

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT C. J. TUTTLE and LINDA A. TUTTLE,

Petitioners-Appellants,

UNPUBLISHED
January 16, 2001

v

TOWNSHIP OF BEAR LAKE,

Respondent-Appellee.

No. 216803
Tax Tribunal
LC No. 228389

Before: Kelly, P.J., and Whitbeck and Collins, JJ.

KELLY, P.J. (dissenting).

I respectfully dissent.

Plaintiff admitted that his house cost \$200,000 to build and that the garage cost an additional \$7,500; therefore, the total cost was \$207,500. Respondent, applying an economic condition factor of 1.29, determined that the house had a true cash value of approximately \$260,000. However, in my opinion, the evidence presented was insufficient to support the application of an ECF of 1.29. There is no dispute that this figure was reached by averaging the economic condition factors applied to other assessments in the area. However, the evidence indicates that those properties were not comparable to plaintiff's property. The sales used to justify the ECF in this case were not properties of similar physical and/or economic characteristics. There appears to be no rational justification for applying an ECF of 1.29 in this case. In other words, it appears as if respondent made the ECF determination arbitrarily. Under these circumstances, reversal is required. *Fairplains Township v Montcalm County Board of Commissioners*, 214 Mich App 365, 382; 542 NW2d 897 (1995); *Tatham v Birmingham*, 119 Mich App 583, 591; 326 NW2d 568 (1982).

/s/ Michael J. Kelly