

STATE OF MICHIGAN
COURT OF APPEALS

THOMAS W. MCDONALD, SR.,

Petitioner-Appellant,

v

TOWNSHIP OF KAWKAWLIN,

Respondent-Appellee.

UNPUBLISHED
November 26, 2013

No. 312502
Tax Tribunal
LC No. 00-425702

Before: METER, P.J., and SERVITTO and RIORDAN, JJ.

PER CURIAM.

Petitioner appeals as of right the order of the Tax Tribunal denying petitioner's property tax appeal. Because we find that the Tribunal's findings were supported by competent, material, and substantial evidence, we affirm.

I. FACTS

Petitioner owns residential real property in Kawkawlin Township, Michigan, which for tax year 2011 was assessed with a state equalized value and taxable value of \$206,200. Petitioner protested those values to the Board of Review and subsequently appealed the Board of Review's decision affirming those values to the small claims division of the Michigan Tax Tribunal.

Pursuant to petitioner's appeal, a hearing was held before a hearing referee, with the referee considering evidence in the form of an appraisal report supplied by petitioner's qualified appraiser, expert testimony by that same appraiser, and the township's property record card for the property in question. Following the hearing, the referee issued a proposed opinion and judgment affirming the state equalized value and taxable value of petitioner's real property. In support of its proposed opinion, the referee found that the property record card accurately described the property in question, that the comparables used in petitioner's appraisal report were not of like properties, and that respondent's valuation of the property's bay frontage was supported by both sales studies and market evidence.

Petitioner filed exceptions to the proposed opinion and judgment, and the Tax Tribunal issued a final opinion and judgment accepting the proposed opinion and judgment of the hearing referee. In support of its opinion, the Tribunal found that petitioner failed to meet the burden of proof, that petitioner's comparable properties were significantly smaller than the property at

issue, that two of petitioner's comparable properties were distressed sales, and that the property record card accurately described the property and complied with the cost calculation instructions in the State Tax Commission assessors manual. Accordingly, the Tribunal affirmed the state equalized value and taxable value of petitioner's real property.

This appeal followed.

II. ANALYSIS

Petitioner argues that the Tax Tribunal's findings were not supported by competent, material, and substantial evidence. We disagree.

"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." Const 1963, art 6, § 28. A Tax Tribunal decision that is not supported by competent, material, and substantial evidence on the whole record is an "error of law." *Oldenburg v Dryden Twp*, 198 Mich App 696, 698; 499 NW2d 416 (1993). "Substantial evidence" must be more than a scintilla of the evidence, though it may be substantially less than a preponderance of the evidence. *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

Here, the Tribunal based its findings on respondent's property record card, as well as on its evaluation of the appraisal report submitted by petitioner. The Tribunal clearly reviewed the appraisal and indicated why it found the appraisal less reliable. It also clearly addressed each of respondent's objections regarding the property card explaining its findings regarding each objection. Accordingly, the Tax Tribunal's findings were supported by competent, material, and substantial evidence, and we must affirm. Petitioner attempts to circumvent this fact by arguing that the probative weight of evidence submitted to the Tax Tribunal is evaluated under a "reasonably prudent person" standard. Petitioner supports this assertion by reference to Tax Tribunal Rule 342(1), which reads:

(1) The tribunal may admit, and give probative effect to, evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law.

Although Tax Tribunal Rule 342(1) applies to the admission of probative evidence submitted to the Tax Tribunal, the applicable standard of review in this case does not call upon this Court to evaluate whether the Tax Tribunal gave probative weight to the evidence in the manner of reasonably prudent person. Instead, this Court is charged only with determining whether the Tribunal's findings were supported by competent, material, and substantial evidence. As the Tribunal's decision in this case was supported by such evidence, we affirm.

Affirmed.

/s/ Patrick M. Meter
/s/ Deborah A. Servitto
/s/ Michael J. Riordan