

STATE OF MICHIGAN
COURT OF APPEALS

GREGORY R. BASORE,

Petitioner-Appellant,

v

TOWNSHIP OF STOCKBRIDGE,

Respondent-Appellee.

UNPUBLISHED
January 24, 2013

No. 309244
Tax Tribunal
LC No. 00-402753

Before: SAWYER, P.J., and MARKEY and M. J. KELLY, JJ.

PER CURIAM.

Petitioner Gregory R. Basore appeals by right the Michigan Tax Tribunal's final order and judgment upholding respondent Township of Stockbridge's tax value for Basore's real property. Because we conclude that there were no errors warranting relief, we affirm.

For 2010, the Township assessed Basore's property's true cash value as \$144,000, its state equalized value as \$72,000, and its taxable value as \$65,450. The Township lowered these values for 2011; it assessed the property's cash value as \$123,000, and assessed its equalized and taxable values as \$61,550. Basore appealed these assessments to the Tribunal.

At the hearing on his appeal, Basore presented a report prepared by a certified residential appraiser that gave substantially lower values using a sales comparison approach and premised on the actual condition of the property; the appraiser opined that the property's cash value for 2010 was \$54,000, and that its equalized and tax values were \$27,000. The appraiser provided that the property's cash value for 2011 was \$46,000 and that its equalization and tax values were \$23,000.

In response, the Township submitted revised values that were lower than those that the Township had previously assessed. The assessor revised the 2010 values to \$133,000 for the cash value, to \$66,500 for the equalized value, and to \$65,450 for the tax value. The assessor revised the 2011 values to \$121,000 for the tax value, to \$60,500 for the both the equalized and tax values.

The hearing referee assigned to review Basore's appeal found that both the Township's revised values and Basore's values were unreliable because both used comparisons to dissimilar properties; for that reason he adopted the originally assessed values: "As both parties failed to provide reliable evidence to support their respective contentions of value, the Tribunal finds that

the most reliable indicators of value are the assessed values, as indicated on the property record card.” The referee noted that the record card “and the calculation provided therein” provided reasonable support for the original values.

Basore filed exceptions and requested a rehearing; he argued that the referee failed to make an independent determination of the cash value, as he was required to do, and that his findings were not supported by competent, material, and substantial evidence. Basore also argued that the referee could not rely on the Township’s original assessment record card because even the Township’s evidence showed that the prior assessment was too high and not premised on the property’s actual condition.

The Tribunal affirmed the referee’s valuation; it concluded that Basore “failed to show good cause to justify the modification of the Proposed Opinion and Judgment or the granting of a rehearing.” It also determined that the referee could rely on the original assessment:

[T]he Hearing Referee was not required to lower the assessment merely because [the Township] was not aware of the [property’s] current condition Further, the Hearing Referee did not err in his determination that [Basore] has failed in his burden of establishing the true cash value of the subject property as [his] evidence was not the most reliable indicator of value. The Hearing Referee did make an independent determination of value as he received the cost-less-depreciation approach to value, as reflected on the property record card, and found that it was the most compelling evidence. Thus, the Hearing Referee did not err

Basore now appeals to this Court.

This Court has only a limited ability to review decisions by the Tax Tribunal. *President Inn Properties, LLC v Grand Rapids*, 291 Mich App 625, 630; 806 NW2d 342 (2011). Typically, this Court is bound by the Tribunal’s factual determinations:

While this Court is bound by the Tax Tribunal’s factual determinations and may properly consider only questions of law under this section, a Tax Tribunal decision that is not supported by competent, material, and substantial evidence on the whole record is an “error of law” within the meaning of Const 1963, art 6, § 28. Substantial evidence must be more than a scintilla of the evidence, although it may be substantially less than a preponderance of the evidence. “Substantial” means evidence that a reasonable mind would accept as sufficient to support the conclusion. [*Great Lakes Div of Nat’l Steel Corp v Ecorse*, 227 Mich App 366, 388-389; 576 NW2d 667 (1998) (citations omitted).]

The Tribunal has the “duty to make its own independent determination of true cash value.” *Id.* at 389. Although the Tribunal must make an independent determination of cash value, it “may adopt the assessed valuation on the tax rolls as its independent finding of [true cash value] when competent and substantial evidence supports doing so.” *President Inn Properties*, 291 Mich App at 640. Moreover, the Tribunal “is not bound to accept the parties’ theories of valuation. It may accept one theory and reject the other, it may reject both theories,

or it may utilize a combination of both in arriving at its determination of true case value.” *Great Lakes Div of Nat’l Steel Corp*, 227 Mich App at 389-390. “Regardless of the method employed, the Tax Tribunal has the overall duty to determine the most accurate valuation under the individual circumstances of the case.” *President Inn Properties*, 291 Mich App at 631.

The Michigan Constitution provides for the taxation of property at not more than 50 percent of the property’s true cash value. Const 1963, art 9, § 3. “[T]rue cash value’ means the usual selling price at the place where the property to which the term is applied at the time of assessment, being the price that could be obtained for the property at private sale” MCL 211.27(1). True cash value is synonymous with fair market value. *President Inn Properties*, 291 Mich App at 637. There are several approaches to determining true cash value:

the capitalization-of-income approach, the sales-comparison approach or market approach, and the cost-less-depreciation approach. . . . Regardless of the valuation approach employed, the final value determination must represent the usual price for which the subject property would sell. In other words, a valuation method is wrong only if it does not lead to the most accurate determination of the taxable property’s true cash value or fair market value. Thus, the Tax Tribunal has a duty to select the approach which provides the most accurate valuation under the circumstances of the individual case. [*Id.* at 639 (quotation marks and internal citations omitted).]

Here, there was evidence for three different true cash values for the relevant years: the originally assessed values, the values stated by Basore’s appraiser, and the Township’s revised values. Both Basore’s appraiser’s values and the revised values submitted by the Township were lower than the originally assessed true cash values. Basore asserts that the Tribunal could not properly rely on the assessment record and had to make an independent evaluation or analysis to support its conclusion. Although the Tribunal could not merely affirm the assessment, *id.* at 640, as the Tribunal clarified in its final opinion, the hearing referee relied on the cost-less-depreciation method *as calculated* on the assessment record card, which method can be used to derive true cash value. *Id.* Further, the original record card was in evidence and the Tribunal could properly rely on it in determining which values were the most accurate. See *id.* at 642 (noting that this Court must affirm where the Tribunal’s valuation was within the range established by the evidence). Given the evidence, we cannot conclude that no reasonable person would accept the evidence as sufficient to support the Tribunal’s valuations; therefore, we must affirm. *Great Lakes Div of Nat’l Steel Corp*, 227 Mich App at 388-389.

There were no errors warranting relief.

Affirmed.

/s/ David H. Sawyer
/s/ Jane E. Markey
/s/ Michael J. Kelly