

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

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HATTEM A. BEYDOUN,

Petitioner-Appellant,

v

CITY OF ST. CLAIR SHORES,

Respondent-Appellee.

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UNPUBLISHED  
March 17, 2015

No. 319664  
Tax Tribunal  
LC No. 00-450297

Before: JANSEN, P.J., and METER and BECKERING, JJ.

PER CURIAM.

Petitioner, Hattem A. Beydoun, appeals as of right the final opinion and judgment of the Michigan Tax Tribunal upholding an administrative law judge's (ALJ) determination that the 2013 true cash value (TCV) of petitioner's residential property in St. Clair Shores was \$160,000. The tribunal rejected petitioner's argument that a December 2012 purchase price of \$99,799 reflected the true cash value of the property. We affirm.

Petitioner purchased the residential property on Maple Street in St. Clair Shores on December 19, 2012, for a purchase price of \$99,799. Maple Street runs alongside a canal leading to Lake St. Clair. Beach Street runs parallel to Maple Street on the opposite side of the canal ("Maple/Beach canal"). For tax year 2013, respondent, City of St. Clair Shores, assessed the TCV of the property at \$180,000. Petitioner appealed the assessment to the Tax Tribunal. Following an administrative hearing, the ALJ reduced the TCV to \$160,000, assigned a state equalized value of \$80,000, and a taxable value of \$80,000. Petitioner appealed the ALJ's decision to the Tax Tribunal, which issued a final judgment approving the ALJ's proposed judgment, as modified to correct a clerical error not pertinent to this appeal.

Petitioner argues that the Tax Tribunal's judgment is erroneous because it gave greater weight to respondent's analysis than to petitioner's. Petitioner's analysis focused on the sale price of the property and the assessed values of an adjacent neighboring property and property on Beach Street, on the opposite side of the Maple/Beach canal. Respondent's analysis focused on nine properties along other canals. Petitioner argues that respondent's comparable properties were not competent evidence of the TCV of his property, because the other canals have higher water levels and are more navigable than the Maple/Beach canal.

As articulated by our Supreme Court in *Michigan Props, LLC v Meridian Twp*, 491 Mich 518, 527-528; 817 NW2d 548 (2012), an appellate court’s review of decisions by the Michigan Tax Tribunal is limited:

Review of decisions by the Tax Tribunal is limited. In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation. The Tax Tribunal’s factual findings are final if they are supported by competent, material, and substantial evidence on the whole record. If the facts are not disputed and fraud is not alleged, our review is limited to whether the Tax Tribunal made an error of law or adopted a wrong principle. [Quotation marks and citations omitted.]

The substantial evidence standard signifies a level reaching “more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.” *Drew v Cass Co*, 299 Mich App 495, 499; 830 NW2d 832 (2013) (citation and quotation omitted).

MCL 211.27(1) defines “true cash value” as “the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale . . . .” “Generally, there presently are three methods of valuation which are acceptable to the Michigan Tax Tribunal and the courts. They are the cost-less-depreciation approach, the capitalization-of-income approach, and the market approach.” *Antisdale v City of Galesburg*, 420 Mich 265, 276; 362 NW2d 632 (1984). “It is the Tax Tribunal’s duty to determine which approaches are useful in providing the most accurate valuation under the individual circumstances of each case.” *Meadowlanes Ltd Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991). In this case, the tribunal applied the sales-comparison or market approach to determine the TCV of petitioner’s property. “The sales-comparison approach indicates true cash value by analyzing recent sales of similar properties, comparing them with the subject property, and adjusting the sales price of the comparable properties to reflect differences between the two properties.” *Id.* at 485 n 19. “[W]hen using a sales-comparison approach, the appraiser should adjust the sales price of comparables for differences in size, age, condition, location, and other value influences that buyers and sellers of real property take into account.” *Id.* at 503.

Petitioner argues that the December 2012 purchase price of the property reflects its true cash value because the property was purchased in an arm’s length transaction. In *Antisdale*, 420 Mich at 278, our Supreme Court recognized that the sale price of a particular property “is not conclusive as evidence of the value of that piece of property.” The Court explained:

The Legislature has commanded that property be assessed as its “usual selling price.” The most obvious deficiency in using the sales price of a piece of property as conclusive evidence of its value is that the ultimate sale price of the property, as a result of many factors, personal to the parties or otherwise, might not be its “usual” price. The market approach to value has the capacity to cure this deficiency because evidence of the sales prices of a number of comparable properties, if sufficiently similar, supports the conclusion that factors extrinsic to the properties have not entered into the value placed on the properties by the

parties. Nevertheless, if it can be shown that the sale price each of the comparable properties has been determined by a flawed method the result of the market approach to valuation will also be flawed. [*Antisdale*, 420 Mich at 278-279.]

Here, the Tax Tribunal adopted the ALJ's finding that the December 2012 purchase price of petitioner's property was not an accurate reflection of its true cash value because the listing price dropped from \$184,000 to \$127,900 over a period from July 26, 2012 to November 3, 2012. The Tax Tribunal determined that the rapid drop in the listing price over this period indicated that the seller preferred to sell the property as soon as possible, and lowered the price accordingly. The Tax Tribunal also found that the condition of the Maple/Beach canal varied from year to year. Petitioner offered only two other properties for comparison, and respondent offered nine. The tribunal found that respondent's nine properties provided a better overall comparison, and that the values were adjusted to reflect differences between petitioner's property and the comparable properties. Those adjustments in value considered that the other canals were more desirable canals, that petitioner's home was newer than some of the other properties, but not necessarily in better condition than those other properties, and the differences in size between petitioner's home and the comparable properties. Under the substantial evidence standard, respondent's analysis of the other canal-side properties, as adjusted by the ALJ, provided "more than a scintilla of evidence" supporting the tribunal's finding that the TCV of petitioner's property was \$160,000. *Drew*, 299 Mich App at 499.

Petitioner states that his appeal is not based on the Tax Tribunal's factual findings, but rather on its use of an erroneous method based on comparison of properties that are too dissimilar. The substance of petitioner's argument is that his comparable properties were more similar to his property than respondent's comparables, and therefore were entitled to greater weight in the tribunal's review. Petitioner's argument does not attack the tribunal's methodology; it attacks the tribunal's evaluation of the evidence. Because the tribunal's evaluation is supported by competent, material, and substantial evidence, petitioner is not entitled to relief.

Affirmed.

/s/ Kathleen Jansen  
/s/ Patrick M. Meter  
/s/ Jane M. Beckering