STATE OF MICHIGAN

COURT OF APPEALS

RIVIERA RESOURCES, INC.,

Petitioner-Appellant,

v

TOWNSHIP OF MANCELONA,

Respondent-Appellee.

UNPUBLISHED
April 15, 2021

No. 352608
Tax Tribunal
LC No. 19-001464-TT

RIVIERA RESOURCES, INC.,

Petitioner-Appellant,

v

TOWNSHIP OF ALCONA,

Respondent-Appellee.

No. 353447
Tax Tribunal
LC No. 19-001188-TT

RIVIERA RESOURCES, INC.,

Petitioner-Appellant,

v

TOWNSHIP OF MITCHELL,

Respondent-Appellee.

No. 353515
Tax Tribunal
LC No. 19-001398-TT

RIVIERA RESOURCES, INC.,

Petitioner-Appellant,

v

No. 353588
Tax Tribunal
LC No. 19-001584-TT

TOWNSHIP OF CALEDONIA,

Respondent-Appellee.

RIVIERA RESOURCES, INC.,

Petitioner-Appellant,

v

No. 353589
Tax Tribunal
LC No. 19-001323-TT

TOWNSHIP OF HAWES,

Respondent-Appellee.

Before: CAMERON, P.J., and K. F. KELLY and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated tax valuation appeals,[1] petitioner appeals as of right the additional filing fees imposed by the Michigan Tax Tribunal (the tribunal) through a reservation contained in the consent judgments reached with respondent townships. However, the application of the tribunal's rules are contingent on the valuation of contiguous parcels and there is insufficient record evidence to address whether the parcels are actually contiguous. Accordingly, we vacate the tribunal's order denying reconsideration and remand for the tribunal to apply their rules to any additional evidence submitted by petitioner and determine whether each of the personal-property parcels at issue are truly contiguous such that petitioner is entitled to a reduced filing fee.

I. BASIC FACTS AND PROCEDURAL HISTORY

Petitioner owns a series of interconnected natural gas wells, pipelines, and related facilities, which are located throughout various townships, including respondent townships, in Alcona and Antrim Counties. This integrated structure produces oil and gas through a single sales point and was constructed over multiple different tracts of allegedly contiguous leasehold interests covering thousands of acres. For the 2019 tax year, townships in which petitioner's facilities are located—Mancelona, Alcona, Mitchell, Caledonia, and Hawes Townships—assessed a personal-property tax on these facilities. While the facilities are integrated or connected, the townships did not

[1] *Riviera Resources, Inc v Mancelona Twp*, unpublished order of the Court of Appeals, entered May 19, 2020 (Docket Nos. 352608, 353447, 353515, 353588 and 353589).

aggregate them for assessment purposes. Instead, the townships assigned each individual "well" a tax parcel identification number.[2]

In May 2019, petitioner filed five separate appeal petitions in the Michigan Tax Tribunal, one against each above-referenced township, challenging the true cash value calculated for the facilities assessed. Although petitioner filed a single petition as to each assessing unit, or township, petitioner attached a multiple parcel petition form to each petition, identifying the tax parcel identification numbers affiliated with the interconnected gas wells, pipelines, and facilities at issue. The number of assessments challenged in each petition, and the filing fee paid, was as follows:

Respondent (Assessing Unit) /Docket No.	**# of Tax Parcels Challenged**	**Original Filing Fee Paid**
Mancelona Twp, Docket No. 352608	66	$2,000
Alcona Twp, Docket No. 353447	61	$1,900
Mitchell Twp, Docket No. 353515	54	$1,575
Caledonia Twp, Docket No. 353588	83	$2,000
Hawes Twp, Docket No. 353589	30	$1,125
Total	294	$8,600

In light of petitioner's conclusion that the structures were interconnected and therefore "contiguous" personal-property tax parcels, petitioner presumably calculated these filing fee amounts pursuant to TTR 217(a)(ii)**, governing valuation appeals, which provides:

> The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00.

[2] It is unclear from the record exactly how each township divided up petitioner's personal property for assessment purposes. Petitioner claims that each "well" was assessed as a matter of historical practice, but the assessments are not attached to any of petitioner's filings to verify this allegation and division of the property by "well" would not seem to account for other portions of the property, i.e., pipelines and related facilities. However, the assessments are not pertinent to the ultimate issue raised on appeal.

However, in preparing the petitions, petitioner did not answer question 4 which states:

> Are all of the parcels of personal property located on a parcel of real property under appeal? ____Yes____ No (If no, separate Petitions are required for each parcel of personal property not located on a parcel of real property under appeal.

Instead, petitioner provided the following text in response:

> The tax parcels are unitized natural gas projects involving landowner leased lands that are pooled together for purposes of mineral exploration and development. The gas wells and facilities are all owned and operated by Petitioner, or its affiliates, and located within a single assessing unit.

The tribunal did not accept the petitions as filed. Thereafter, in each case, the tribunal entered an Order of Default, indicating that the petition was not properly pending because the "[p]etition fails to indicate whether the parcels are located upon the same real property parcel[,]" citing to TTR 227(2)(b) in a footnote. TTR 227(2)(b) provides:

> (2) A petition shall not cover more than 1 assessed parcel of real property, except as follows:
>
> * * *
>
> (b) A single petition involving personal property may cover more than 1 assessed parcel of personal property located on the same real-property parcel within a single assessing unit.

The orders of default held petitioner in default in each case and ordered "that Petitioner shall submit an Amended Petition indicating that the parcels are located upon the same real property parcel or, in the alterative, shall submit separate petitions with separate filing fees as required by TTR 227, within 14 days of the entry of this Order."

Petitioner timely submitted an amended petition in each case, this time indicating in response to question 4:

> Are all of the parcels of personal property located on the same real property parcel within a single assessing unit or if located on different real property parcel assessed as 1 assessment? __X_ Yes ___ No. The personal property parcels being appealed are all located within a single "unit area", as authorized by MCL 324.61701, et seq., and integrated with other units and facilities for the processing of gas/oil through a single sales/allocation meter point. Pursuant to MCL 324.61715, the unitized area, consisting of pooled landowner leasehold interests, is deemed to be one pooled property interest which is "capable of suing, being sued, and contracting as such in its own right." Each unit area is identified by a Unitization Agreement recorded with the County Register of Deeds. Michigan law and State Tax Commission guidance also provides for multiple wells to be aggregated for assessment purposes into a single parcel, which to the extent necessary should be done by Respondent.

Attached to each amended petition was the same multiparcel petition form listing the copious parcel tax identification numbers.

Despite petitioner's amended filings, the tribunal entered an Order Extending Time for Petitioner to Cure Default in each case. The orders concluded that petitioner's attempt to cure the defect was timely, but incomplete, and extended the time for petitioner to cure the default. The tribunal noted that the statute petitioner had referenced, MCL 324.61715, allowed a "unit" to act as a single party-in-interest for legal proceedings, but that petitioner had not highlighted any statutory language indicating that the statute overruled TTR 227(2)(b). The tribunal continued:

> The applicable analytical standard for the issue presented under TTR 227(2)(b) is whether the personal property at issue is located upon the same real property parcel. This issue is a matter of location, not ownership. As such, Petitioner has failed to meet its burden of proof to show that the requirements of TTR 227(2)(b) are not applicable.

Accordingly, the tribunal concluded that the separate tax parcels required separate petitions and related filing fees for each petition. Notwithstanding this determination, the tribunal also found that consolidation of the petitions was appropriate under the law and facts, stating:

> MCL 324.61715 establishes that the unit controlling the multiple parcels under appeal may act as a single party in interest for certain legal purposes. Further, the Amended Petition indicates that the natural resource extractions upon the various parcels are processed through a single sales/allocation meter point. These parcels therefore present a common question of fact and law. For valuation purposes, either party might choose to value the subject parcels under the income approach, for which consolidation of these various parcels into a single Tribunal case would lead to the efficient administration of justice.

Accordingly, the tribunal required petitioner to pay a filing fee for each of the personal property parcels at issue, but did not require petitioner to file separate petitions for each of those parcels. The order in each case directed petitioner, in part, to remit the remaining additional filing fees owed. The additional filing fees the tribunal directed petitioner to remit are as follows:

Respondent (Assessing Unit) /Docket No.	**Remaining Filing Fee To Be Paid Based on # of Personal Property Parcels**
Mancelona Twp, Docket No. 352608	$14,500
Alcona Twp, Docket No. 353447	$13,550
Mitchell Twp, Docket No. 353515	$11,975
Caledonia Twp, Docket No. 353588	$18,950
Hawes Twp, Docket No. 353589	$6,725
Subtotal	$65,700

Fees previously paid	8,600
Total	$74,300

Petitioner timely complied with the order in each case by paying the additional filing fees. However, it also moved for reconsideration in each case and alleged that, because its personal property parcels were contiguous, the filing fee could not exceed $2,000 per TTR 217(a); that imposition of a fee greater than that amount was an improper tax; that TTR 227(2), by its plain language, does not apply to personal property; and, that the extra filing fee in these matters arose solely from the historical manner in which the Townships completed the assessments by assigning each well its own tax parcel identification number, as opposed to assessing the facilities under one assessment. Thus petitioner sought acceptance of its original filing fee or that the fees be limited to $2,000 in each case.

Initially, the tribunal held each motion for reconsideration in abeyance, concluding that the information on the record was insufficient for it to make a decision. Rather, the tribunal ordered petitioner to submit documentation in each case identifying the parcel numbers of the real property on which the personal property parcels were located and the total number of real property parcels associated with the personal property parcels. Petitioner submitted a response in each case indicating, in part, that it did not possess the parcel numbers for the real property on which its personal property was located.

Subsequently, the tribunal issued orders in each case denying petitioner's motion for reconsideration. The tribunal concluded that petitioner failed to demonstrate palpable error because it "did not provide any of the requested information and instead set forth the exact same arguments that were considered and rejected in [each of the] Order[s] Extending Time for Petitioner to Cure Default."

Ultimately, petitioner and the townships stipulated to consent judgments in each case, altered the value of the property as determined by the township's taxing authority, and addressed the submission of any refund. The language of the consent judgment stated that it would be used as a final order to file an appeal as of right and reserved a challenge[3] to the order denying its motion for reconsideration addressing the tribunal's assessment of additional filing fees.[4]

[3] To pursue an appeal of right in the context of a consent judgment, a party must reserve the right of appeal in the consent judgment. *Clohset v No Name Corp*, 302 Mich App 550, 564 n 5; 840 NW2d 375 (2013).

[4] In petitioner's statement of questions presented in the consolidated brief on appeal, it acknowledged that the township appellees did not take a position in the tribunal's filing fee decision, were not impacted by the appeal, and took no position on the appellate outcome. Indeed, none of the township appellees filed a brief on appeal. Additionally, the tribunal was not a party to the action, and there is no indication it is aware that this appeal requested relief that would require the tribunal to refund substantial filing fees. Further, on appeal, petitioner alleges that the tribunal treated the calculation of fees related to this *same personal property* differently in 2017 when Riverside Energy Michigan filed the tax appeals. Also of concern, petitioner claims that

II. TRIBUNAL PETITIONS AND FEES

Petitioner contends that the tribunal improperly ordered it to pay additional filing fees and improperly interpreted its rules to conclude that multiple separate petitions were required for each tax parcel when the parcels were contiguous and part of an integrated system. Although we conclude that the tribunal was authorized to require separate petitions, we remand for the presentation of additional evidence to the application of the fee rules to contiguous properties.

A. PRESERVATION AND STANDARD OF REVIEW

Because these challenges were not raised until petitioner submitted its motion for reconsideration, it is not preserved. *D'Agostini Land Co, LLC v Dep't of Treasury*, 322 Mich App 545, 561; 912 NW2d 593 (2018). However, "this Court may overlook preservation requirements if the failure to consider the issue would result in manifest injustice, if consideration is necessary for a proper determination of the case, or if the issue involves a question of law and the facts necessary for its resolution have been presented." *Shah v State Farm Mut Auto Ins Co*, 324 Mich App 182, 192-193; 920 NW2d 148 (2018). In light of petitioner's representation that there is an inconsistent application in the tribunal rules and the substantial fees at issue, we will address the merits of the challenge.

This Court reviews a decision of the Tax Tribunal "to determine whether it committed an error of law or adopted a wrong legal principle; factual findings supported by competent, material, and substantial evidence on the whole record will not be disturbed." *Ford Motor Co v Bruce Twp*, 264 Mich App 1, 5; 689 NW2d 764 (2004).

"Practices and procedures in [the tribunal] are governed by administrative rules." *Ashley Ann Arbor, LLC v Pittsfield Charter Twp*, 299 Mich App 138, 156; 829 NW2d 299 (2012). Questions regarding the proper construction of the tax tribunal rules are questions of law reviewed de novo. See *Haliw v City of Sterling Heights*, 471 Mich 700, 704; 691 NW2d 753 (2005). The same rules of interpretation that apply to statutes also apply to the explication of court rules. *Id*. "Court rules should be interpreted to effect the intent of the drafter[.]" *Stenzel v Best Buy Co*, 320 Mich App 262, 275; 906 NW2d 801 (2017) (citation and quotations omitted). "Clear and unambiguous language contained in a court rule must be given its plain meaning and is enforced as written." *Id*.

B. APPLICATION OF TRIBUNAL RULES

Petitioner submits that the tribunal erroneously concluded that multiple petitions were required under TTR 227(2)(b) and also erred by failing to apply the filing fees allowed for contiguous parcels under TTR 217(a). Petitioner's claims raise issues related to the proper

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tribunal has issued the same order of default in other cases without requiring the payment of additional filing fees. On remand, we presume that the tribunal will address these claims of inconsistency and clarify its application of the rules addressing additional filing fees.

interpretation and application of the Tax Tribunal Rules; in particular, resolution of this dispute requires explication of the interplay between TTR 217(a) and TTR 227.

TTR 217 governs filing fees applicable to tax appeals before the tribunal. That rule provides, in pertinent part:

> The following fees shall be paid to the clerk in all entire tribunal proceedings upon filing, unless otherwise provided by the tribunal:
>
> (a) The fee for filing property tax appeal petitions: Filing fee
>
> (i) Allocation, apportionment, and equalization appeals.....$250.00
>
> (ii) Valuation appeals.
>
> Value in contention* Filing fee**
>
> $100,000 or less.....$250.00
>
> $100,000.01 to $500,000.....$400.00
>
> More than $500,000….....$600.00
>
> *Value in contention is the difference between the assessed value as established by the board of review and the state equalized value contended by the petitioner or the difference between the taxable value as established by the board of review and the taxable value contended by the petitioner, whichever is greater.
>
> **The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00.

Rule 227, titled "Petitions," governs the number of parcels a petition may include. That rule provides in relevant part:

> (2) A petition shall not cover more than 1 assessed parcel of real property, except as follows:
>
> (a) A single petition involving real property may cover more than 1 assessed parcel of real property if the real property is contiguous and within a single assessing unit.
>
> (b) A single petition involving personal property may cover more than 1 assessed parcel of personal property located on the same real property parcel within a single assessing unit.
>
> (c) A single petition involving personal property may cover personal property located on different real property parcels if the property is assessed as 1 assessment and is located within a single assessing unit.

(d) A single petition may include both real and personal property, if the personal property is located on the real property parcel or parcels at issue within a single assessing unit.

Here, in its Order Extending Time, the tribunal concluded that separate petitions for each assessed personal property parcel were required under TTR 227 because petitioner had failed to demonstrate that TTR 227(2)(b) was applicable. Accordingly, the tribunal—without referencing TTR 217—found that petitioner was also required to pay separate filing fees for each petition. Notwithstanding its finding that separate petitions were required, to include a filing fee for each, the tribunal did not require the filing of separate petitions and instead consolidated the cases because the parcels all involved the same or similar questions of fact or law. Petitioner was still required to pay the filing fees, however, as if it had filed a separate petition for each assessed parcel of personal property at issue.

Returning to petitioner's arguments, it first claims that the tribunal erred by requiring multiple petitions because TTR 227(2) does not apply to personal property parcels, and that even if it did, a single petition was permitted under TTR 227(2)(b) and (c). Notably, the unstated presumption of petitioner's argument—which makes the number of petitions required under TTR 227(2) relevant to this dispute—is that if more than one petition is required under TTR 227(2), then each petition will require a concomitant filing fee.

First, petitioner's assertion that TTR 227(2) does not apply to its personal property petition is belied by the rule's plain language. Petitioner points to the introductory language, "A petition shall not cover more than 1 assessed parcel of *real property*," in support. In making this argument, petitioner reads the introductory language in isolation and ignores that subparagraphs (a) through (d), which provide exceptions to the stated rule that a petition shall not cover more than one parcel of real property, specifically provide for petitions pertaining to *personal* property. Mainly, subparagraphs (b) and (c) allow for a single petition for multiple *personal property parcels* subject to certain conditions and recognizes that such personal property may span more than one parcel of real property. Consequently, to conclude that TTR 227(2) only applies to real-property tax appeal petitions would be contrary to the rule's plain language and intent.

Petitioner alternatively claims that a single petition should have been permitted under TTR 227(2)(b) and that the tribunal erred by concluding otherwise. However, if it was entitled to a single petition under TTR 227(2), then petitioner submits it was also entitled to a single fee under TTR 217. Regarding TTR 227(2)(b), that subparagraph allows a single petition covering more than one assessed parcel of personal property if the personal property is "located on the same real property parcel[.]" The personal property in these cases undisputedly covers multiple leasehold interests spanning thousands of acres and, therefore, the personal property parcels are not located on the "same real property parcel." Petitioner presented no definitive evidence showing otherwise. Consequently, the tribunal did not err by concluding that petitioner was not entitled to file a single petition pursuant to TTR 227(2)(b).

Petitioner, however, asserts that because the personal property parcels are statutorily recognized as a single property interest, see MCL 324.61715, that this unit is the "equivalent" of

the parcels being "on the same real property parcel" under TTR 227(b)(2).[5] The language of the tribunal rule does not support this argument; nowhere does it state that the "same real property parcel" may be defined to include unitizations of personal property recognized by statute. There is no indication in TTR 227(b)(2) that it intended to codify the statutory provision cited by petitioner.

Petitioner also claims that a single petition in each case should have been permitted under TTR 227(2)(c). That subparagraph allows a single petition for multiple personal property parcels located on different real-property parcels if the "property is assessed as one assessment[.]" The record in each case here is unequivocal that the personal property parcels were not assessed as one assessment, but were each assessed separately. Petitioner contends that the State Tax Commission's guidance allows for wells to be aggregated for assessment purposes and that respondents, later in the litigation, stipulated to the parcels being included in a single assessment.[6] However, the State Tax Commission's guidance and the supposed stipulation do not change the fact that, when the petitions were filed, multiple personal property parcel assessments existed.[7] The tribunal's conclusion at the time of filing that a singular petition in each case was not allowed under TTR 227(2)(c) cannot be faulted on circumstances that did not then exist.

In sum, the tribunal correctly concluded that multiple petitions were required in each case. TTR 227 allows for the filing of a single petition for multiplicitous personal property parcels only under certain limited circumstances. None of those circumstances existed in this case and,

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[5] MCL 324.61715 provides:

> Each unit created under this part, if the plan provides, shall, through its operator, be capable of suing, being sued, and contracting as such in its own right. The operator of the unit, on behalf and for the account of all owners of interest within the unit area, without profit to the unit, may supervise, manage, and conduct further development and operations for the production of oil and gas from the unit area under the authority and limitations of the order creating it.

[6] The stipulation provided:

> Pursuant to MCL 324.61701, *et seq*. and Department of Treasury, Bulletin 6 of 2014, the "wells located within a township may be aggregated for personal property reporting and assessment purposes", as such, certain of the well tax parcels are being reduced to $0.00 and reported in the aggregate under a tax parcel for the pooled unit.

The attached table retained the tax identification parcels for each well, with a value of $0.

[7] Notably, STC Admin Bull 2014-06 provides:

> Personal property associated with multiple wells located within a township may be aggregated for personal property reporting and assessment purposes so long as all such wells which are included in Form 632 are also listed in the Oil and Gas Well Assessment Location Worksheet, Form 5018.

Aggregation by the assessor under this guidance is discretionary.

therefore, the tribunal did not commit an error at law by requiring a petition for each assessed parcel of personal property.

Regardless of the number of petitions required, petitioner submits that the tribunal erred by ignoring that TTR 217(a)(ii)** allows a single filing fee up to $2,000 for contiguous parcels. According to petitioner, the wells, pipelines, and facilities are "contiguous" personal-property tax parcels within the meaning of that tribunal rule.

Recall that TTR 217(a), the rule governing filing fees, provides in relevant part:

> The following fees shall be paid to the clerk in all entire tribunal proceedings upon filing, unless otherwise provided by the tribunal:
>
> (a) The fee for filing property tax appeal petitions: Filing fee
>
> * * *
>
> (ii) Valuation appeals.
>
> | Value in contention[] | Filing fee** |
> |---|---|
> | $100,000 or less | $250.00. |
> | $100,000.01 to $500,000 | $400.00. |
> | More than $500,000…. | $600.00. |
>
> * * *
>
> **The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00.

This rule directs that filing fees "shall be" paid upon filing "unless otherwise provided by the tribunal." While the rule makes filing fees mandatory, the language "unless otherwise provided by the tribunal" subjects this mandatory fee requirement to the tribunal's discretion to "otherwise provide[]" for a different fee.

As petitioner points out, the tribunal did not address this rule in its Order Extending Time. The tribunal also did not address the rule in its order denying reconsideration, but in its order requesting more information upon receipt of petitioner's motion for reconsideration, the tribunal only sought information pertaining to the number of real personal property parcels that petitioner's property spanned. This reflects that the tribunal's singular focus as to the amount of filing fees required was indelibly connected to the number of petitions that petitioner was required to file under TTR 227. In other words, having concluded that TTR 227(2) required separate petitions for each separately assessed personal property parcel, the tribunal then presumed that a separate filing fee for each petition was required without any reference to TTR 217(a).

Unfortunately, petitioner, like the tribunal, does not offer any analysis of how TTR 227(2) and TTR 217 operate in conjunction with one another, let alone how these court rules function when allegedly contiguous personal property parcels are involved. TTR 227(2) does not address filing fees. It only governs how many parcels may be included in a single petition. The rule governing filing fees is TTR 217(a). Under this rule, the filing fee for property tax appeal "petitions" pertaining to valuation under TTR 217(a)(ii) "shall be" remitted at the time of filing and as specified, "unless otherwise provided by the tribunal." By referencing the filing of "petitions" as the event that triggers the fees due, the plain language of TTR 217(a) reflects it was to operate in tandem with, or may be affected by the number of petitions required by, TTR 227(2). Stated differently, the number of petitions required under TTR 227(2) is relevant to determining the required fee under TTR 217.

For example, in a valuation appeal petition involving a single parcel of property, the table in TTR 217(a)(ii) indicates that the filing of a valuation appeal petition generates a single fee, which is determined based on the value in contention, "unless otherwise provided by the tribunal." It follows that if multiple petitions are required under TTR 227(2), then application of TTR 217(a)(ii) would, in many instances, require a filing fee for each petition. The double asterisks after "filing fee" for valuation appeals under TTR 217(a)(ii), however, provides an exception to the general rule of subparagraph (a)(ii) that each petition generates a filing fee. The language following the ** provides,

> The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus $25.00 for each additional parcel, not to exceed a total filing fee of $2,000.00.

In other words, in a valuation appeal, where the underlying assessments in contention are "multiple contiguous parcels owned by the same person," the filing fee is capped at $2,000. Again, this language implicates an exception to the one-petition one-fee rule of subparagraph (a)(ii) in the instance that multiple petitions are required under TTR 227(2) but the parcels in contention are "contiguous." This interpretation gives full force and effect to both TTR 227(2) and TTR 217. Rules relating to the same subject matter should be read harmoniously in connection with one another, as if constituting one law, so as to give each rule force and effect. *IBM v Dep't of Treasury*, 496 Mich 642, 652; 852 NW2d 865 (2014). The filing fee exception for contiguous parcels under TTR 217(a)(ii)** contains no language limiting the fee for contiguous parcels to only those appeals that are contained in a single petition under TTR 227(2). Had the drafters of the contiguous parcels fee exception intended it to apply only to contiguous parcels that could be filed as a single petition per the requirements of TTR 227(2), they could have incorporated such a requirement, but they did not. Moreover, to limit the contiguous parcels fee exception to only contiguous parcels contained in a single petition would render its language meaningless, in cases where the parcels in contention are in fact contiguous but do not qualify for single petition status under TTR 227(2). See *Le Gassick v Univ of Mich Regents*, 330 Mich App 487, 502; 948 NW2d 452 (2019) (indicating courts should avoid an interpretation that renders any portion of a statute nugatory). In other words, contiguous parcels would be subject to fees well beyond $2,000 contrary to the dictate in TTR 217(a)(ii)** that the fee for contiguous parcels cannot exceed $2,000. Rather, giving full effect to the language of TTR 217(a)(ii)** requires a conclusion that the rule allows for a single fee up to $2,000 when a valuation tax appeal involves contiguous parcels, regardless of the number of petitions filed. Indeed, TTR 227(2) makes no pronouncement

regarding the filing fee required for a tax appeal petition, while TTR 217(a)(ii)** is more specific to filing fees and controls the fee required. See *Gebhardt v O'Rourke*, 444 Mich 535, 542; 510 NW2d 900 (1994) ("[W]here a statute contains a general provision and a specific provision, the specific provision controls.").

The determination that TTR 227(2) and TTR 217, as read together, allow for a capped filing fee of $2,000 when the assessed property at issue is contiguous, regardless of the number of petitions filed, does not resolve this dispute. Rather, a question remains whether the personal property parcels in these cases are "contiguous," in order to be entitled to the filing fee exception. There is no binding authority addressing the meaning of "contiguous" under TTR 217 in the context of interconnected gas and mineral development structures. However, the tribunal's "glossary of terms" defined "contiguous" as "adjoining."[8]

Given the foregoing, we conclude that the tribunal erred by focusing its analysis and determination of the filing fee on whether petitioner was entitled to file a single petition in each case under TTR 227(2) while ignoring the effect of TTR 217(a)(ii)**. As noted, the tribunal here assumed that the number of petitions required under TTR 227 controlled the filing fees required, without reference to TTR 217(a) and without any recognition whatsoever that TTR 217(a)(ii)** provides a filing fee exception for contiguous parcels. To the extent the assessed personal property parcels are contiguous, petitioner was entitled to calculation of fees under TTR 217(a)(ii)**. However, because there is insufficient information on the record for this Court to determine whether the parcels in each case were all contiguous, we remand each case to the tribunal to make that determination. Further, instead of simply submitting that the parcels are contiguous, petitioner should present documentary evidence to support its conclusion.

Vacated and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.[9]

/s/ Thomas C. Cameron
/s/ Kirsten Frank Kelly
/s/ Michael J. Kelly

[8] The glossary of terms defines "contiguous parcel" as "Adjoining (i.e., next to each other). Parcels are generally not considered to be contiguous if they are separated by a road." Michigan Tax Tribunal, < https://www.michigan.gov/taxtrib/0,4677,7-187-38289_38290-131678--,00.html > (accessed April 7, 2021).

[9] Also in its motion for reconsideration, petitioner alleged that the assessment of fees for numerous contiguous parcels constituted an unlawful tax in violation of the Headlee Amendment, Const 1963, art 9 § 31. However, we need not decide an unpreserved constitutional challenge when the case can be fairly resolved on other grounds raised by the parties. See *Whitman v Lake Diane Corp*, 267 Mich App 176, 180-181; 704 NW2d 468 (2005).