

STATE OF MICHIGAN
COURT OF APPEALS

RAMARAJAN ILANKAMBAN,

Petitioner-Appellant,

v

TOWNSHIP OF PITTSFIELD,

Respondent-Appellee.

UNPUBLISHED
March 13, 2012

No. 303113
Tax Tribunal
LC No. 00-361055

Before: MURPHY, C.J., and HOEKSTRA and MURRAY, JJ.

PER CURIAM.

Petitioner appeals as of right from the opinion and judgment entered by the Michigan Tax Tribunal (MTT). For the reasons stated in this opinion, we affirm.

Petitioner is the owner of residential real property located in Pittsfield Township. Petitioner's residence is 4,969 square feet, and contains three bedrooms, four and one half bathrooms, and a three stall garage. Petitioner and respondent agree that the residence is oversized for the neighborhood and, as result, is not worth as much as it would be in a superior neighborhood.

For the 2009 tax year, respondent assessed the true cash value (TCV)¹ of petitioner's property at \$534,000. The state equalized and taxable values (SEV and TV) were calculated at \$266,200. For the 2010 tax year, respondent assessed the TCV at \$536,800. Petitioner's SEV was calculated at \$268,400 and his TV was calculated at \$265,401. Petitioner appealed both years' assessments to the MTT's Small Claims Division,² arguing that the values were too high. Petitioner maintained that the TCV of his property for 2009 and 2010 was \$425,000 and \$440,000, respectively. On November 11, 2010, the hearing referee issued a proposed opinion and judgment affirming respondent's assessments, determining that petitioner failed to meet his

¹ True cash value is synonymous with fair market value. *CAF Investment Co v State Tax Comm*, 392 Mich 442, 450; 221 NW2d 588 (1974).

² The 2009 and 2010 assessments were separately appealed, but the 2010 petition was automatically added to the 2009 petition per MCL 205.737(5)(b).

burden on the matter.³ Petitioner filed exceptions to the proposed judgment, raising several points of error. On February 25, 2010, the MTT entered a final opinion and judgment rejecting petitioner's exceptions and adopting the referee's proposed opinion and judgment. The tribunal determined that all the issues raised by petitioner were either considered in the rendering of the proposed opinion and judgment or lacked merit. This appeal followed.

"Absent an allegation of fraud, this Court's review of a tax tribunal decision is limited to determining whether the tribunal committed an error of law or applied the wrong legal principles." *AERC of Mich, LLC v Grand Rapids*, 266 Mich App 717, 722; 702 NW2d 692 (2005). The MTT's decision will not be reversed on appeal unless its decision is not supported by competent, material, and substantial evidence on the whole record. *Kadzban v City of Grandville*, 442 Mich 495, 502-503; 502 NW2d 299 (1993), citing Const 1963, art 6, § 28.

On appeal, petitioner first argues that the MTT committed an error of law when it stated that there is no requirement that TCV be calculated using comparables located within the same neighborhood as the subject property. In support of its assessment, respondent submitted sales evidence comparing petitioner's property to comparable parcels located in adjacent neighborhoods. Petitioner argues that MCL 211.27(1) requires that TCV be calculated by using comparables located within the property's immediate neighborhood. MCL 211.27(1) provides in relevant part as follows:

As used in this act, 'true cash value' means 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, and not at auction sale In determining the true cash value, the assessor shall also consider the advantages and disadvantages of location; quality of soil; zoning; existing use; present economic income of structures

Petitioner asserts that "the place where the property . . . is" means the neighborhood where the property is located.

The plain language MCL 211.27(1) does not support such as narrow interpretation. Because the word "place" is not defined by MCL 211.27, we consult a dictionary to determine its plain meaning. *Haynes v Neshewat*, 477 Mich 29, 36; 729 NW2d 488 (2007). *Random House Webster's College Dictionary* (1991) provides numerous definitions for the word "place," the most relevant of which is "a region or area." Therefore, contrary to petitioner's argument, "the place where the property . . . is" is not confined to the property's immediate neighborhood. Rather, the definition is broader and includes the "region or area" where the property is located.

This is further supported by the Legislature's inclusion of appropriate adjustment factors within MCL 211.27(1). While there is no mandated method for determining TCV, *Meadowlanes Ltd Dividend Housing Ass'n v Holland*, 437 Mich 473, 484; 473 NW2d 636 (1991), "[i]n

³ MCL 205.737(3) provides that "[t]he petitioner has the burden of proof in establishing the true cash value of the property."

determining the true cash value, the assessor shall . . . consider the advantages and disadvantages of location; quality of soil; zoning; existing use; present economic income of structures,” MCL 211.27(1). Therefore, when the sale-comparison or market approach⁴ is used to determine TCV, an assessor is required to make adjustments based on the property’s location. The need to make adjustments for location presupposes that an assessor be allowed to use comparables not necessarily within the property’s immediate neighborhood.

Next petitioner argues that the referee erred by stating that, “Petitioner argues that there were no recent sales within the subject’s immediate neighborhood.” Petitioner argues that he never made this argument at the hearing, and that by attributing this false statement to him, the MTT provided respondent with justification for its selection of out-of-neighborhood comparables. This argument is without merit. In the proposed opinion and judgment, the referee stated as follows: “Petitioner argues that there were no recent sales within the subject’s immediate neighborhood; however, there is no requirement that comparables be located within the neighborhood.” When viewed in context, it is apparent that the referee was referring to petitioner’s attack on *respondent’s* valuation assessments. Petitioner had argued that respondent’s valuation was in error because it did not use sales data from within his neighborhood. The referee, however, determined that there was no requirement that the comparables be located within the petitioner’s neighborhood, a conclusion with which we have already agreed.

Petitioner also argues that the referee abused her discretion when she excluded certain evidence. Specifically, petitioner argues that the referee improperly excluded several sketches and diagrams submitted to the tribunal that showed alleged measurement errors made by respondent when measuring his house. That the referee did not specifically mention the evidence when rendering her proposed opinion and judgment does not mean that the evidence was “excluded.” Therefore, petitioner’s argument is without merit. In any event, the abuse of discretion standard has no application to our review of the tribunal’s decision. See *AERC*, 266 Mich App at 722. It is for this same reason that we reject petitioner’s argument that the referee abused her discretion when it excluded rebuttal evidence that petitioner attempted to offer at the October 4, 2010, hearing.

Finally, although the hearing referee may have erred when she stated that the only sales evidence provided by petitioner was from 2006 and early 2007, petitioner’s evidence of the 2010 sales comparisons was submitted to the MTT. In particular, petitioner argued in one of his exceptions that the referee failed to consider the 2010 sales comparison evidence. However, the MTT clearly considered petitioner’s exception on this issue, finding that the referee either considered the evidence, or that the evidence was without merit. Consequently, in light of the

⁴ “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.” *Meadowlanes*, 437 Mich at 485 n 19.

entire record, we hold that there was substantial evidence to support the MTT's decision. Const 1963, art 6, § 28.

Affirmed.

/s/ William B. Murphy

/s/ Joel P. Hoekstra

/s/ Christopher M. Murray