

STATE OF MICHIGAN
COURT OF APPEALS

PETER MUSCIO,

Petitioner-Appellee,

v

COMMERCE TOWNSHIP,

Respondent-Appellant.

UNPUBLISHED

May 22, 2001

No. 219034

Michigan Tax Tribunal

LC No. 00-243778

Before: McDonald, P.J., and Smolenski and K. F. Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from a judgment of the Tax Tribunal revising the true cash, assessed, and taxable values of petitioner's property for the years 1997 and 1998. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The burden of proof is on the petitioner to establish the true cash value, i.e., fair market value, of the property. *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 389; 576 NW2d 667 (1998); MCL 205.737(3); MSA 7.650(37)(3). "The taxpayer must prove, by the greater weight of evidence, that the assessment was too high." *Teledyne Continental Motors v Muskegon Twp*, 163 Mich App 188, 191; 413 NW2d 700 (1987). Although any method for determining true cash value which is recognized as acceptable and reasonably related to fair market value is an acceptable indicator of true cash value, there are three generally accepted methods for determining true cash value: market analysis using the selling prices of comparable properties, cost analysis using reproduction costs less depreciation, and income analysis using the capitalization of income approach. The tribunal's duty is to select the method that is the most accurate after considering all the facts before it. *First City Corp v Lansing*, 153 Mich App 106, 114; 395 NW2d 26 (1986) (citations omitted).

In the absence of fraud, this Court reviews a decision of the Tax Tribunal to determine only if the tribunal erred in applying the wrong law or adopted a wrong principle. The tribunal's factual findings are conclusive if supported by competent, material, and substantial evidence on the whole record. *Alma Piston Co v Dep't of Treasury*, 236 Mich App 365, 367-368; 600 NW2d 144 (1999); *Michigan Bell Telephone Co v Dep't of Treasury*, 445 Mich 470, 476; 518 NW2d 808 (1994); Const 1963, art 6, § 28. "Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.

‘Substantial’ means evidence that a reasonable mind would accept as sufficient to support the conclusion.” *Great Lakes, supra* at 388-389 (citations omitted).

Petitioner presented no evidence as to the true cash value of his property under any of the recognized methods of valuation. He contended only that the assessed value should be cut in half because his neighbors built a garage that encroached on the street, paved a portion of the street, and used it as a driveway and he was unable to obtain relief in court. He further asserted that the court’s ruling created “an uncertainty in petitioner’s property value and property rights.” He presented no evidence to support his contention that his property value had in fact decreased and the two cases he cited did not support his contention. Because petitioner presented no evidence to support his claim that the assessed value was too high, he failed to meet his burden of proof. Therefore, the tribunal’s decision was not supported by competent, material, and substantial evidence on the whole record and its decision thus constitutes an error of law. *Great Lakes, supra* at 388.

Reversed.

/s/ Gary R. McDonald
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly