STATE OF MINNESOTA

IN SUPREME COURT

A19-0428

Tax Court | Hudson, J.

Lowe's Home Centers, LLC (Plymouth),

Relator,

vs.

Filed: January 29, 2020
Office of Appellate Courts

County of Hennepin,

Respondent.

Thomas R. Wilhelmy, Judy S. Engel, Gauri S. Samant, Fredrikson & Byron, P.A., Minneapolis, Minnesota, for relator.

Michael O. Freeman, Hennepin County Attorney, Thomas F. Pursell, Deborah L. Russell, Assistant County Attorneys, Minneapolis, Minnesota, for respondent.

Mark R. Bradford, Edward F. Fox, Bassford Remele, P.A., Minneapolis, Minnesota, for amicus curiae Alliance Property Consultants, Inc.

Eric J. Magnuson, Robins Kaplan LLP, Minneapolis, Minnesota, for amicus curiae USAPTA, Inc.

S Y L L A B U S

1. As a whole, the record reasonably supports the tax court's decision to place greater weight on the cost approach than on the sales approach.

2. The record supports the tax court's adjustments to the comparable properties considered in reaching a valuation determination.

3. The tax court's decision did not violate the taxpayer's due process rights.

Affirmed.

Considered and decided by the court without oral argument.

O P I N I O N

HUDSON, Justice.

This appeal involves the contested value of a Lowe's store in Plymouth, Minnesota ("the subject property"). Relator Lowe's Home Centers, LLC petitioned the tax court, asserting that Hennepin County's assessment for the 2015 tax year—$11,755,000—overstated the fair market value of the subject property. The tax court agreed in part with Lowe's, reducing the County's valuation to $10,507,000 for the 2015 tax year. Lowe's appeals that decision, arguing that the tax court clearly erred because it inflated the property's fair market value by 1) primarily relying on the cost approach over the sales approach and 2) improperly applying adjustments to the comparable properties considered under both approaches. Lowe's argues further that the tax court violated its due process rights by failing to rely on evidence in the record in reaching its conclusions. We conclude that the record supports 1) the tax court's decision to place greater weight on the cost approach rather than on the sales approach and 2) its adjustments under both approaches. Accordingly, the tax court did not violate the due process rights of Lowe's. We therefore affirm the tax court's decision.

FACTS

The subject property comprises 12.89 acres—on which Lowe's built a retail store and lawn and garden center in 2005—located at 3205 Vicksburg Lane North in Plymouth, Minnesota. Hennepin County assessed the property's market value as of January 2, 2015, at $11,775,000. Lowe's appealed to the tax court and retained Michael S. MaRous as its expert. MaRous estimated that the property's fair market value for 2015 was $5,350,000. The County's expert, Brett Hall, estimated that it was $11,950,000. Both parties' experts considered all three valuation approaches—sales, cost, and income—to reach an estimate of fair market value. Both experts gave little to no weight to the income approach,[1] and determined that the subject's highest and best use as improved was as a continued big-box retail property.

The experts disagreed on how to apportion weight between the sales approach and the cost approach. MaRous placed greater weight on the sales approach. Applying that approach, he relied on nine sales of comparable retail properties and adjusted their sales prices to account for age, size, location, date of sale, and other factors. Based on these sales and on his adjustments, MaRous concluded that the sales approach supported an estimated market value of $5,350,000 for the 2015 tax year. Hall, in contrast, relied on the cost approach, testifying that a big-box owner generally acquires land and builds a new store. After making adjustments for improvements and depreciation, Hall concluded that

[1] The tax court gave no weight to the income approach because it had insufficient data to complete this analysis and neither expert relied on it. We do not discuss the income approach further because Lowe's does not challenge this decision on appeal and because the record supports the tax court's decision under the other two approaches.

the cost approach supported an estimated market value of $11,950,000 for the 2015 tax year.

Beginning with the sales approach, the tax court rejected several of the experts' comparable sales properties but ultimately relied on three: Walmart–Blaine, Lowe's–Rogers, and Lowe's–Cambridge. The tax court then adjusted the sales price for each comparable to account for the impact of deed restrictions, the date of sale, the age of improvements, and the combined impacts of traffic and location. These adjustments produced a market value estimate of $7,658,000 for the 2015 tax year.

The tax court then turned to the cost approach to determine an estimated fair market value based on the price a buyer would pay to construct new property with the same features as the subject property. The parties identified several commercial land sales, most of which the tax court rejected based on dissimilarities in size, use, or location. The tax court relied on three of the experts' comparables for its cost approach analysis: Hy-Vee–Robbinsdale, Hy-Vee–New Hope, and Cabela's–Woodbury. Using each comparable property's land values, the tax court placed 70-percent weight on the Cabela's–Woodbury property and 15-percent weight on the other comparable properties because they had less favorable locations. These calculations resulted in a weighted average price of $11.50 per square foot. The tax court then determined the value of the subject property's improvements. It adopted MaRous's calculation of $8,355,516. The last step in the cost approach requires the tax court to subtract the property's depreciation. The tax court found that the subject property's depreciation was $1,503,993, that its functional obsolescence was $2,500,000, and that it experienced no external obsolescence.

Considering the usefulness of these approaches and the quality of the data used to make these adjustments, the tax court applied 25-percent weight to the sales approach and 75-percent weight to the cost approach. It then concluded that the subject property's 2015 fair market value was $10,507,000.

Lowe's appeals on three issues. First, it asserts that the tax court erred in applying predominant weight to the cost approach. Second, it contends that the tax court erroneously calculated the adjustments under both approaches. Finally, Lowe's argues that the tax court's decision violated its right to due process.

ANALYSIS

We review the tax court's market value determinations for clear error. *Equitable Life Assurance Soc'y of the U.S. v. Cty. of Ramsey*, 530 N.W.2d 544, 552 (Minn. 1995). "The tax court's decision should be considered clearly erroneous only when this court is left with a 'definite and firm conviction that a mistake has been committed'[.]" *Id.* (quoting *Westling v. Cty. of Mille Lacs*, 512 N.W.2d 863, 866 (Minn. 1994)). The imprecision of market value determinations justifies our deference "unless the tax court has either clearly overvalued or undervalued the subject property, or has completely failed to explain its reasoning." *Harold Chevrolet, Inc. v. Cty. of Hennepin*, 526 N.W.2d 54, 58 (Minn. 1995). The tax court must determine the experts' credibility and weigh their testimony accordingly in determining market value. *Menard, Inc. v. Cty. of Clay*, 886 N.W.2d 804, 813 (Minn. 2016). We review the legal questions, such as the due process challenge, de novo. *Equitable Life*, 530 N.W.2d at 552.

I.

We turn first to whether the tax court erred in placing 75-percent weight on the cost approach compared to a 25-percent weight on the sales approach in determining market value. Minnesota Statutes § 273.11, subd. 1 (2018), states that "all property shall be valued at its market value." Market value refers to a property's expected price in a private sale. *Menard, Inc.*, 886 N.W.2d at 819. We have consistently affirmed three approaches to determining market value—sales, cost, and income. *Id.* at 813, 819. Using the sales approach, an appraiser values property "based on the price paid in actual market transactions of comparable properties" after adjusting for "differences between the sold property and the subject property." *Cont'l Retail, LLC v. Cty. of Hennepin*, 801 N.W.2d 395, 402 (Minn. 2011). Using the cost approach, in contrast, an appraiser "determines the current cost of constructing the existing improvements on the property, subtracts depreciation to determine the current value of the improvements, and then adds the value of the land to determine the market value." *Id.*

Because each approach has strengths and weaknesses, we have encouraged the tax court to use at least two approaches to "serve as checks on each other." *Menard, Inc.*, 886 N.W.2d at 819. "[T]he weight placed on each approach depends on the facts of each case." *Cont'l Retail, LLC*, 801 N.W.2d at 402. The tax court discerns not only which approaches to apply, but also how to weigh each approach against the others based "on the quantity and quality of available data." *KCP Hastings, LLC v. Cty. of Dakota*, 868 N.W.2d 268, 275 (Minn. 2015) (citation omitted) (internal quotation marks omitted).

Lowe's argues that the tax court erred in placing primary reliance on the cost approach, because only the sales approach accurately captures the fair market value of its property. It asserts that, because market participants do not rely on the cost approach in a private sale, the tax court, by favoring this approach so heavily, violated Minn. Stat. § 272.03, subd. 8 (2018) (defining the market value as "the usual selling price . . . which could be obtained at a private sale"). Lowe's argues further that the age of its building—9 years old—makes the cost approach particularly ill-suited for its property. *See Guardian Energy, LLC v. Cty. of Waseca*, 868 N.W.2d 253, 262 (Minn. 2015) (noting that the cost approach is best applied when "the improvements are new or suffer only minor depreciation" (quoting *Cont'l Retail, LLC*, 801 N.W.2d at 403)).

The County disagrees, asserting that the cost approach is the most reliable method for the property because big-box stores in good retail locations do not sell often; thus, the sales approach is a less reliable indicator in this case of the subject property's fair market value.[2]

We rejected the sales-approach-only argument as applied to a big-box retail property in *Menard, Inc.* 886 N.W.2d at 819–21. There, Menard appealed the assessments for four tax years. *Id.* at 809. The tax court applied 60-percent weight to the cost approach and 40-

[2] As an example, the County explains that Walmart purchased land in Plymouth—where the subject property is located—for $10.6 million in 2010. Walmart purchased the property without first securing the city's approval to build a store, presumably because the location was strong enough to justify the risk that it could not build. The County argues that the tax court's ultimate figure for the subject property ($10.507 million) could not be inflated if Walmart was willing to spend $10.6 million on land in a similar location to the subject property just "so it could spend even more money to build a store."

percent weight to the sales approach for the first two assessment years, and then equal weight in the last two assessment years. *Id.* at 819. Menard asserted that giving equal weight to the cost and sales approach "divorces market value from its intended objective" and that "the tax court's job was done" upon finding that the sales approach was reliable enough to use. *Id.* (internal quotation marks omitted). But we disagreed, concluding that the inexact nature of appraisal requires the tax court to weigh each of the three approaches based "on the reliability of the data and the nature of the property being valued." *Id.* at 819–20 (quoting *Harold Chevrolet, Inc.*, 526 N.W.2d at 59). The tax court did not rely exclusively on the sales approach because that approach provided "no objective basis" to determine whether the subject property and the sales comparables were similar with respect to "the quality of the retail location," which we considered "a critical factor." *Id.* at 820. We affirmed, concluding that the record supported the tax court's decision. *Id.* at 819–21.

Here, the tax court applied similar logic to attribute greater weight to the cost approach than the sales approach. The tax court noted the undisputed fact that big-box retailers do not frequently buy one another's properties. *See Montgomery Ward & Co. v. Cty. of Hennepin*, 450 N.W.2d 299, 303 (Minn. 1990) (holding that the sales approach is "questionable" as applied to anchor department stores because they rarely sell and because the price often includes "fixtures and inventory"). Just like in *Menard, Inc.*, the tax court was concerned that even among the comparable sales that it adopted, none were for property located in a strong retail location like Plymouth. It reasoned that the cost approach is superior when sales comparables are weak. *See Menard, Inc. (Coon Rapids) v. Cty. of Anoka*, Nos. 02-CV-15-2043, 02-CV-16-1997, 2019 WL 237158, at *26–29 (Minn. T.C.

Jan. 15, 2019) (finding that "confidence in the sales approach is badly undermined by the inferior quality of the available evidence[,]" including dissimilar comparables). Finally, the tax court found that the 9-year-old retail building on the subject property qualified as "relatively new construction." *See Menard, Inc.*, 886 N.W.2d at 809, 813–16 (affirming the tax court's adoption of the cost approach for a big-box store between 4 and 7 years old).

Because the tax court adequately explained its reasoning and the record supports the tax court's determination, the tax court did not clearly err by primarily relying on the cost approach over the sales approach.

II.

Lowe's also challenges the tax court's adjustments to the sales prices of the comparable properties considered under each approach. We defer to the tax court's factual findings unless it has clearly overvalued the property or "completely failed to explain its reasoning." *Nw. Nat'l Life Ins. Co. v. Cty. of Hennepin*, 572 N.W.2d 51, 52 (Minn. 1997). We also defer to the tax court's credibility determinations. *Menard, Inc.*, 886 N.W.2d at 818 (affirming the tax court's deed-restriction findings because they involved credibility determinations). The tax court may diverge from expert evidence with careful explanation and "factual support in the record." *Eden Prairie Mall, LLC v. Cty. of Hennepin* (*Eden Prairie I*), 797 N.W.2d 186, 194 (Minn. 2011).

A.

Lowe's challenges the tax court's adjustments to the sales prices of the comparable properties to account for deed restrictions, the date of the sale, and traffic and location. We begin with the adjustments for deed restrictions.

Properties may not be truly comparable if a deed restriction impacts the property's market value by limiting the potential buyers or uses of the property. *See, e.g.*, *Menard, Inc.*, 886 N.W.2d at 818 (considering whether the tax court erred in adjusting the value of a comparable property to account for a deed restriction that constrained the owner's use for 7 years). Lowe's contends that the record does not support the tax court's deed-restriction adjustments to the sales prices for the comparable properties. Lowe's relies on the testimony of its real estate manager for two of the comparable properties, Lowe's–Rogers and Lowe's–Cambridge. The manager testified that the buyers for both properties accepted their sales prices before Lowe's disclosed the deed restrictions. Accordingly, Lowe's argues, the record establishes that the deed restrictions did not lower the values of these comparable properties.

The record, however, supports the tax court's finding that deed restrictions did impact the sales prices of these comparable properties. First, the tax court noted that we upheld a 15-percent deed-restriction adjustment on the sales price for Lowe's–Rogers. *See id.* (noting that the 15-percent adjustment "adequately reflected the constraint imposed by the [7-year] restriction"). It then reasoned that, despite similarities in age and size between Lowe's–Rogers and Lowe's–Cambridge, the property with a 3-year use restriction sold for more than the property with a 7-year use restriction. This discrepancy, the tax court said, suggests that the longer a deed restriction's duration, the lower the property's value. The

tax court concluded that the "long duration" of Walmart–Blaine's deed restriction would reduce its value by limiting the number of buyers for that property.[3]

The tax court also explained why it found the County's proposed deed-restriction adjustment (70 percent) "problematic." In rejecting both experts' recommendations in part, the tax court explained that it arrived at an alternative adjustment for deed restrictions on Lowe's–Cambridge and Lowe's–Rogers because other factors—such as traffic and location—contributed to the differences in their sales prices. The tax court did not clearly err in these findings.

Next, Lowe's challenges the tax court's 7.5-percent per year date-of-sale adjustment, between the valuation date (2015) and the sales dates for the comparable properties (2016 for one property and 2012 for the other two). A date-of-sale adjustment neutralizes the differences in the sales prices for the comparable properties and the value of the subject property based on each property's change in value over time. *See Carson Pirie Scott & Co. (Ridgedale) v. Cty. of Hennepin*, 576 N.W.2d 445, 450 (Minn. 1998) (concluding that certain properties were not sufficiently comparable because many "were

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[3] Lowe's argues that the tax court should have accepted, or at least explained why it rejected, the testimony from its real estate manager. Although the tax court has discretion to accept or reject expert testimony based on reliability, *Menard, Inc.*, 886 N.W.2d at 818, the tax court should generally explain why it rejects a witness's testimony. Without this explanation, we cannot determine whether the tax court rejected testimony or simply overlooked it. *See Archway Mktg. Servs. v. Cty. of Hennepin*, 882 N.W.2d 890, 896 (Minn. 2016) (holding that the tax court should have addressed an expert's testimony about whether he verified the sale of a comparable because it was unclear from the tax court's order whether it "rejected or simply overlooked" the expert testimony). But because the tax court adequately explained why it adopted record evidence that contradicted the manager's testimony, the tax court did not clearly err in failing to specifically state that it was rejecting the manager's testimony.

distressed at the time of sale, and therefore, not genuinely comparable to the [subject] property"). MaRous concluded that a date-of-sale adjustment was unnecessary because sales prices for big-box retail properties have been flat to trending downward. Hall testified that the sales prices of these properties have increased due to an improving economy.

The tax court adequately explained why it applied a 7.5-percent date-of-sale adjustment using sufficient evidence from the record. It relied on Hall's evidence, showing that sales of Minnesota's metro-area big-box stores for continued retail use were "trending upward . . . in the years before the valuation date." The tax court explained that even though Hall's date-of-sale adjustment data included regional or dissimilar properties, it was superior to MaRous's, because MaRous's data contained only general national trends. The record therefore supports the tax court's 7.5-percent date-of-sale adjustment.

Finally, Lowe's challenges the tax court's location adjustment. Location adjustments control for the differences in market area between the subject property and the comparable properties. Appraisal Inst., *The Appraisal of Real Estate* 417 (14th ed. 2013) (describing how "a residential property with a pleasant view of a park and one located two blocks away with a less attractive view" may affect value). To determine its adjustment, the tax court evaluated factors such as demographics and traffic counts in the general area, as well as the overall location and desirability of the trade area. The parties' experts agreed that the subject property's location is superior to that of the comparable properties in terms of population, income demographics, and traffic counts. The difference is a matter of degree. The tax court applied a higher location adjustment than MaRous suggested because it generally found Hall's location data to be more reliable.

Lowe's argues that the tax court erroneously adopted this higher adjustment for two reasons. First, instead of adopting one of the experts' recommendations, the tax court adopted an adjustment that was "approximately the mid-point between [Hall's] traffic exposure and [his] overall location adjustment." Second, because the tax court had already rejected five of the comparables that Hall used to calculate his traffic exposure and overall location adjustment values, the tax court should not have adopted a value that relied upon those comparables.

The tax court explained that it accepted Hall's evidence because, compared to MaRous, he applied more factors and used more detail to describe the desirability of Plymouth's location for a big-box retailer. Although the tax court did not explain in detail its decision to adopt a midpoint adjustment, we cannot conclude that the tax court "ignor[ed] the record evidence and the expert appraisal testimony." *Guardian Energy, LLC*, 868 N.W.2d at 266. In *Guardian Energy*, we concluded that the tax court's external obsolescence finding was clearly erroneous because the methodology it adopted over the experts' testimony had "virtually no record support or explanation." *Id.* Here, the tax court explained that Hall's evidence was more reliable, and we defer to the tax court on credibility determinations. *Menard, Inc.*, 886 N.W.2d at 813. Because the tax court used the experts' conflicting evidence to arrive at a value within Hall's proposed range of land-value prices, the tax court did not choose an entirely new methodology. *See Nw. Racquet Swim & Health Clubs, Inc. v. Cty. of Dakota*, 557 N.W.2d 582, 588 (Minn. 1997) ("[A] court confronted with conflicting appraisals may conclude that a compromise in

valuation is required, provided it has evidentiary support and is not unreasonable or clearly erroneous.").

B.

Lowe's also challenges the tax court's calculations and adjustments made under the cost approach, including the value of the land and depreciation.

The cost approach requires determining the value of the land. *See Harold Chevrolet, Inc.*, 526 N.W.2d at 56. The tax court accepted two of Hall's comparables and one comparable used by both experts to find that the subject property's land was worth $11.50 per square foot. It applied 70-percent weight to one comparable (Cabela's–Woodbury) and 15-percent weight to the other two based on their inferior locations.

Lowe's argues that, because the parties' experts used land values of $11 and $7 per square foot, the tax court's finding of $11.50 per square foot lacks factual support in the record. Lowe's asserts that the tax court weighed Cabela's–Woodbury too heavily because it did not explain why it adopted Hall's square-footage measurement for this property over MaRous's, which resulted in a higher price per square foot.

The County asserts that the tax court adopted a value within the range of Hall's land-value prices ($10.73 to $14.34 per square foot). It argues that the record supports the tax court's decision to apply 70-percent weight to Cabela's–Woodbury because Hall testified that he confirmed his square-footage measurement with the County while MaRous miscalculated his value.

The record supports the tax court's land-value determination. The tax court's value was within Hall's range of land-value prices based on six properties that he evaluated and

adjusted to account for use, size, traffic exposure, and overall location. He ultimately recommended a value toward the lower end of that price spectrum at $11 per square foot, which the tax court noted was "conservatively lower" than his adjusted average at $13.18 per square foot. The tax court, therefore, also chose a value that was conservatively lower than Hall's adjusted average, even though it was slightly higher than his final recommendation.

The tax court also explained that it weighed Cabela's–Woodbury at 70 percent because it was the strongest comparable. Finally, the tax court concluded that MaRous failed to provide the necessary detail, such as property rights, financing, or market conditions, to apply his adjustments. Given the tax court's role in assessing witness credibility, and because the record supports the tax court's conclusion, we reject the argument that the tax court's land-value findings lack factual support in the record. *See Eden Prairie I*, 797 N.W.2d at 194 ("We conclude that the tax court is not precluded from arriving at a value determination that is lower or higher than the appraisal testimony presented at trial, provided that the court adequately explains its reasoning and its determination is supported by the factual record.").

Next, Lowe's challenges the tax court's calculations for depreciation, focusing on functional obsolescence and external obsolescence. Depreciation reflects decreases in value for a property due to age, wear and tear, and other factors. *Menard, Inc.*, 886 N.W.2d at 815. Functional obsolescence is a form of depreciation that considers diminution in value due to the function and utility of the property. *See, e.g.*, *Marquette Bank Nat'l Ass'n v. Cty. of Hennepin*, 589 N.W.2d 301, 305–06 (Minn. 1999) (affirming the tax court's

finding that a bank's "excess ornamentation, unnecessary basement and ground floor space" was evidence that the branch experienced functional obsolescence in light of "customer demand for electronic banking" that required branches to "reduce overhead"); *Empire State Bank v. Lyon Cty.*, 454 N.W.2d 616, 619 (Minn. 1990). External obsolescence refers to depreciation based on negative influences, usually incurable, that exist outside the property site. *See Guardian Energy, LLC*, 868 N.W.2d at 262–63. An appraiser can analyze these forms of depreciation individually or together. *Menard, Inc.*, 886 N.W.2d at 815. Hall analyzed them together under a market-extraction method, and MaRous analyzed each element separately. The tax court found that the subject property experienced $2.5 million in functional obsolescence and that it experienced no external obsolescence.

Lowe's argues that the tax court erred in reaching these depreciation values because it relied on an "unrelated" case to find a functional-obsolescence value advocated by neither expert. It asserts that the tax court should not have developed its own calculation of total depreciation without support in the record. Further, Lowe's argues that the 50-percent difference in value between the tax court's sales approach and cost approach determinations demonstrates that the tax court did not properly calculate functional or external obsolescence.

We are not persuaded by this argument. The tax court adequately explained why it rejected both experts' recommendations for functional obsolescence. It rejected Hall's market-extraction method because his comparables were too dissimilar. It rejected MaRous's recommendation because he did not explain how a well-performing property in

a good retail location had experienced the level of functional obsolescence he described. The tax court used this same reasoning to support its finding of no external obsolescence. Further, the tax court properly looked to our decision in *Menard, Inc.* to analyze the value of a comparable's post-sale improvements to find the subject's functional depreciation. 886 N.W.2d at 818 n.6 ("[P]ost-sale improvements . . . fit within the definition of functional obsolescence . . . ."). The tax court measured Lowe's–Cambridge's functional obsolescence by the $2.5 million the buyer spent to re-build and re-brand much of the store to fit its preferences. Given the similarities between the subject property and Lowe's–Cambridge, the tax court adopted a $2.5 million value. The record adequately supports the tax court's decision.

III.

Finally, we turn to the due process challenge. A "relator's constitutional right to due process is at stake" in property tax cases. *Montgomery Ward & Co.*, 450 N.W.2d at 306. Lowe's argues that the tax court violated its due process rights by adopting values that neither party advanced, which prevented Lowe's from rebutting the evidence the tax court relied on until after it made its decision.[4]

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[4] Amicus USAPTA, Inc. argues that the tax court has routinely rejected "established valuation principles" to reach "inflated value[s]" for properties, which requires us to exercise our supervisory authority over the tax court. Amicus Alliance Property Consultants, Inc. similarly argues that the tax court "has shown an increasing tendency to depart from generally accepted market-based analyses to justify inflated valuations for big-box properties." The parties, however, do not raise these arguments. "Generally, we do not decide issues raised by an amicus that are not raised by the litigants themselves." *League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 645 n.7 (Minn. 2012). Lowe's confines its due process challenge to the result reached here; it does not contend that we

But the tax court did not adopt values that were unsupported or unexplained. When the tax court diverged from adopting an expert's specific recommendation, it adopted a value within the range of that expert's data in the record. It did not seek new data (i.e., land value) or adopt a different methodology without explaining why it rejected an expert's approach (i.e., functional obsolescence). Lowe's had, and took, the opportunity to rebut Hall's evidence, which the tax court ultimately relied upon in many instances. That the tax court drew a somewhat different conclusion from that evidence in a few of its determinations does not mean that it violated the taxpayer's right to due process.

CONCLUSION

For the foregoing reasons, we affirm the decision of the tax court.

Affirmed.

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must evaluate due process principles because of decisions reached in other, unrelated cases. Further, amici's arguments cannot be reconciled with the record in this case.