STATE OF MICHIGAN

COURT OF APPEALS

KURT J. MEISTER and KATHI A. KUEHNEL,

Petitioners-Appellants,

v

CHERRY GROVE TOWNSHIP,

Respondent-Appellee.

UNPUBLISHED
June 6, 1997

No. 190800
Michigan Tax Tribunal
LC No. 00220588

Before: Bandstra, P.J., and Hoekstra and J.M. Batzer*, JJ.

PER CURIAM.

Petitioners appeal as of right from a judgment of the Michigan Tax Tribunal (MTT) that upheld the assessment of their property by respondent with one minor revision. We affirm.

Our review of the MTT is limited. Where the findings of fact are supported by competent, material, and substantial evidence, this Court's review is confined to allegations of fraud or an application of a wrong principle of law or error as a matter of law. Const 1963, art 6, § 28; *Meadowlanes Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 482-483; 473 NW2d 636 (1991).

Petitioners' first issue on appeal is whether their property tax is void because respondent's notice of the increased assessment did not comply with the requirement that notice must be "mailed not less than ten days before the meeting of the board of review." MCL 211.24c(5); MSA 7.24(3)(5). Because this statute merely uses the language "the meeting," it is unclear whether notice must be mailed not less than ten days before the first meeting or the second meeting of the board of review. Here, respondent mailed petitioner notice on March 4, 1994. The board of review's first meeting was statutorily set for March 4, 1994, but did not occur until March 14, 1994. MCL 211.29(1); MSA 7.29(1). Its second meeting was statutorily set for March 14, 1994, but did not occur until March 16, 1994. MCL 211.30(1); MSA 7.30(1).

* Circuit judge, sitting on the Court of Appeals by assignment.

The official assessor's manual, which MCL 211.10e; MSA 7.10(5) requires assessors to use, interprets the statute to mean that notice must be given before the board's second meeting. 3 Michigan State Tax Commission, Assessor's Manual, ch 1, p 3. We agree with this interpretation because the purpose of the board's second meeting is to hear complaints. MCL 211.30; MSA 7.30. The notice in this case sufficiently complied with the ten-day requirement because it was mailed ten days before the second meeting, as well as ten days before the first meeting was actually held.

However, it is not necessary for us to decide this case only on the basis of whether the board of review's first meeting can be on a date other than the one statutorily fixed because the Legislature's 1982 amendment of MCL 211.24c(5); MSA 7.24(3)(5) also dispenses with petitioners' notice issue. The amendment added the words "to send" to the last sentence of the statute. Previously, this Court noted that if the Legislature did not intend for a township to be prejudiced by the failure to send notice, it could so state. *W & E Burnside, Inc v Bangor Twp*, 77 Mich App 618, 624 n 5; 259 NW2d 160 (1977), rev'd 402 Mich 950*l;* 314 NW2d 196 (1978). Because the Legislature has now so stated, the plain meaning of the statute can only be read to provide that the failure to send notice does not prejudice a township from assessing a tax on property within its taxing district.

Accordingly, if the failure to send notice does not invalidate a consequent tax, then neither can an allegedly untimely notice invalidate the tax. Therefore, we conclude that MCL 211.24c(5); MSA 7.24(3)(5) permits the enforcement of petitioners' property taxes and the MTT's judgment was not erroneous. Additionally, we note that petitioners' reliance on *Sisters of Mercy, Province of Detroit, Inc v Pennfield Twp*, 91 Mich App 470; 283 NW2d 645 (1978) is misplaced because in that case this Court was interpreting the statute in its pre-amendment form.

Petitioners' second issue on appeal is that the assessor erred in basing the depreciation of the buildings on an effective age of 25 years because the buildings in question were built before 1953 and were, therefore, at least 40 years old at the time of the 1994 assessment. We find this argument without merit because actual age is not necessarily analogous to effective age for tax assessment purposes. Assessor's Manual, *supra*, ch 13, pp 4-6. Activities like remodeling and additions may substantially reduce the rate of depreciation to the extent that a building's actual age is more than its effective age. Here, there is evidence to support the assessor's conclusion. The 1993 township assessment card for petitioners' property indicates that the buildings were remodeled during 1989 and 1990, and petitioners admit that they worked hard to improve the property.

Petitioners argue that their improvements to the buildings should be characterized as "normal repairs," which an assessor cannot consider according to MCL 211.27(2); MSA 7.27(2). Because petitioners failed to identify the repairs that were made or to indicate how these repairs did or did not affect the value of the buildings, petitioners have failed to sustain their burden of proof. MCL 205.737(3); MSA 7.650(37)(3). Petitioners mere reliance on the actual age of their buildings is insufficient for purposes of establishing a reduced true cash value of their property. Therefore, the MTT

did not err as a matter of law in adopting the true cash value found by the board of review based upon an effective age of 25 years.

Petitioners' final issue is that respondent relied on an erroneous sales grid to compute the price per lakefront foot because the grid used building values that were lower than the building values assessed by the township. According to petitioners' calculations, if this error were corrected, it would result in a lower assessed value of their property. Petitioners do not dispute the method and type of sales included in the grid. To determine the price per lakefront foot for assessing property within the township, respondent relied on a series of calculations in a sales grid from the Wexford County Equalization Department that resulted in an average price per lakefront foot of $1,033. In his discretion, the township assessor reduced this amount to $850.

Petitioners' claim of error arises from an apparent confusion about the source of the building values used in the sales grid. Petitioners rely on the building values from the township assessment cards in contrast to the county, which uses a calculation derived from the building values on the county assessment cards. It is logical that the county would use its own assessment cards in creating the sales grid. Indeed, the guidelines suggested by the Assessor's Manual indicate that keeping the process consistent is important to the outcome. Therefore, the MTT did not err in determining that respondent's method provided the most accurate true cash value of petitioners' property as it was determined by valid and uniformly applied lakefront values.

We have not reviewed the remaining errors in the sales grid alleged by petitioners because they relate to mathematical computations, not mistakes in judgment about the valuation of the property. *Veenstra v Charter Township of Commerce*, ___ MTTR ___ (Docket No. 168457, March 19, 1996). Even if the alleged errors are present, they are not likely to change the average price per lakefront foot to an amount that is less than the amount granted by the township assessor.

Affirmed.

/s/ Richard A. Bandstra
/s/ Joel P. Hoekstra
/s/ James M. Batzer