

STATE OF MICHIGAN
COURT OF APPEALS

COUNTRY CORNERS, INC.,

Petitioner-Appellant,

v

TOWNSHIP OF HOMER,

Respondent-Appellee.

UNPUBLISHED

March 16, 1999

No. 206388

Michigan Tax Tribunal

LC No. 192059

Before: Cavanagh, P.J., and MacKenzie and McDonald, JJ.

PER CURIAM.

Petitioner appeals as of right from the decision of the Michigan Tax Tribunal setting petitioner's assessment for a parcel of commercial property. Petitioner contends that the tribunal did not give sufficient consideration to the presence of hydrocarbon contamination on the property. We affirm.

Judicial review of a determination by the Tax Tribunal is limited to determining whether the tribunal made an error of law or applied a wrong principle. Const 1963, art 6, § 28; *Rose Hill Center, Inc v Holly Twp*, 224 Mich App 28, 31; 568 NW2d 332 (1997). The factual findings of the tribunal are final, provided that they are supported by competent, material, and substantial evidence on the whole record. *Id.*

Petitioner's appraiser, Robert Boynton, testified that the value of the property in the absence of contamination was \$450,000. However, Boynton opined that the value of the contaminated property was only \$93,000. The tribunal adopted Boynton's valuation of the property in the absence of contamination at \$450,000, but rejected Boynton's conclusion that the contaminated property was worth only \$93,000. The tribunal set the value of the property at \$360,000.

Petitioner argues that the tribunal's valuation of \$360,000 was not supported by competent, material, and substantial evidence. Petitioner maintains that the tribunal should have adopted Boynton's opinion with regard to value. Although petitioner disputes the tribunal's conclusion, there does not appear to be any fixed method for determining the value of a polluted parcel of property. See *Commerce Holding Corp v Bd of Assessors*, 88 NY2d 724, 731; 673 NE2d 127; 649 NYS2d 932 (1996).

The tribunal may apply its own expertise to the facts of the case to determine the most appropriate method of arriving at the value of the property. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1986). Here, the tribunal concluded that the value of the property was affected by the presence of contamination, but not to the extent urged by petitioner. The tribunal noted that Boynton's valuation of \$93,000 was supported neither by market data nor by the fact that petitioner had not had to close its business or restrict its operation in any way because of the contamination.

The tribunal accepted that the estimated cost of cleanup totaled \$510,000 over six years. Thus, the average cost of cleanup for each year was approximately equal to twenty percent of the value of the uncontaminated property.¹ The tribunal apparently deducted the cost of cleanup in setting petitioner's assessment at eighty percent of the value of the property in the absence of contamination. We conclude that the tribunal's decision was based on competent, material, and substantive evidence. See *Rose Hill Center, supra*. Accordingly, we find no error requiring reversal.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Barbara B. MacKenzie
/s/ Gary R. McDonald

¹ Dividing \$510,000 by six yields \$85,000 in cleanup costs per year. \$85,000 is slightly less than nineteen percent of \$450,000, the value of the property in the absence of contamination.