S T A T E   O F   M I C H I G A N

C O U R T   O F   A P P E A L S

LOUIS GORMELY, Petitioner-Appellant,	UNPUBLISHED December 20, 2005
v CITY OF GROSSE POINTE WOODS, Respondent-Appellee.	No. 255443 Tax Tribunal LC No. 00-297744

Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Petitioner appeals as of right from an opinion and judgment entered by the Small Claims Division of the Tax Tribunal that upheld respondent's assessment of petitioner's real property. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

In the absence of fraud, this Court reviews a decision of the Tax Tribunal to determine whether the tribunal erred in applying the law or adopted a wrong legal principle. *Danse Corp v Madison Hts*, 466 Mich 175, 178; 644 NW2d 721 (2002). The tribunal's factual findings are conclusive if supported by competent, material, and substantial evidence on the whole record. *Id*. (citation and internal quotation marks omitted).

In 2002, petitioner purchased the property for $165,000 and constructed a second-story addition that approximately doubled the living square footage.

Petitioner essentially contends that the tribunal was obligated to calculate the true cash value and taxable value of the property by examining two separate components: (1) the purchase price for the property, and (2) an amount for the addition. With respect to the first component, petitioner asserts that the tribunal "erred as a matter of law when selecting the reproduction cost less depreciation method as being more persuasive than the purchase price paid during the year prior to the tax year." Petitioner cites two decisions from the Small Claims Division of the Tax Tribunal in which the tribunal determined that the purchase price of the properties was an accurate measure of true cash value. With respect to the second component, petitioner cites a third decision of the small claims division for the proposition that the true cash value of an addition is its cost. Citing *Kok v Cascade Charter Twp*, 255 Mich App 535, 537 n 1; 660 NW2d 389 (2003), he then asserts that where there is an addition to property, the taxable value of the subject property may not be increased by more than 50 percent of the true cash value of the addition. According to petitioner, there is no authority indicating that this limitation does not apply if the addition occurs in the year of sale.

Petitioner's argument is flawed. The argument is premised on the position that the tribunal is obligated to determine the assessed value of property that is improved in the year of the sale by considering the true cash value at the time of purchase and then adjusting for the addition. The cases cited by petitioner do not address this situation. Where, as here, there is a transfer of ownership, "the property's taxable value for the calendar year following the transfer is the property's state equalized valuation for the calendar year following the transfer." MCL 211.27a(3). In other words, where there is a transfer of ownership, the taxable value is uncapped so that it corresponds to the true cash value of the property as adjusted. MCL 205.737(2). True cash value is synonymous with fair market value. *WPW Acquisition Co v City of Troy*, 250 Mich App 287, 298; 646 NW2d 487 (2002). Petitioner offers no reason for concluding that the Tax Tribunal erred by determining the true cash value of the property as it existed on tax day, December 31, 2002, after the second-story addition, rather than at the time of the transfer. See MCL 211.2(2) ("The taxable status of persons and real property shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day, any provisions in the charter of any city or village to the contrary notwithstanding.")

Petitioner's reliance on *Kok, supra,* is misplaced. That decision concerned new construction that occurred over more than one year. Significantly, the construction did not occur in conjunction with a transfer in ownership. See *id*., p 536. *Kok* discusses "additions" as used in MCL 211.27a(2) and defined in MCL 211.34d(1)(b). However, these provisions do not establish that the tribunal erred. Pursuant to MCL 211.27a(2) and MCL 211.34d(b)(*iii*), where there is new construction, a property's taxable value may be increased accordingly, but only by the true cash value of the new construction multiplied by .5. But these provisions are not controlling here, inasmuch as MCL 211.27a(2) begins with the proviso, "Except as otherwise provided in subsection (3) . . . ." Subsection (3) concerns taxable value where there is a transfer of ownership. That subsection governs the present case. Thus, the limitation on an increase for new construction as an "addition" in MCL 211.27a(2) does not apply where, as here, there is a transfer of ownership in the same tax year as the new construction.

Petitioner also contends that the Tax Tribunal made inadequate findings.

"Adequate findings of fact are particularly important in proceedings before the small claims division because review is hindered by the informal record maintained in those proceedings." *Oldenburg v Dryden Twp*, 198 Mich App 696, 698; 499 NW2d 416 (1993). "The purpose of the Tax Tribunal's opinion is to facilitate appellate review, but the Tax Tribunal Act and the APA [Administrative Procedures Act, MCL 24.271 *et seq.*] only require a concise statement of facts and conclusions." *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 402; 576 NW2d 667 (1998) (citations omitted). The adequacy of the findings and conclusions depends on the factual and legal issues that are contested. Petitioner's brief filed with the small claims division indicates that the dispute was limited to the valuation issues he now presents on appeal, that is, whether true cash value was "conclusively determined" by the purchase price and an amount equal to 50 percent of the addition. The tribunal's findings and conclusions were adequate because its opinion and judgment addressed the pertinent facts and the contested issues raised by the parties.

Petitioner also contends that the tribunal erred by failing to make its own independent determination of the true cash value of the property and simply accepted respondent's assessment.

"The Tax Tribunal is under a duty to apply its expertise to the facts of a case in order to determine the appropriate method of arriving at the true cash value of property, utilizing an approach that provides the most accurate valuation under the circumstances." *Great Lakes Div of Nat'l Steel Corp, supra*, p 389 (citations omitted). It "has a duty to make its own, independent determination of true cash value." *Id*. We conclude that the tribunal satisfied its duty to make an "independent determination." The tribunal's opinion and judgment indicates that it considered and rejected petitioner's approach to determining true cash value based on the purchase price and the cost of the addition. The opinion and judgment also indicates that the tribunal considered and rejected respondent's motion to increase the valuation based on the sales of five other homes in the neighborhood. The opinion and judgment indicates that the tribunal accepted the valuation that "considers the total property as of December 31, 2002, and [applies] the same techniques as were applied to homes within the residential class [as] the best measure of True Cash Value." Inasmuch as the tribunal considered the approaches for which evidence was presented, its decision to select one of the methods does not demonstrate that the tribunal erred.

Affirmed.

/s/ Donald S. Owens
/s/ Henry William Saad
/s/ Karen M. Fort Hood