

STATE OF MICHIGAN
COURT OF APPEALS

CARLETON GLEN GOLF CLUB, INC,

Petitioner-Appellant,

v

TOWNSHIP OF ASH,

Respondent-Appellee.

UNPUBLISHED

December 6, 1996

No. 188696

LC No. 00174426

Before: Hoekstra, P.J., and Sawyer and T.P. Pickard,* JJ.

PER CURIAM.

In this property tax dispute, petitioner appeals as of right from a supplemental opinion and judgment of the Small Claims Division of the Michigan Tax Tribunal, determining the true cash and assessed values of a parcel containing petitioner's clubhouse for the 1991 through 1994 tax years. We reverse and remand for further proceedings consistent with this opinion.

After a hearing on petitioner's challenge to the assessed values of five parcels of land, the tribunal hearing officer affirmed respondent's assessments. On rehearing, the tribunal judge found that respondent erroneously valued the clubhouse parcel because it should have valued the building under the STC Manual cost approach by applying the Class C average square foot table for clubhouses instead of the table for country clubs. The tribunal judge ordered respondent to recalculate the assessments for the clubhouse parcel, and affirmed the assessments for the other parcels.

Respondent's assessor presented his recalculated values in a letter to the tribunal judge. In addition to considering the clubhouse as a Class C average clubhouse, he changed the estimates of economic life and effective age of the building used in his original valuation. Petitioner objected to these changes by way of a letter to the tribunal judge in which it asserted that respondent's assessor circumvented the tribunal's order by improperly modifying the factors used to calculate the true cash value of the clubhouse. After soliciting and receiving written arguments from the parties, the tribunal judge adopted respondent's valuations in a supplemental opinion and judgment.

* Circuit judge, sitting on the Court of Appeals by assignment.

On appeal petitioner contends that it was denied its right to procedural due process when the tribunal solicited post-hearing evidence from respondent and decided disputed issues without conducting an adversarial hearing. We agree. The essential elements of procedural due process are notice and the opportunity to be heard. *Congresshills Apartments v Ypsilanti Twp (After Remand)*, 128 Mich App 279, 287; 341 NW2d 121 (1983). When the tribunal ordered respondent to recalculate the assessments utilizing the Class C average clubhouse table, it apparently believed that its directive merely required respondent's assessor to perform mathematical computations. The recalculated valuation, however, necessitated a revaluation of underlying data and raised new factual issues regarding economic life, effective age, and other factors involved in the determination by respondent's assessor. Because these issues were not apparent at the hearing, the parties had no incentive to develop evidence in support of, and in opposition to, the method used by respondent's assessor. While the tribunal may provide for the submission of the evidence in written form under certain circumstances, MCL 24.275; MSA 3.560(175), due process requires that the tribunal reopen the hearing in the instant case because petitioner cannot adequately challenge respondent's valuation by means of a written brief.¹ *Congresshills, supra* at 288. Accordingly, we reverse the decision of the tribunal and order that on remand the tribunal shall reopen the hearing in this matter to receive evidence and hear arguments regarding respondent's recalculated valuations.

Additionally, we agree with petitioner that the tribunal failed to make sufficient findings of fact in support of its decision regarding the valuation of the clubhouse parcel. Rather than delving into the factual dispute in the instant case, the tribunal judge merely stated that he was persuaded by the reasoning of respondent's assessor. Further findings of fact regarding the underlying variables and the factors used in calculating the true cash value of the clubhouse are necessary to enable a meaningful appellate review. *Granader v Southfield Twp*, 145 Mich App 585, 588; 377 NW2d 893 (1985). Thus, we direct that upon remand the tribunal address these issues in its opinion.

Reversed and remanded to the Small Claims Division of the Michigan Tax Tribunal for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Timothy P. Pickard

¹ We note that respondent's assessor declined to produce any of the underlying data used in his calculations. Respondent must disclose this information on remand so that petitioner can mount a challenge to the valuation.