

STATE OF MICHIGAN
COURT OF APPEALS

SHERMAN POSTMA,

Petitioner-Appellee,

v

CITY OF WYOMING,

Respondent-Appellant.

UNPUBLISHED

December 27, 1996

No. 178315

LC Nos. 156401,189106

Before: Gribbs, P.J., and Markey and T. G. Kavanagh,* JJ.

PER CURIAM.

Respondent appeals the judgment of the Michigan Tax Tribunal (MTT), Small Claims Division, reducing the true cash value of petitioner's property. Respondent raises several issues concerning traditional approaches to valuation, reimbursement for cleanup of the property, and credibility of petitioner's appraisal. We affirm.

Respondent raises two issues concerning whether the MTT erred in relying on a flawed appraisal, and whether the MTT improperly granted petitioner relief on the basis of the allegedly flawed appraisal. We find these claims to be meritless.

Appellate review in this case is extremely limited. The MTT's findings of facts are final as long as those facts are supported by competent and substantial evidence. When fraud is not alleged, this Court is limited to determining whether the tribunal made an error of law or adopted a wrong principle. Const 1963, art 6, §28. Municipal decisions regarding special assessments are presumed valid. *Storm v Wyoming*, 208 Mich App 45, 46; 526 NW2d 605 (1994). To successfully challenge special assessments, petitioners, at a minimum, must present credible evidence to rebut the presumption that the assessments are valid. *Id.*

On appeal, respondent contends that the MTT erred in relying "on an appraisal which did not use all three of the traditional approaches to valuation." There is no merit to this claim. Even assuming

* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

arguendo that a full formal appraisal is required in the Small Claims Division, the MTT opinion specifically states that other valuation methods were considered and found inaccurate in this case.

Nor are we persuaded by respondent's claim that the MTT failed to take into account the likelihood that petitioner would eventually be reimbursed for the costs of cleaning up the contaminated property. It is clear from its written opinion that the MTT considered the likely reimbursement for cleanup costs, but rejected respondent's claim that the value of the property was not affected by the *need* for cleanup. Regardless of any possible future solution, both the appraisal submitted by petitioner and ordinary common sense support the finding that the property's actual cash value is affected by the fact that petitioner's property is on the DNR 307 list of contaminated sites and will require corrective action at an estimated cost of \$500,000.

Finally, there is no merit to respondent's claim that petitioner failed to present a credible appraisal. The MTT found petitioner's appraisal, which compared the contaminated property to other contaminated sites, more credible than the evidence submitted by respondent, which compared the property to uncontaminated sites. We find the MTT's findings of fact in this case were supported by competent and substantial evidence and do not represent an error of law or adoption of an incorrect principle.

Affirmed.

/s/ Roman S. Gibbs

/s/ Jane E. Markey

/s/ Thomas G. Kavanagh