

STATE OF MICHIGAN
COURT OF APPEALS

SHAPIRO BAG COMPANY,

Petitioner-Appellant,

v

CITY OF GRAND RAPIDS,

Respondent-Appellee.

UNPUBLISHED

March 20, 1998

No. 197341

Michigan Tax Tribunal,

Small Claims Division

MTT No. 214812

Before: Markman, P.J., and Murphy and Neff, JJ.

PER CURIAM.

Petitioner appeals as of right from a judgment of the Michigan Tax Tribunal Small Claims Division respecting an industrial real property tax assessment for tax year 1994. We affirm.

Petitioner first argues that the MTT hearing referee's opinion is insufficient for this Court to afford meaningful appellate review. We disagree. Pursuant to the Tax Tribunal Act, a decision of the MTT must state separately a concise statement of facts and conclusions of law. MCL 205.751(1); MSA 7.650(51)(1). In addition, the Tax Tribunal Act subjects opinions and decisions of the MTT to § 85 of the APA, which requires that the findings of fact, if set forth in statutory language, be accompanied by a concise and explicit statement of the underlying facts supporting them, and that the conclusions of law be supported by authority and reasoned opinion. MCL 205.726; MSA 7.650(26). "The purpose of the Tax Tribunal's opinion is to facilitate appellate review, but the Tax Tribunal Act and the APA only require a concise statement of facts and conclusions." *Great Lakes Division of National Steel Corp v City of Ecorse*, __ Mich App __; __ NW2d __ (Docket No. 197338, issued January 20, 1998). Adequate findings of fact, however, are particularly important in proceedings before the MTT 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).

Although the hearing referee's findings of fact and conclusions of law are not exceedingly detailed or specific, they are nevertheless sufficient for us to afford meaningful appellate review. After making some preliminary findings of fact respecting the location and size of the subject property, the

referee briefly summarized the evidence presented by both petitioner and respondent and concluded that respondent's cost-less-depreciation method of valuation was the best indicator of the subject property's true cash value. The referee rejected petitioner's market and income approaches to valuing the property because respondent had exposed errors and discrepancies in petitioner's appraisal that, in the opinion of the referee, cast doubt on its reliability and accuracy. Although appellate review would have been facilitated had the hearing referee rendered a more detailed opinion, neither the APA nor the Tax Tribunal Act require the referee to identify every discrepancy or error that led the referee to reject petitioner's appraisal in favor of that offered by respondent. It is enough for the hearing referee to recite its findings of fact and conclusions of law in a concise manner, with support by authority, where appropriate, and reasoned opinion. We find that the referee's opinion complied with these requirements.

Petitioner next argues that the MTT adopted a wrong principle of law when it adopted respondent's cost-less-depreciation approach to valuing the subject property. Again, we disagree. The tax tribunal is under a duty to exercise its expertise to determine the true cash value of property. *Great Lakes, supra*; *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992). In doing so, it must apply the valuation approach that provides the most accurate valuation under the circumstances. *Great Lakes, supra*; *Oldenburg, supra* at 699. Although the tax tribunal is obligated to make its own, independent determination of true cash value, it may accept one party's theory and reject the other's, it may reject both theories, or it may use a combination of proffered theories in arriving at an independent determination of true cash value. *Great Lakes, supra*; *Jones & Laughlin Steel Corp, supra* at 356. The three most common approaches to determining the true cash value of property are the capitalization-of-income approach, the sales-comparison or market approach, and the cost-less-depreciation approach. *Great Lakes, supra*; *Jones & Laughlin Steel Corp, supra* at 353. However, regardless of the approach used by the tax tribunal, the value determined must represent the usual price for which the property would sell. *Great Lakes, supra*; *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991). Any method that is recognized and reasonably related to the fair market value of the property is an acceptable indication of true cash value. *Carriage House Cooperative v City of Utica*, 172 Mich App 144, 151; 431 NW2d 406 (1988).

The hearing referee in this case considered the evidence and various valuation methods proffered by the parties and concluded that the cost-less-depreciation method, suggested by respondent, most accurately calculated the true cash value of the property. As indicated above, the referee reached this conclusion because of errors and discrepancies discovered in petitioner's proffered appraisal. Petitioner, however, cites an MTT decision, *Shorts-Midstate Restaurant, Inc v City of Mt Pleasant*, __ MTTR __; 1989 WL 13103, 4 (Docket No. 97384, January 6, 1989), for the proposition that the age of the subject property, twenty-one years, militates against application of the cost approach. In that case, the MTT opined "that it is unlikely that a cost approach developed for a property built more than twenty years ago well establishes that property's true cash, or market value." *Id.* Although we recognize the inherent difficulty in quantifying the depreciation in older property, our Supreme Court stated in *First Federal Savings & Loan Ass'n of Flint v City of Flint*, 415 Mich 702, 706; 329 NW2d 755 (1982), that "[a]bsent more persuasive evidence, such as comparable sales, historical cost

or reproduction cost can be considered in arriving at the usual selling price.” In the present case, our review of the hearing referee’s opinion reveals that she determined to use the cost approach to value the subject property because petitioner’s evidence failed to persuade her to use other valuation methods, and because she found respondent’s evidence respecting the cost approach to be dependable. Consequently, because the cost-less-depreciation approach to valuing property is recognized and, based upon the referee’s view of the evidence in this case, reasonably related to the fair market value of the property, it cannot be said that the referee adopted a wrong principle in using the cost approach to value the subject property.

Affirmed.

/s/ Stephen J. Markman

/s/ William B. Murphy

/s/ Janet T. Neff