STATE OF MICHIGAN

COURT OF APPEALS

EVERETT R. CASEY, Petitioner-Appellant,	UNPUBLISHED September 17, 2009
v	No. 285072 Tax Tribunal
CITY OF ORCHARD LAKE, Respondent-Appellee.	LC No. 00-323287

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

PER CURIAM.

Petitioner appeals as of right a Tax Tribunal order upholding respondent's denial of petitioner's claim for a homestead/principal residence exemption for his property located at 3829 LaPlaya Lane, Orchard Lake, during the 2003 through 2007 tax years. We affirm.

When reviewing a decision of the Tax Tribunal, "[w]here fraud is not claimed, this Court reviews the tribunal's decision for misapplication of the law or adoption of a wrong principle." *Wexford Medical Group v Cadillac*, 474 Mich 192, 201; 713 NW2d 734 (2006). We will find the tribunal's factual findings conclusive if they are supported by competent, material, and substantial evidence on the whole record. *Id*. We review issues involving statutory interpretation de novo. *Id*. "[W]here a tax exemption is sought, [a court should] recall that because tax exemptions upset the desirable balance achieved by equal taxation, they must be narrowly construed." *Id*. at 204.

The homestead (or "principal residence") exemption is set forth in MCL 211.7cc which provides, in relevant part:

> (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes . . . if an owner of that principal residence claims an exemption as provided in this section.

The quintessential issue in this case is whether the Orchard Lake property constituted petitioner's "principal residence," as defined in MCL 211.7dd(c), for the tax years 2003 through 2006.

MCL 211.7dd(c) defines "principal residence" as:

> the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established.

MCL 211.7cc(6) provides, in relevant part, that a homestead exemption may be revoked under the following circumstances:

> if the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim . . . . The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years.

The party claiming a tax exemption has the burden of proving by a preponderance of the evidence that he is entitled to the exemption. *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 495; 644 NW2d 47 (2002).

We find the decision of the Tax Tribunal to be supported by competent, substantial, and material evidence on the whole record. We further find that the tribunal did not misapply the law or adopt an incorrect principle in arriving at its decision. See *Wexford Medical Group*, *supra*. The evidence submitted to the Tax Tribunal showed that 19 days after a fire damaged the Orchard Lake property in 2001, petitioner purchased a condo in Farmington Hills for $253,000, and sometime thereafter he furnished the condo. The record does not show that petitioner was aware that he would become entangled in litigation with his insurance company over the coverage for the damage caused by the fire at the time he purchased the condo. At the time the assessor revoked the homestead exemption, petitioner had lived at the condo with his wife for approximately five years. Petitioner argued in his submissions to the Tax Tribunal that he made extensive repairs to the Orchard Lake property after the fire, yet he did not seek funds from the insurance company to restore the remaining damage to the Orchard Lake residence so that he could resume living there. Instead, petitioner litigated the matter for over five years in an effort to obtain the full replacement value of the residence. Additionally, evidence showed that petitioner and his wife registered to vote in Farmington Hills in 2002, almost immediately after purchasing the condo, and both petitioner and his wife voted in elections held in Farmington Hills in August and November 2002. Furthermore, petitioner listed the Farmington Hills condo address on his driver's license. On this record, we conclude that the Tax Tribunal properly found that petitioner failed to establish that the Orchard Lake residence was his "principal residence" from 2003 to 2006. We note, however, that there is no indication on the record that petitioner intended to misinform the Tax Tribunal; rather, it appears that he merely misunderstood the relevant law.

Petitioner's remaining arguments on appeal lack merit. First, petitioner contends that the Orchard Lake property remains his principal residence because he never rescinded his original affidavit establishing that the Orchard Lake property was his principal residence. It is irrelevant,

however, whether petitioner rescinded his original affidavit. MCL 211.7cc(6) allows an assessor to revoke an existing homestead "principal residence" claim.

Second, petitioner argues that the addresses listed on his driver's license and his voter registration should have no impact in this case because he was required by law to list his Farmington Hills address on these documents. Regardless of whether petitioner was required to register to vote in Farmington Hills before he could participate in an election, the addresses listed on these documents can be considered in determining what residence constitutes petitioner's "principal residence" for purposes of the homestead exemption. See MCL 211.7cc(8) (vesting respondent with unrestrained authority to "determine if the property is the principal residence of the owner claiming the exception").

Third, petitioner argues that respondent's use of the word "primary" as opposed to "principal" when referring to his Farmington Hills condo indicates that respondent conceded he never established a new "principal residence" for purposes of the homestead exemption. Petitioner fails to support this portion of his argument by citation to the record to indicate specifically when and where respondent used the term "primary." "A party may not leave it to this Court to search for a factual basis to sustain or reject its position." *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 424; 576 NW2d 667 (1998). Nevertheless, when respondent's use of the two words is viewed in context of all of its assertions to the Tax Tribunal and the totality of all of respondent's communications, any interchangeable use of the two words is irrelevant to the outcome of the tribunal's order.

Fourth, petitioner argues that the Farmington Hills address on his driver's license and his voter registration is irrelevant to the proceedings because he is not required to occupy the Orchard Lake property in order for that residence to qualify as his principal residence. Considering which address is listed on petitioner's driver's license, and where petitioner is registered to vote, is not tantamount to imposing an occupancy requirement on petitioner. The addresses used by petitioner are merely factors that were properly considered by the Tax Tribunal for purposes of determining where petitioner's principal residence is located.

Fifth, petitioner argues that respondent violated principals of waiver, estoppel, and fairness when it conducted its investigation that produced the documents related to his Farmington Hills residence. Petitioner has abandoned this argument for review because he fails to provide any analysis, discussion, or authority in support of his position. Where an issue is not discussed, explained, or rationalized, it is abandoned. *People v Anderson*, 209 Mich App 527, 538; 531 NW2d 780 (1995).

Finally, petitioner urges this Court to rule that respondent has the burden to prove that a petitioner is not entitled to a homestead tax exemption. However, we are bound by contrary precedent set forth in *ProMed Healthcare, supra*, MCR 7.215(C)(2), and we decline petitioner's request.

Affirmed.

/s/ David H. Sawyer
/s/ Mark J. Cavanagh
/s/ Joel P. Hoekstra