

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

THOMAS E. McDONALD and JOAN C.  
McDONALD

UNPUBLISHED  
August 30, 1996

Petitioners-Appellants,

v

No. 182919  
LC No. 205889

TOWNSHIP OF WILCOX,

Respondent-Appellee.

---

Before: Doctoroff, C.J., and Wahls and Smolenski, JJ.

PER CURIAM.

Petitioners appeal as of right from an opinion and judgment issued by the Michigan Tax Tribunal, Small Claims Division, affirming respondent's property assessment. We affirm.

Petitioners' property, which is the subject of this case, was valued at \$0 in 1992 for tax purposes, but in 1994, respondent valued the property at \$4,722. Petitioners contend that the property could not have increased in value so dramatically in the absence of fraud and deceit by township officials. Petitioners also argue that the tax tribunal failed to consider their nontaxable drainage lands. We disagree.

We review tax tribunal decisions to determine whether they are authorized by law and whether the factual findings are supported by competent, material, and substantial evidence on the whole record. *APCOA, Inc v Treasury Dep't*, 212 Mich App 114, 117; 536 NW2d 785 (1995). Deference is given to an agency's findings of fact, *THM Ltd v Comm'r of Ins*, 176 Mich App 772, 776; 440 NW2d 85 (1989), especially as to conflicts in the evidence and credibility of witnesses, *Arndt v Dep't of Licensing*, 147 Mich App 97, 101; 383 NW2d 136 (1985). The burden of proof is on the taxpayer to establish the true cash value of the property. MCL 205.2737(3); MSA 7.650(37)(3).

In the case at bar, petitioners failed to submit any evidence regarding the true cash value of the property, nor did they demonstrate that a portion of their property was nontaxable drainage land. In addition, petitioners submitted no evidence that respondent had conspired to increase their property taxes or that any increase was the product of fraud. The hearing referee found that petitioners'

testimony was not sufficiently credible to warrant a conclusion that the assessment was unlawfully excessive. We defer to the referee's findings regarding credibility. *Arndt, supra*.

Petitioners also contend that the tribunal erroneously refused to address their request for a poverty exemption. A protest of a property tax assessment before the local board of review is required before the tax tribunal may acquire jurisdiction over the dispute. *Manor House Apartments v City of Warren*, 204 Mich App 603, 605; 516 NW2d 530 (1994). Pursuant to the Tax Tribunal Act, the tax tribunal has exclusive jurisdiction to hear a claim for a poverty-based property tax exemption which follows the denial of the request by a board of review. *Nicholson v Birmingham Bd of Review*, 191 Mich App 237, 239-242; 477 NW2d 492 (1991).

In this case, petitioners failed to raise their request for a poverty exemption before the board of review. Petitioners contend that they repeatedly sought a poverty exemption from respondent. Such action, however, was insufficient to preserve the issue for review by the tax tribunal. *Nicholson, supra*. Accordingly, the tax tribunal correctly ruled that, because no such request was made to the 1994 board of review, it would not consider the issue.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Myron H. Wahls

/s/ Michael R. Smolenski