

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CEDAR RUN DEVELOPMENT L.L.C.,

Petitioner-Appellant,

v

CITY OF WILLIAMSTON,

Respondent-Appellee.

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UNPUBLISHED

December 14, 2001

No. 223640

Michigan Tax Tribunal

LC No. 00-256105

Before: O'Connell, P.J., and Sawyer and Smolenski, JJ.

PER CURIAM.

Petitioner Cedar Run Development, L.L.C., (Cedar Run) appeals as of right from the November 8, 1999, judgment of the Michigan Tax Tribunal computing the true cash value of real property for the purpose of assessing ad valorem taxes for the tax years 1998 and 1999. We vacate and remand.

In 1996 Cedar Run purchased property in Williamston, and subsequently subdivided it and recorded a subdivision plat. Cedar Run also made various infrastructure improvements to the land. Respondent City of Williamston (Williamston) assigned new tax identification numbers to the property and set taxable values for the newly created parcels effective on the 1997 tax rolls. It appears from the record that Cedar Run did not initially petition the Tax Tribunal for relief from the 1997 assessments. Instead, it filed a petition with the Tax Tribunal in 1998 for relief from the 1998 taxable values, claiming that they were unlawful. The Tax Tribunal subsequently allowed Cedar Run to amend its petition to add a claim for relief from the 1999 assessed values.

After each party submitted valuation disclosure, the Tax Tribunal conducted an evidentiary hearing on September 21, 1999. For reasons unclear from the record, a representative for the City of Williamston did not attend this hearing. During the hearing Cedar Run presented evidence concerning the cost of the subject property in 1996, as well as the cost of subsequent infrastructure improvements. Cedar Run urged the Tax Tribunal to utilize the cost approach to discern the true cash value of the property. In its November 8, 1999, opinion and judgment, the Tax Tribunal rejected Cedar Run's argument that the cost approach should be used to assess the property's true cash value and set the true cash value of the property by accepting Williamston's determination of the property's market value. Cedar Run now appeals. On appeal, amicus briefs were filed by the Michigan Association of Realtors and the Michigan Association of Home Builders.

Cedar Run's primary argument on appeal is that the Tax Tribunal erred in accepting Williamston's valuation of the subject property because Williamston's assessment impermissibly took into account the increased retail value of the property attributable to the platting of the property. Our review of a decision of the Tax Tribunal is deferential as mandated by the Michigan Constitution. *Edward Rose Building Co v Independence Twp*, 436 Mich 620, 631; 462 NW2d 325 (1990); Const 1963, art 6, § 28. Absent fraud, our review of the Tax Tribunal's decision is limited to determining whether it made an error of law or misapplied a legal principle. *Meijer v Midland*, 240 Mich App 1, 5; 610 NW2d 242 (2000); *National Center for Mfg Sciences, Inc v Ann Arbor*, 221 Mich App 541, 544; 563 NW2d 65 (1997). The Tax Tribunal's factual findings are binding on this Court provided they are supported by competent, material, and substantial evidence. *Meijer, supra* at 5.

The taxpayer has the burden of proof to establish the true cash value of the property. MCL 205.737(3). True cash value is synonymous with fair market value and is commonly determined by three different approaches: (1) cost less depreciation, (2) sales comparison, and (3) capitalization of income. *Meadowlands Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991); *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352; 483 NW2d 416 (1992). Regardless of the approach, the value determined must represent the usual price for which the property would sell. *Meadowlands, supra* at 485; *Jones & Laughlin, supra* at 353. [*Samonek v Norvell Twp*, 208 Mich App 80, 84; 527 NW2d 24 (1994).]

The taxation of real property in Michigan is governed by the General Property Tax Act (GPTA), MCL 211.1 *et seq.* Specifically, the taxable value of real property can be determined by reference to §27a of the GPTA. See MCL 205.737(1). Section 27a provides in pertinent part:

(1) Except as otherwise provided in this section, property shall be assessed at 50% of its true cash value under section 3 of article IX of the state constitution of 1963.

(2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

(a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions .

...

(b) The property's current state equalized valuation.

(3) Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer.

(4) If the taxable value of property is adjusted under subsection (3), a subsequent increase in the property's taxable value is subject to the limitation set forth in subsection (2) until a subsequent transfer of ownership occurs.

The “additions” the assessor may take into account when assessing taxable value pursuant to MCL 211.27a(2)(a) are qualified by the language of MCL 211.34d, which provides in pertinent part:

(1) As used in this section or [MCL 211.27a], or section 3 or 31 of article IX of the state constitution of 1963:

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(c) For taxes levied after 1994, additions do not include increased value attributable to any of the following:

(i) Platting, splits, or combinations of property.

On appeal, Cedar Run argues that Williamston impermissibly factored into the taxable value of its lots for 1998 and 1999 the increased value of the lots attributable to the platting of the property in 1996. In support of its argument Cedar Run relies on the language set forth in MCL 211.34d(1)(c)(i). A review of the Tax Tribunal’s November 8, 1999, judgment reveals that although the Tax Tribunal was cognizant of Cedar Run’s argument, for reasons unclear from the record it chose not to address it specifically. Instead, the Tax Tribunal rejected Cedar Run’s cost approach for determining true cash value and adopted Williamston’s market value approach.<sup>1</sup> We recognize “that the tribunal is not bound to accept either of the parties’ theories of valuation.” *Jones, supra* at 356. However, on the present record it is difficult to discern the Tax Tribunal’s findings and conclusions concerning Cedar Run’s assertion that Williamston’s assessor impermissibly took into account the increased value of the property attributable to platting in violation of MCL 211.34d(1)(c)(i) when determining the subject property’s taxable value for 1998 and 1999.

Therefore, we remand to the Tax Tribunal to allow it to consider and address Cedar Run’s arguments regarding the applicability of MCL 211.34d(1)(c)(i). On remand the Tax Tribunal shall make specific findings of fact and render conclusions of law with regard to whether Williamston’s assessor impermissibly accounted for the increase in value attributable to platting when determining the true cash value and taxable value of the subject property for 1998 and 1999.

Vacated and remanded. We retain jurisdiction.

/s/ Peter D. O’Connell  
/s/ David H. Sawyer  
/s/ Michael R. Smolenski

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<sup>1</sup> Although a representative for Williamston did not appear at the September 21, 1999, evidentiary hearing, it appears from the record that the Tax Tribunal relied on evidence submitted by Williamston in its valuation disclosure in May 1999.