

STATE OF MICHIGAN
COURT OF APPEALS

BEN ALLI and BISI ALLI,

Petitioners-Appellants,

v

CITY OF GROSSE POINTE FARMS,

Respondent-Appellee.

UNPUBLISHED

April 24, 2012

No. 302232

Tax Tribunal

LC No. 00-375972

Before: HOEKSTRA, P.J., and SAWYER and SAAD, JJ.

PER CURIAM.

In this property valuation dispute, petitioners appeal as of right the judgment of the Michigan Tax Tribunal upholding the true cash value (TCV), state equalized value (SEV), and taxable value (TV) determinations of the board of review. For the reasons stated in this opinion, we affirm.

Petitioners challenge the assessment of a residential property located in Grosse Pointe Farms. The board of review determined that the TCV of petitioners' property for the 2009 tax year was \$274,800, and that the TCV for the 2010 tax year was \$244,600. Petitioners protested the assessment to the 2009 March board of review, and filed this appeal with the Tax Tribunal on June 30, 2009. Petitioners argued that the TCV of the property for 2009 was \$85,000, and the TCV for 2010 was \$92,000. The hearing referee concluded that the cost-less-depreciation method was the most reliable valuation approach, and the referee's proposed judgment concluded that the TCV, SEV, and TV of the property found by the board of review were accurate. Petitioners filed exceptions to the referee's proposed opinion and judgment. The tribunal adopted the referee's proposed opinion and judgment as its final decision and incorporated the proposed opinion's findings of fact and conclusions of law into its decision thereby affirming the TCV, SEV, and TV established by the board of review. Petitioners moved for reconsideration, which was denied by the tribunal. Petitioners now appeal as of right.

Our review of Tax Tribunal decisions is limited by Const 1964, art 6, § 28, which provides that "[i]n the absence of fraud, error of law or the adoption of wrong principals, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation." Accordingly, when fraud is not alleged we are bound by the Tax Tribunal's factual determinations, and may properly consider only questions of law. *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich

App 379, 388; 576 NW2d 667 (1998). Factual findings that are not supported by competent, material, and substantial evidence on the whole record constitute an error of law. *Id.* Substantial evidence is evidence that a “reasonable mind would accept as sufficient to support a conclusion, and it may be substantially less than a preponderance.” *Inter Coop Council v Dep’t of Treasury*, 257 Mich App 219, 222; 668 NW2d 181 (2003). Final agency determinations are reviewed on the basis of the entire record, and “where there is sufficient evidence, a reviewing court must not substitute its discretion for that of the tribunal’s even if the court might have reached a different result.” *Stege v Dep’t of Treasury*, 252 Mich App 183, 188; 651 NW2d 164 (2002).

On appeal, petitioners first argue that the Tax Tribunal incorrectly found that they failed to provide evidence in support of their value contentions because they actually presented a list of sales of comparable properties during the tribunal hearing. The referee’s decision indicates that petitioners presented a list of 15 sales of other properties in the city, but that this evidence was excluded because the exhibit was not submitted in advance of the hearing as required by the tribunal’s rules. The Tax Tribunal determined that the referee properly exercised his discretion in excluding the evidence on that basis. Petitioners do not challenge this evidentiary ruling on appeal. Because the exhibit evidence was excluded, and petitioners did not present any other evidence in support of their contentions of value, the Tax Tribunal’s finding that petitioners failed to provide evidentiary support for their value contentions was not error. *Great Lakes Div of Nat’l Steel Corp*, 227 Mich App at 388.

Next, petitioners argue that the Tax Tribunal’s decision is contradictory because petitioners maintain that the tribunal determined that that respondent’s evidence of comparable sales was flawed, but then adopted a value greater than the value calculated by respondent. This argument is not supported by the record. The tribunal’s statement that there were “incorrect comparisons” pertained to deficiencies in the sales-comparison approach to valuation used by respondent. Specifically, respondent’s evidence included a sales-comparison analysis dated December 31, 2008, which estimated the market value of the property to be \$284,900. Ultimately, the tribunal determined that it was inappropriate to use the sales-comparison approach to value the property and instead used the cost-less-depreciation method to determine that the TCV for 2009 was \$274,800. The TCV of \$274,800 determined by the Tax Tribunal is not greater than the amount produced by the sales-comparison analysis, which the tribunal determined was flawed. Accordingly, the tribunal did not reject respondent’s evidence and then adopt a greater amount. Petitioners have not demonstrated any error.

Next, petitioners argue that the valuation used by the tribunal was “not geared towards coming up with a value most indicative of the value of the subject property.” The record indicates that the tribunal determined that the cost-less-depreciation method was the “most accurate reflection of the value for the subject property.” “[A] valuation method is wrong only if it does not lead to the most accurate determination of the taxable property’s true cash value or fair market value.” *President Inn Props, LLC v City of Grand Rapids*, 291 Mich App 625, 639; 806 NW2d 342 (2011). Further, the cost-less-depreciation method of determining true cash value has traditionally been found “acceptable and reliable by the courts.” *Meadowlanes Ltd Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 484; 473 NW2d 636 (1991). Petitioners do not argue that the method chosen by the tribunal was defective; accordingly, they have not shown that the use of this approach constituted the adoption of a wrong principle or an

error of law. See *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App at 402; *Meadowlanes Ltd Dividend Housing Ass'n*, 437 Mich at 494-495.

Finally, petitioners argue that the Tax Tribunal's decision does not comport with MCL 205.751(1), which requires a concise statement of facts and conclusions of law. The Tax Tribunal's final judgment incorporates by reference the referee's proposed opinion, which contains a statement of facts and conclusions of law, but does not contain its own statement of facts and conclusions of law. Petitioners have not asserted, much less established, any prejudice arising from any error in the form of the Tax Tribunal's final judgment. Therefore, appellate relief is not warranted. *President Inn Props, LLC*, 291 Mich App at 643 (concluding that tribunal's failure to comply with MCL 205.751(1) in its final judgment did not constitute error requiring reversal when no prejudice to the petitioner was demonstrated).

Affirmed.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Henry William Saad