

STATE OF MICHIGAN
COURT OF APPEALS

PETER KARMANOS,

Petitioner-Appellant,

v

CITY OF ORCHARD LAKE VILLAGE,

Respondent-Appellee.

UNPUBLISHED

March 18, 1997

Nos. 191561;191945

Michigan Tax Tribunal

LC Nos. 00222053;0022051;
0022054

Before: Taylor, P.J., and McDonald and C. J. Sindt,* JJ.

PER CURIAM.

In this consolidated appeal, petitioner appeals as of right from three Michigan Tax Tribunal judgments denying revisions to the 1995 assessments of three of his lots in the City of Orchard Lake Village. We affirm.

Petitioner owns three contiguous lots on Cass Lake and a fourth across the road from the others. The center lot of the three lake front parcels contains petitioner's residence. The house lot, bearing Sidwell no. 18-10-101-008 (hereinafter referred to as "parcel 008"), was valued by respondent at \$1,200,980 for 1995. Petitioner appealed this assessment value to the Tax Tribunal claiming that the property's true cash value should be \$850,000. The tribunal found the true cash value to be \$1,200,980 and, therefore, denied petitioner's request for revision of the 1995 assessment.

The parcel located to the right of the house lot, bearing Sidwell no. 18-10-101-037 (hereinafter referred to as "parcel 037"), is vacant except for a driveway, and was valued at \$496,820 for 1995. Petitioner appealed this assessment value to the Tax Tribunal claiming that the true cash value of the property was only \$300,000. The tribunal found the true cash value to be \$496,820 and, therefore, denied petitioner's request for revision of the 1995 assessment.

* Circuit judge, sitting on the Court of Appeals by assignment.

The parcel located across the road, bearing Sidwell no. 18-10-101-001 (hereinafter referred to as “parcel 001”), is vacant except for a storage shed and concrete pad. Parcel 001 was valued at \$230,340 for 1995. Petitioner appealed this assessment value to the Tax Tribunal claiming that the true cash value of the property was only \$213,840. The tribunal found the true cash value to be \$230,340 and, therefore, denied petitioner’s request for revision of the 1995 assessment.

From the three judgments of the Tax Tribunal, petitioner filed the instant appeal claiming that the tribunal erred in determining that no revision to the assessed values were required. We disagree.

Where fraud is not alleged, a decision of the Tax Tribunal is reviewed by this Court to determine whether the tribunal erred in applying the law or adopted a wrong legal principle. *Comcast v Sterling Heights*, 218 Mich App 8, 11; 553 NW2d 627 (1996); *Maxitrol Co v Treasury Dep’t*, 217 Mich App 366, 370; 551 NW2d 471 (1996). Factual findings of the tribunal are final, so long as they are supported by competent, material, and substantial evidence on the whole record. *Comcast, supra* at 11. “Substantial evidence” means more than a scintilla, yet less than a preponderance of evidence. *Fairplains Twp v Montcalm Comm’rs*, 214 Mich App 365, 372; 542 NW2d 897 (1995).

In a challenge to the assessment of property, the taxpayer carries the burden of proof to establish the true cash value of the property. MCL 205.737(3); MSA 7.650(37)(3); *Samonek v Norvell Twp*, 208 Mich App 80, 84; 527 NW2d 24 (1994). True cash value means fair market value and is typically determined by using (1) the cost less depreciation method; (2) the sales comparison method; or (3) the capitalization of income method. *Id.* Regardless of the method utilized, the value determined must represent the usual price for which the property would sell. *Id.*

In the present case, for each parcel the petitioner presented evidence of the assessed values of comparable properties in the area to support his conclusion that his property should be assessed at a similar level. Petitioner argues that the assessed values are derived from market information and therefore are evidence of the market price of his property. In contrast, respondent presented evidence of actual sales of comparable properties as evidence of the value of plaintiff’s properties.

The Tax Tribunal found respondent’s method of presenting actual sales figures to be the most accurate method of determining the properties’ true cash value. The tribunal found that parcel 008 had a true cash value of \$1,200,980. This finding was supported by evidence of four recent sales of comparable properties. The tribunal found that parcel 037 had a true cash value of \$496,820. This finding was supported by evidence of seven recent sales of comparable properties. Finally, the tribunal found that parcel 001 had a true cash value of \$230,340. This was based on two recent sales of comparable properties. The tribunal’s findings are supported by competent, material, and substantial evidence. Therefore, these findings are final. *Comcast, supra* at 11.

Petitioner also argues that reversal is required because the tribunal failed to make a “concise statement of facts and conclusions of law” as required by MCL 205.751(1); MSA 7.650(51)(1). To the contrary, the tribunal’s opinions in each case set forth sufficient factual statements and set forth with specificity the tribunal’s legal conclusions based on those facts. Moreover, it is clear from the opinions

that the tribunal considered the evidence presented by petitioner, but found it insufficient and unpersuasive in establishing the true cash value of the properties as purported by petitioner. Contrary to petitioner's assertions, we find no indication that the tribunal automatically accepted respondent's valuations. Rather, the record indicates that the tribunal made an independent determination of true cash value with respect to each parcel. See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 355; 483 NW2d 416 (1992). Finally, the respondent presented evidence that it utilized the same criteria and formulas for assessing all property in the district as required by MCL 205.737(3); MSA 7.650(37)(3). Therefore, we find no misapplication of law in the tribunal's judgments concerning the three parcels.

Affirmed.

/s/ Clifford W. Taylor

/s/ Gary R. McDonald

/s/ Conrad J. Sindt