

STATE OF MICHIGAN
COURT OF APPEALS

LARRY DAVIS and SYLVIA DAVIS,

Petitioners-Appellees,

v

TOWNSHIP OF MERIDIAN,

Respondent-Appellant,

and

MICHIGAN STATE TAX COMMISSION,

Appellee.

UNPUBLISHED

October 3, 1997

No. 193752

Michigan Tax Tribunal

LC Nos. 177028;213729;
217764

LARRY DAVIS and SYLVIA DAVIS,

Petitioners-Appellants,

v

TOWNSHIP OF MERIDIAN,

Respondent-Appellee,

and

MICHIGAN STATE TAX COMMISSION,

Appellee.

No. 193800

Michigan Tax Tribunal

LC Nos. 177028;213729;
217764

Before: Sawyer, P.J., and Hood and Hoekstra, JJ.

PER CURIAM.

Petitioners and respondent appealed as of right the judgment of the Michigan Tax Tribunal setting the true cash value for a parcel of land located in the township. Respondent has voluntarily withdrawn its appeal pursuant to MCR 7.218(A), and therefore only petitioners' claims remain before us. We affirm the decision of the tax tribunal.

This appeal concerns real property tax assessments for the 1993 and 1994 tax years. The parcel in question consists of 108.9 acres on Van Atta Road. 4.5 acres of the parcel is reserved as road and drain right of way, and 44 acres are designated wetlands. The remaining acreage is used for agricultural purposes, and is planted with hay. Buildings on the property include a modern brick home, a farmhouse, and a barn. The property is subject to a farmland development rights agreement until December 31, 1998. The property is zoned rural residential, and is currently rented out. Larry Davis testified that he was one of the owners of the property, which was operated as a centennial farm. He testified that there were no current plans to develop the property.

At the hearing, petitioners submitted an appraisal prepared by David Zakyewski, a level II assessor working for the Ingham County Equalization Department. His appraisal, however, was not timely exchanged, and was not offered into evidence.

The State Tax Commission submitted an appraisal prepared by Norman Daniels and Gary Schwab, which concluded that the highest and best use for the property was for development. Based on sales of four comparable parcels adjusted for differences, the appraisal concluded that the developable land had a value of \$7,500 per acre. Based on two sales of swampland in the township, the appraisal concluded that the wetland had a value of \$1,500 per acre. The appraisal concluded that the true cash value of the property was \$615,000.

In its opinion and judgment, the tax tribunal found that the only factual evidence as to the market value of the parcel was the appraisal and testimony offered by the tax commission. The tribunal found that the conclusion of the tax commission was supported by competent, material, and substantial evidence, and that petitioners failed to offer credible evidence in support of their position. The tribunal concluded that the true cash value of the property was \$615,000.

We find that the tax tribunal's findings were supported by competent, material and substantial evidence. This Court reviews a decision of the tax tribunal to determine whether the tribunal made an error of law or adopted a wrong legal principle. *Samonek v Norvell Township*, 208 Mich App 80, 84; 527 NW2d 24 (1994). The factual findings of the tribunal will be upheld if they are supported by competent, material, and substantial evidence on the entire record. *Id.*

The tax commission's appraisal found that the township was under considerable pressure to develop property, that the growth in the township had been rapid, that significant land transfers occurred in the past for developmental and investment purposes, and that there were no recent sales for agricultural purposes. The tax commission's appraisal thus provided competent support for the

conclusions of the tribunal. The tribunal correctly concluded that petitioners failed to meet their burden of proof when they failed to present any credible evidence to support their contention of market value. The mere fact that the tax tribunal found the tax commission's appraisal and testimony credible does not amount to an error of law. We further find that the tax tribunal set forth adequate findings of fact to support its opinion.

We also find that there was sufficient evidence to support the tribunal's determination that the highest and best use for the property was for development. To determine a proper use for taxation purposes, the tribunal must determine the property's highest and best use, and then apply the valuation method calculated to ascertain the property's fair market value. *Edward Rose Building Co v Independence Township*, 436 Mich 620, 633; 462 NW2d 325 (1990). The general property tax act defines developmental property at MCL 211.34c; MSA 7.52(3)(2)(c):

Developmental real property includes those parcels containing more than 5 acres without buildings or more than 15 acres and whose value in sale exceeds its present value in use. Developmental real property may include farm land or open space land adjacent to a population center or farm land subject to several competing valuation influences.

Again, the only admissible evidence of valuation presented to the tribunal was the appraisal and testimony presented by the tax commission. The appraisal indicated that the township experienced a growth rate of 23% between 1980 and 1990, and that nearly all recent purchases of larger acreage parcels were for investment and development; no recent purchases were made by active farmers. We find no error.

Appellants also argue that the tax tribunal erred by failing to consider the lack of uniformity in assessment. Appellants, however, failed to raise this issue below, and failed to provide evidence of assessments for comparable properties to the tribunal. This Court therefore need not address this issue. *Long v Chelsea Community Hospital*, 219 Mich App 578, 588; 557 NW2d 157 (1996).

Affirmed.

/s/ David H. Sawyer

/s/ Harold Hood

/s/ Joel P. Hoekstra