

STATE OF MICHIGAN
COURT OF APPEALS

ALAN W. MASON and PAMELA G. MASON,

Petitioners-Appellees,

v

TOWNSHIP OF CASEVILLE,

Respondent-Appellant.

UNPUBLISHED

November 15, 2002

No. 235233

Michigan Tax Tribunal

LC No. 00-275377

Before: Griffin, P.J., and Gage and Meter, JJ.

PER CURIAM.

Respondent appeals as of right an order of the Michigan Tax Tribunal (MTT) revising the true cash value of property owned by petitioners. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Petitioners' property, which is located near Saginaw Bay and for which petitioners paid \$195,000 on a land contract, was assessed at \$70,000 and the tentative taxable value was placed at \$63,156 for the 2000 tax year. Respondent calculated the true cash value of petitioners' property at \$146,900. Petitioners filed a petition with respondent's board of review protesting these values. They contended that respondent's assessor had set the value of their property too high, that the property was erroneously classified as lakefront property, and that the true cash value of the property was \$96,000. Respondent's board of review denied the petition.

Petitioners appealed to the small claims division of the MTT. They presented evidence that the Department of Natural Resources (DNR) placed fill in the lake bottom and created a strip of land approximately 400 feet in width between their property line and the water's edge. Petitioners also contended that based on the construction of the home on the property, the home should be classified as a class D structure. The MTT revised the true cash value of the property. The MTT accepted petitioners' factual representations regarding the property, and found that the placement of fill in the lake bottom gave the property a lesser value than property with direct water frontage. In addition, the MTT found the classification of the home on the property more closely resembled a class D quality structure. The MTT set the true cash value of the property at \$96,000 for the 2000 tax year. The MTT denied respondent's request for rehearing.

We review a decision of the MTT to determine whether the MTT erred as a matter of law or adopted an erroneous legal principle, and accept the MTT's factual findings as final if those findings are supported by competent, material, and substantial evidence. *Georgetown Place*

Coop v City of Taylor, 226 Mich App 33, 43; 572 NW2d 232 (1997). Substantial evidence must be more than a scintilla of evidence, but can be substantially less than a preponderance of the evidence. *Meijer, Inc v Midland*, 240 Mich App 1, 5; 610 NW2d 242 (2000).

“Cash value” is defined as the “usual selling price at the place where the property to which the term is applied is at the time of assessment.” The “usual selling price” is “the price that could be obtained for the property.” MCL 211.27(1).

Respondent argues the MTT erred by revising downward the true cash value of petitioners’ property. We disagree and affirm the MTT’s decision. The MTT must make its own determination of the true cash value of property, and is not required to accept the parties’ theories of valuation. MCL 205.735(1); *Great Lakes Div of Nat’l Steel Corp v Ecorse*, 227 Mich App 379, 389-390; 576 NW2d 667 (1998). The evidence showed that a strip of land approximately 400 feet in width between the boundary of petitioners’ property and the bay was created when the DNR put fill in the bay. Petitioners did not hold title to this strip of property, and were required to obtain a permit to build a boardwalk over it. This evidence supported the MTT’s finding that petitioners’ property did not border the bay and thus was not true lakefront property. See *Thies v Howland*, 424 Mich 282, 293; 380 NW2d 463 (1985).

Regarding the classification of petitioners’ home as a class D structure, respondent merely contends the MTT should have rejected petitioners’ evidence. Respondent has not demonstrated the MTT erred as a matter of law by concluding the sales comparisons did not mandate a conclusion that respondent’s assessment of the true cash value of petitioners’ property was correct. The sales comparisons provided by respondent were for properties located on another area of the bay. The MTT’s factual findings were supported by the requisite evidence, and thus are final. *Meijer, supra*. The MTT did not err as a matter of law or adopt an erroneous legal principle. *Georgetown Place, supra*. The MTT’s revision of the true cash value of petitioners’ property is entitled to deference. *Lionel Trains, Inc v Chesterfield Twp*, 224 Mich App 350, 355; 568 NW2d 685 (1997).

Affirmed.

/s/ Richard Allen Griffin
/s/ Hilda R. Gage
/s/ Patrick M. Meter