

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

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BARRONCAST, INC.,

Plaintiff-Appellant,

v

CHARTER TOWNSHIP OF OXFORD,

Respondent-Appellee.

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UNPUBLISHED

November 16, 2006

No. 262739

Tax Tribunal

LC No. 00-301895

Before: Whitbeck, C.J., and Sawyer and Jansen, JJ.

PER CURIAM.

Petitioner Barroncast, Inc. appeals as of right a Michigan Tax Tribunal opinion and judgment establishing the true cash value of its personal property for tax years 2003 and 2004. We affirm.

I. Basic Facts And Procedural History

Barroncast is essentially a foundry or casting plant, making machine parts from melted steel and manufacturing cast metal components for various industries, including the automotive industry. This dispute concerns the value of personal property at Barroncast's facility at 215 Plexus Drive, located within respondent Charter Township of Oxford. The property consists of "drill presses, wax injection presses, gas generators, air compressors, metal cutting saws and other machinery and equipment." In 2003, Oxford Township assessed the property at \$1,500,000, with a corresponding true cash value of \$3,000,000. Oxford Township assessed the property at the same values for 2004.

Tenneco Automotive awarded Barroncast a program for the production of suspension components for DaimlerChrysler's Jeep Grand Cherokee. In preparation for production, Barroncast purchased some new casting and equipment. Barroncast financed the purchase, and an appraisal was prepared by Stout Risius Ross (the SRR appraisal) as part of the loan transaction. During 2001, Tenneco cancelled the program, and, because Barroncast was unable to use all the new equipment for other purposes, it was forced to sell some items. In 2002, Barroncast acquired another bank loan, and the bank required an appraisal, which was performed by Williams & Lipton (the WL appraisal).

On June 30, 2003, Barroncast filed a petition regarding the 2003 assessment, asserting that it had already appealed the assessment to the Board of Review. Barroncast challenged the

\$1,500,000 assessed value of the property, alleging that it should not have been higher than \$810,263 and that the \$3,000,000 true cash value should not have been higher than \$1,620,526. On June 17, 2004, Barroncast moved to amend its pleading to include a challenge to the 2004 assessed value of \$1,500,000 and true cash value of \$3,000,000. Barroncast asserted that it had already appealed the 2004 assessment to the Board of Review. Although the lower court file does not contain an order regarding this motion, it is evident that the tribunal granted the motion.

On November 4, 2004, the parties submitted a joint stipulation of facts. Barroncast claimed that the 2003 assessed value should be \$763,136 and true cash value should be \$1,526,272 and that the 2004 assessed value should be \$663,836 and the true cash value should be \$1,327,672. Oxford Township claimed that the 2003 assessed value should be \$1,318,760 and the true cash value should be \$2,637,538 and that the 2004 assessed value should be \$1,335,130 and the true cash value should be \$2,670,267. The WL appraisal provided a fair market value of \$1,526,276. The SRR appraisal, which was based on orderly liquidation, provided a value of \$2,556,915. The parties agreed that, if the tribunal found that the State Tax Commission (STC) multiplier tables were necessary to calculate the true cash value, it should be \$2,637,538 for 2003 and \$2,670,267 for 2004. If the tribunal were to find that the market value appraisals must be used, the parties stipulated to a true cash value of \$1,526,272 for 2003 and \$1,327,672 for 2004.

On December 16 and 17, 2004, the tribunal conducted a hearing regarding the valuation of the subject property and ordered post-hearing briefs to be submitted by February 1, 2005. The tribunal entered an opinion and judgment on April 20, 2005, essentially adopting Oxford Township's true cash value for 2003 and 2004. The tribunal rejected the cost approach to valuation because it found it difficult to accurately estimate accrued depreciation. The tribunal also rejected the income capitalization approach. The tribunal rejected the sales approach because there was a lack of recent comparable sales and because economic transition was occurring in Barroncast's industry, stating that the "market data itself may not be a trustworthy method of valuation."

The tribunal found that the WL appraisal value was reflective of price, not "market value in place," because a buyer would have to incur the additional costs to disassemble, transport, and install the property. The tribunal found that it was appropriate to include the costs of freight, sales tax, and installation because they contributed to the value a purchaser would consider and "[f]air market value in continued use" included these "normal direct and indirect costs." Further, according to the tribunal, Barroncast failed to present actual market evidence that these costs should be excluded from the calculation of the true cash value. The tribunal was not persuaded by Barroncast's reliance on the price of the machinery and equipment in its calculation of the true cash value. Accordingly, the tribunal concluded that Oxford Township's true cash value as determined by the STC multiplier tables was the most accurate determination. Using the STC multiplier tables, the tribunal adopted a true cash value for 2003 of \$2,637,538 and \$2,670,267 for 2004, as directed by the parties' stipulation of facts. The following table sets out the relevant values at issue:

|   | 2003<br>ASSESSED<br>VALUE | 2003<br>TRUE<br>CASH<br>VALUE | 2004<br>ASSESSED<br>VALUE | 2004<br>TRUE<br>CASH<br>VALUE |
|---|---------------------------|-------------------------------|---------------------------|-------------------------------|
| Oxford Township's Values On Tax Rolls                               | \$1,500,000               | \$3,000,000                   | \$1,500,000               | \$3,000,000                   |
| Oxford Township's Asserted Values (Using the STC Multiplier Tables) | \$1,318,760               | \$2,637,538                   | \$1,335,130               | \$2,670,267                   |
| Barroncast's Asserted Values (Using WL Appraisal)                   | \$763,136                 | \$1,526,272                   | \$663,836                 | \$1,327,672                   |
| Tribunal's Values (Using the STC Multiplier Tables)                 | \$1,318,769               | \$2,637,538                   | \$1,335,134               | \$2,670,267                   |

## II. True Cash Value

### A. Standard Of Review

Barroncast argues that the tribunal erred in computing the true cash value using the STC multiplier tables instead of the market approach, in including sales tax, freight, and installation costs, and in valuing the property as “in continued use.” In the absence of fraud, this Court generally reviews tribunal decisions to determine whether the tribunal committed an error of law or adopted a wrong legal principle.<sup>1</sup> This Court reviews de novo questions of law, including statutory interpretation.<sup>2</sup> Factual findings are final if supported by “competent, material, and substantial evidence on the whole record.”<sup>3</sup>

### B. Legal Standards

“Substantial evidence is ‘the amount of evidence that a reasonable mind would accept as sufficient to support a conclusion,’ and it may be ‘substantially less than a preponderance.’”<sup>4</sup> The weight given to evidence is within the tribunal’s discretion.<sup>5</sup>

“True cash value is synonymous with fair market value.”<sup>6</sup> The petitioner bears the burden of proof in establishing the true cash value,<sup>7</sup> and it must prove by greater weight of the

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<sup>1</sup> *Ford Motor Co v Woodhaven*, 475 Mich 425, 438; 716 NW2d 247 (2006).

<sup>2</sup> *Id.*

<sup>3</sup> Const 1963, art 6, § 28; *Catalina Marketing Sales Corp v Dep’t of Treasury*, 470 Mich 13, 19; 678 NW2d 619 (2004).

<sup>4</sup> *Inter Coop Council v Dep’t of Treasury (On Remand)*, 257 Mich App 219, 221; 668 NW2d 181 (2003), quoting *In re Payne*, 444 Mich 679, 692, 698; 514 NW2d 121 (1994).

<sup>5</sup> *Great Lakes Div of Nat’l Steel Corp v Ecorse*, 227 Mich App 379, 404; 576 NW2d 667 (1998).

<sup>6</sup> *Lionel Trains, Inc v Chesterfield Twp*, 224 Mich App 350, 354; 568 NW2d 685 (1997); *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992).

<sup>7</sup> MCL 205.737(3); *Great Lakes*, *supra* at 389.

evidence that the property's assessment was too high.<sup>8</sup> The tribunal has a duty to apply its expertise to the facts to determine the appropriate method of calculating the true cash value using the approach that provides the most accurate valuation under the circumstances.<sup>9</sup>

MCL 211.10e dictates that tax assessors must use the official *Assessor's Manual*, which contains the STC multiplier tables, "as a guide in preparing assessments."<sup>10</sup> Assessors may therefore apply the multiplier tables without any modification.<sup>11</sup> The multiplier tables are used by taking the property's historical or original costs by year of acquisition and applying a multiplier from the table to convert the cost to a current value.<sup>12</sup> However, the multiplier tables are merely guides and do not have the force of the law.<sup>13</sup> Assessors may make any necessary adjustments because of the property's unique features or circumstances to satisfy the mandate that all property be valued at its true cash value.<sup>14</sup>

The three most common or traditional methods of determining true cash value are the cost-less-depreciation approach, the capitalization-of-income approach, and the sales-comparison or market approach.<sup>15</sup> All three approaches should be used whenever possible and weighed in reaching a final estimate of value.<sup>16</sup> The market approach involves an analysis of recent sales of similar property, comparison to the subject property, and adjustments for differences between the properties.<sup>17</sup> "The market approach is the only valuation method that directly reflects the balance of supply and demand for property in marketplace trading[,]"<sup>18</sup> but its use is not mandatory.<sup>19</sup> Rather, the market approach must "be considered and used if feasible and justifiable."<sup>20</sup>

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<sup>8</sup> *Teledyne Continental Motors v Muskegon Twp*, 163 Mich App 188, 191; 413 NW2d 700 (1987).

<sup>9</sup> *Wayne Co v State Tax Comm*, 261 Mich App 174, 201; 682 NW2d 100 (2004); *Jones & Laughlin*, *supra* at 353.

<sup>10</sup> *Danse Corp v Madison Heights*, 466 Mich 175, 179-180, 182; 644 NW2d 721 (2002); *Wayne Co*, *supra* at 177.

<sup>11</sup> *Wayne Co*, *supra* at 246.

<sup>12</sup> *Wayne Co*, *supra* at 181.

<sup>13</sup> *Danse Corp*, *supra* at 182; *Wayne Co*, *supra* at 245.

<sup>14</sup> *Wayne Co*, *supra* at 245-246.

<sup>15</sup> *Id.* at 200-201; *Jones & Laughlin*, *supra* at 353.

<sup>16</sup> *Wayne Co*, *supra* at 201.

<sup>17</sup> *Id.*

<sup>18</sup> *Jones & Laughlin*, *supra* at 353.

<sup>19</sup> *Wayne Co*, *supra* at 201.

<sup>20</sup> *Id.* at 201, 206.

### C. Applying The Legal Standards

As noted above, while there may be a preference for the market approach, its use is not mandatory, and it is evident here from its opinion that the tribunal considered it. The WL appraisal was prepared in June 2002, more than six months before the critical December 31, 2002, valuation date, and H. Gary Lipton was unable to offer an opinion about the property's value on December 31, 2002 or update the appraisal for 2004. Further, the WL appraisal was prepared as a requirement for Barroncast to obtain a bank loan, was "intended only for use in asset-based financing," and provided that it was only valid for 45 days. Therefore, the tribunal did not commit an error of law or adopt a wrong legal principle in declining to apply a market approach,<sup>21</sup> and it did not abuse its discretion in giving Oakland County auditor Barbara McDermott's testimony more weight.<sup>22</sup>

Assessors calculate the true cash value of idle property using the "idle" multiplier.<sup>23</sup> Assessors calculate the true cash value of obsolete or surplus property, which is property that has been abandoned and must be sold or cannot be used unless it is repaired or retooled, using the "economic residual" multiplier.<sup>24</sup> The "[t]rue cash value of property that is not idle, obsolete, or surplus is calculated by using an in-use multiplier."<sup>25</sup> If the existing use of the property is indicative of the purpose for which a potential buyer would use the property, it is relevant to the true cash value unless there is evidence that the in-use multiplier would inflate the value above what it would receive on the open market.<sup>26</sup> McDermott valued the property "in continued use" during her initial audit in 2001, and she asserted that "fair market value" and "fair market value in continued use" were synonymous. Lipton, on the other hand, believed there was a difference between "fair market value" and "fair market value in continued use."

Because Barroncast had eliminated some equipment, McDermott returned to its facility in August 2004 and updated the true cash value for 2002, 2003, and 2004. McDermott specifically testified that she did not include in the true cash value for 2003 or 2004 any equipment that Barroncast had sold. Because Barroncast has not identified any property that was idle, obsolete, or surplus, it was proper for McDermott to value its property in continued use. Further, Barroncast has presented no evidence to suggest that the in-use multiplier inflated the value above what it would receive on the open market. Therefore, the tribunal did not commit an error of law or adopt a wrong legal principle when it valued Barroncast's property in continued use.

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<sup>21</sup> *Ford Motor Co, supra* at 438.

<sup>22</sup> *Great Lakes, supra* at 404.

<sup>23</sup> *Lionel Trains, supra* at 352.

<sup>24</sup> *Id.* at 353.

<sup>25</sup> *Id.* at 352.

<sup>26</sup> *Id.*

#### D. Freight, Sales Tax, And Installation

Barroncast also challenges the tribunal's inclusion of freight, sales tax, and installation in its determination of the true cash value. In *Lionel Trains*, this Court held that the tribunal's inclusion of freight, sales tax, and installation in the true cash value was proper because the costs were part of the market.<sup>27</sup> MCL 211.27(1) provides that true cash value is the usual selling price at the place where the property is located at the time of the assessment. This Court generally defers to the "tribunal's interpretation of statutes that it is delegated to administer."<sup>28</sup> Barroncast is correct that MCL 211.27(1) does not refer to freight, sales tax, or installation in its definition of true cash value. However, Barroncast bears the burden of proof in establishing true cash value and it failed to establish that the usual selling price would not include these costs or that the tribunal committed an error of law in including these costs in the true cash value.<sup>29</sup>

#### E. Witness Credibility

While Barroncast attacks McDermott's credibility, asserting that she did not know how the STC multiplier tables were developed, this Court will not assess witness credibility in reviewing a tribunal's determination of true cash value.<sup>30</sup>

#### F. Competent, Material, And Substantial Evidence

Barroncast argues that the tribunal's decision was not supported by competent, material, and substantial evidence, challenging McDermott's testimony. However, aside from stating that the tribunal precluded McDermott from testifying about value under Tax Tribunal Rule 205.1283(3) and (4),<sup>31</sup> Barroncast cites no law in support of this argument. "It is not sufficient for a party 'simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.'"<sup>32</sup> Failure to properly address the merits of this assertion constitutes abandonment of the issue.<sup>33</sup>

Affirmed.

/s/ William C. Whitbeck  
/s/ David H. Sawyer  
/s/ Kathleen Jansen

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<sup>27</sup> *Id.* at 354-355.

<sup>28</sup> *Id.* at 355.

<sup>29</sup> MCL 205.737(3); *Great Lakes*, *supra* at 389.

<sup>30</sup> *Great Lakes*, *supra* at 407.

<sup>31</sup> 1999 AC, R 205.1283(3) and (4).

<sup>32</sup> *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

<sup>33</sup> *Thompson v Thompson*, 261 Mich App 353, 356; 683 NW2d 250 (2004).