Motion to Withdraw was denied, the prejudice against Respondent still exists, justifying the granting of Respondent's Motion for Costs.

Respondent has identified a palpable error which occurred when the Tribunal denied its Motion for Costs that misled the Tribunal and the parties and

that would have resulted in a different disposition if the error was corrected.³ As a result, the Tribunal shall grant Respondent's Motion for Costs. Therefore,

Respondent claims a palpable error occurred when the Tribunal denied Respondent's Motion for Costs because the Tribunal failed to consider how the denial "severely prejudices every municipality in the State ...

IT IS ORDERED that Respondent's Motion for Reconsideration is GRANTED.

IT IS FURTHER ORDERED that the October 31, 2016 Order Denying Respondent's Motion for Costs is VACATED.

IT IS FURTHER ORDERED that Respondent's Motion for Costs is GRANTED.

IT IS FURTHER ORDERED that Respondent shall submit a bill of costs and attorney fees associated with commission of the appraisal filed as Respondent's valuation disclosure to the Tribunal and Petitioner within 21 days of the entry of this Order.

IT IS FURTHER ORDERED that Petitioner may file a response within 14 days of the service of the bill of costs and attorney fees.

Failure to comply with this Order may result in holding Respondent in default, as provided by TTR231.⁴

by: Steven H. Lasher

Entered:

November 17, 2016

¹ MCR2.119(F)(3).

² See *Luckow Estate v Luckow*, 291 Mich App 417 (2011).

³ See MCR2.119.

⁴ See also MCL 205.732.