STATE OF MICHIGAN

COURT OF APPEALS

MOHAMMED M. ALOMARI,

Petitioner-Appellant,

v

CITY OF STERLING HEIGHTS,

Respondent-Appellee.

UNPUBLISHED
October 14, 2021

No. 355822
Michigan Tax Tribunal
Small Claims Division
LC No. 20-000716-TT

Before: SHAPIRO, P.J., and BORRELLO and O'BRIEN, JJ.

PER CURIAM.

Petitioner appeals as of right the judgment of the Michigan Tax Tribunal (MTT) valuing petitioner's property (the subject property) at $342,400 in true cash value, and $171,200 in both state equalized value and taxable value. We affirm.

I. BACKGROUND

In 2018, construction of a new home was completed on the subject property, and petitioner purchased the property on January 31, 2019. Petitioner later received the 2019 Notice of Assessment, which reflected that the taxable value of the subject property had increased from $8,164 in 2018 to $135,259 in 2019. The next year, petitioner received the assessment for 2020, which reflected that the taxable value of the property had increased to $171,200 in 2020.

Petitioner appealed these assessments to the Board of Review for the city of Sterling Heights. In his petition to the Board, petitioner argued that the subject property was improperly "uncapped" twice—once in 2019 and again in 2020—in violation of MCL 211.27a, which only permitted "uncapping" in the year following a transfer, and otherwise limited the increase of a property's taxable value to the lesser of the inflation rate or 5%.[1] In other words, according to

[1] MCL 211.27a(2)(a) and (b) provides that a property's taxable value is the lesser of "[t]he property's taxable value in the immediately preceding year minus any losses, multiplied by the

petitioner, the property should have only been "uncapped" in 2020. Petitioner requested that the Board either undo the allegedly improper "uncapping" from 2019 and refund him the excess money that he paid for that year, or, if it would be more convenient for the Board, undo the "uncapping" from 2020 and simply lower the assessed value of the subject property. The Board of Review denied both requests, determining that the assessments were accurate.

Petitioner then filed a petition with the MTT. Under the section labeled, "Explain the Reason for this Appeal," petitioner again asserted that the subject property had been improperly "uncapped" twice—once in 2019 and again in 2020—and requested "one of two resolutions: either a reversal of the 2019 uncapping and instead only increasing the value from 2018 to 2019 by 1.019%, which would result in the City refunding [petitioner] the difference paid in property taxes (between 2018 and 2019), or a capping of the [2020] assessment in accordance with the State-defined limits which would entail capping the amount that was assessed in 2019 (i.e. $135,259) and as a result, the increase from 2019 to 2020 be limited to 1.019%." Under the section labeled "Valuation Information," petitioner asserted that the "Assessed Value" of the property should be $135,259—the amount of the 2019 assessment—instead of the current 2020 "Taxable Value" of $171,200, explaining, "Value was uncapped twice (2019 & 2020) with only 1 transfer of ownership in 2019." In a letter accompanying the petition, petitioner again asserted that the property was improperly "uncapped" twice, and again requested that the MTT reverse the uncapping from either 2019 or 2020.

Respondent filed an answer to the petition, explaining that the subject property's taxable value was not "uncapped" in both 2019 and 2020. Rather, the taxable value was properly increased in 2019 because of new additions (the new home) constructed on the property in 2018,[2] and then was "uncapped" in 2020 because of petitioner's 2019 purchase of the property. Respondent submitted the property record cards and valuation reports from 2018 through 2020 to support its answer. The MTT held a hearing and then issued a judgment upholding respondent's valuation of the subject property. The MTT declined to consider evidence petitioner had not submitted ahead of the hearing, and later denied petitioner's motion for reconsideration. Petitioner now appeals.

II. STANDARD OF REVIEW

"In the absence of fraud, review of a decision by the Tax Tribunal is limited to determining whether the tribunal erred in applying the law or adopted a wrong principle; its factual findings are conclusive if supported by competent, material, and substantial evidence on the whole record." *Klooster v City of Charlevoix*, 488 Mich 289, 295; 795 NW2d 578 (2011). " 'Substantial evidence' is evidence that a reasonable person would accept as sufficient to support a conclusion." *Dowerk*

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lesser of 1.05 or the inflation rate, plus all additions" or "[t]he property's current state equalized valuation."

[2] Again, MCL 211.27a(2)(a) provides that "[t]he 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*." (Emphasis added.)

v Oxford Charter Twp, 233 Mich App 62, 72; 592 NW2d 724 (1998). "While this requires more than a scintilla of evidence, it may be substantially less than a preponderance." *Id*.

III. ANALYSIS

On appeal, petitioner no longer argues that the taxable value of the subject property was improperly "uncapped" twice. Instead, the thrust of petitioner's argument on appeal is that the MTT erred in its assessment of the true cash value of the subject property because the MTT should have used the sales-comparison or market approach—one of the "traditional methods" for determining true cash value, *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 484-485; 473 NW2d 636 (1991)—to determine the property's true cash value.

We begin by noting the obvious: petitioner never raised this argument in his petition. Rather, in his petition, petitioner argued exclusively that the subject property's taxable value was incorrect because the property's value was "uncapped" in both 2019 and 2020. To the extent that it could be argued that petitioner challenged the assessed true cash value of the subject property, he did so in terms of the property's uncapping. Under the section of the petition labeled "Valuation Information," petitioner asserted that the subject property's current "Taxable Value" was incorrect because the "[v]alue was uncapped twice (2019 & 2020) with only 1 transfer of ownership in 2019." To that end, petitioner contended that the property should have been assessed the same for 2020 as it was for 2019 because, under petitioner's theory, the property should not have been uncapped a second time in 2020. Nowhere in his petition did petitioner argue that the subject property's true cash value should have been calculated using the market approach.

It was only at the hearing on his petition that petitioner attempted to raise a market-approach argument.[3] At that time, however, the MTT did not allow petitioner to present evidence to support his market-approach argument, and there is no mention of petitioner's argument related to the market approach in the MTT's final judgment and order. Based on representations made by the MTT in a later order, the MTT declined to admit petitioner's market-approach evidence at the hearing because, in an order that it issued before the hearing, the MTT required the parties "to submit all documents in support of their contentions to the Tribunal and the opposing party at least 21 days before the hearing date." The order stated that any documents not submitted in this manner could be excluded. This order was consistent with the administrative rules that governed this proceeding. See R 792.10287. Thus, the MTT's decision to preclude petitioner from admitting evidence not submitted to the MTT and respondent at least 21 days before the hearing was consistent with the MTT's earlier order and the administrative rules that governed this proceeding. Petitioner does not explain how the MTT's decision to abide by both its earlier order and the administrative rules governing the MTT amounted to an error in applying the law or an adoption of a wrong principle. See *Klooster*, 488 Mich at 295. Accordingly, to the extent that petitioner

[3] There is no transcript of the hearing that took place in this case, so it is unclear what exactly transpired at the hearing. Petitioner asserts in his brief on appeal that he raised his market-approach argument at the hearing, and we accept that assertion as true for purposes of this opinion.

argues that the MTT erred by not considering the market approach in its initial ruling, we find no error.

To the extent that petitioner seemingly challenges the MTT's true-cash-value determination more generally, we likewise find no error. There are three "traditional methods" for determining true cash value: (1) the cost-less-depreciation approach, (2) the sales-comparison or market approach, and (3) the capitalization-of-income approach. *Meadowlanes*, 437 Mich at 484-485. The MTT's final judgment reflects that the MTT considered the 2018 through 2020 property record cards and associated valuation reports that respondent attached to its answers before the hearing. Those documents used the "cost-less-depreciation" method of valuation. The MTT's judgment reflects that, after reviewing this evidence, the MTT set the true cash value of the subject property at the amount reflected in property record cards and associated valuation reports. Contrary to petitioner's assertion, it does not appear that the MTT "automatically" affirmed respondent's evaluation of the property. Rather, it appears that the MTT adopted respondent's assessed valuation as its own independent finding of true cash value, as it was permitted to do. See *President Inn Props, LLC v Grand Rapids*, 291 Mich App 625, 640; 806 NW2d 342 (2011) (explaining that it is permissible for the MTT to "adopt the assessed valuation on the tax rolls as its independent finding of TCV").[4] There is no basis for this Court to disturb this finding because it was supported by competent and material evidence in the form of the 2018 through 2020 property record cards and associated valuation reports.

Further, contrary to petitioner's contention on appeal, it appears that the MTT ultimately did consider petitioner's evidence and argument related to the market approach for valuation. In the MTT's order denying petitioner's motion for reconsideration, the MTT discussed petitioner's evidence related to the market approach for determining true cash value, but found the evidence and petitioner's argument based on the evidence to be unpersuasive. That is, the record supports that the MTT considered petitioner's theory of valuation and rejected it, instead accepting respondent's theory of valuation, which is permissible. See *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 356; 483 NW2d 416 (1992) (explaining that the MTT "may accept one theory [of valuation] and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination").

We now turn to the specific complaints that petitioner identifies in his brief on appeal. First, petitioner argues that the MTT erred in its order denying petitioner's motion for reconsideration because the MTT believed that it had "no equitable power to correct the taxable or assessed value of the property," which led the MTT to misunderstand that it had "the power to correct the lower agencies' mistakes." While the MTT stated in the order denying petitioner's motion for reconsideration that the MTT had "no equitable power to waive or otherwise disregard

[4] At one point in its judgment, the MTT stated that the subject property's "assessed value, as established by the [Board of Review], is affirmed," but this appears to be only inartful phrasing. Other parts of the opinion clearly reflect that the MTT reached its own independent conclusion, such as in the "Summary of Judgment" portion of the MTT's judgment in which the MTT states its determination of the true cash value of the property without reference to any other agency's finding.

a statutory requirement," petitioner appears to misunderstand the MTT's statement. The MTT's statement that it had no equitable power to waive a statutory requirement correctly reflected that "[t]he Tax Tribunal's powers are limited to those authorized by statute, and the Tax Tribunal does not have powers of equity." *Electronic Data Sys Corp v Flint Twp*, 253 Mich App 538, 547-548; 656 NW2d 215 (2002).

Next, petitioner argues that the MTT "prejudicially allowed respondent during the hearing to further research their material at the detriment of the petitioner and yet prevented petitioner from submitting or considering information regarding comparisons of similar[ly] situated neighborhood properties." Petitioner's argument in this regard is unclear because there is no hearing transcript. Regardless, petitioner does not identify what additional information respondent provided to the MTT or how it was prejudicial to petitioner. Moreover, all of the information that the MTT relied on in its final judgment was submitted to the MTT by the parties in documents filed with the MTT before the hearing. Thus, accepting as true petitioner's allegation that respondent was permitted to "search[] through their files during the phone call hearing," nothing in the record suggests that petitioner was prejudiced by this.

With respect to petitioner's contention that he was prevented "from submitting . . . information regarding comparisons of similar[ly] situated neighborhood properties," as we previously noted, the MTT refused to allow petitioner to present information not submitted to the MTT or respondent before the hearing because that would have violated both the MTT's earlier order and the administrative rules governing the proceedings. As also noted earlier, petitioner does not explain how the MTT's decision to abide by its earlier order and the administrative rules governing the proceedings before it amounted to an error in applying the law or an adoption of a wrong principle. Accordingly, we find no error.

Next, petitioner argues that "respondent failed to properly submit relevant information to the Tribunal[] regarding the property assessment and comparisons of similar[ly] situated neighborhood properties." Petitioner, however, ignores that he never argued in his petition that the subject property was assessed differently from similarly situated neighborhood properties. In his petition, he argued only that the subject property was improperly assessed because it was "uncapped" in both 2019 and 2020. In response to this argument, there was no reason for respondent to provide information "regarding the property assessment comparisons of similar[ly] situated neighborhood properties" because that was wholly irrelevant to whether the subject property was improperly "uncapped."

In this same argument, petitioner takes issue with the two answers that respondent submitted in response to petitioner's petition. Respondent's first answer was filed on June 12, 2020, and its second was submitted on August 31, 2020, though petitioner alleges that he received the second answer at some unspecified later date.

Petitioner argues that "the delay in providing a copy of the second answer to the Petitioner hindered the Petitioner's ability to respond appropriately in a timely manner and submit additional documents to the Tribunal prior to the hearing scheduled on September 29, 2020," seemingly alleging that the second answer included information not included in the first answer. Yet the first and second answers were substantively the same and relied on the same information. Both answers substantively alleged that the subject property was only uncapped in 2020, and that the 2019

increase to the subject property's assessed value was due to the additions added to the property in the form of the newly constructed home. In both answers, respondent contended that its assertions were supported by the 2018, 2019, and 2020 record cards and valuation statements that were attached to the answer. Because the two answers were substantively the same and relied on the same information, it is unclear how any delay by respondent in providing the second answer "hindered the Petitioner's ability to respond appropriately," even if petitioner "only received [respondent's second answer] shortly before the actual hearing," as petitioner alleges.

Petitioner also argues that respondent's answers were insufficient because they did not "provide any comparable data, such as assessments of the similarly situated neighboring homes." Petitioner, however, cites no authority to support his apparent assertion that such information was necessary. Again, petitioner never argued in his petition that the subject property was assessed differently from similarly situated neighboring homes; he argued only that the subject property was improperly uncapped in both 2019 and 2020. This was the argument that respondent responded to in its answers.

For his final two arguments, petitioner contends that the 2019 and 2020 valuations of the subject property were improper based on the market approach. This was the same argument he presented to the MTT. As previously noted, the MTT considered petitioner's theory of valuation and rejected it, accepting instead respondent's theory of valuation based on the cost-depreciation approach. This conclusion by the MTT was based on competent and material evidence as explained earlier in this opinion, so we cannot disturb this finding.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Stephen L. Borrello
/s/ Colleen A. O'Brien