

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

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DC LAND COMPANY, LLC.,

Petitioner-Appellant,

v

CITY OF HART,

Respondent-Appellee.

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UNPUBLISHED

October 26, 2004

No. 248444

Tax Tribunal

LC No. 00-291703

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

PER CURIAM.

I. Overview

Petitioner DC Land Company, LLC appeals as of right the judgment of the Tax Tribunal rejecting its challenge to the assessed value of its property. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

II. Basic Facts And Procedural History

DC appealed the 2002 assessed valuation of a vacant parcel of commercial land with the small claims division of the Tax Tribunal. The petition stated that the state equalized value (SEV) amount assessed was \$200,000, reflecting an actual cash value of \$400,000. DC asserted that it had purchased the property for \$200,000 in an arm's length transaction on March 16, 2001, and that reflected the true cash value of the property.

At a December 16, 2002 hearing, DC submitted an appraisal, and respondent, the city of Hart, presented evidence of values of nearby properties, and adjustments to DC's appraisal. The hearing referee found that DC submitted evidence that it purchased the property for \$200,000 in March 2001, and that the property was restricted by a freeway entrance and contained wetlands. DC's agent stated that the east 200 feet of the property had water and sewer, but the west 679 feet did not. DC also presented an appraisal that concluded that the property's value was \$225,000. The appraiser found that the market value was \$250,000, and averaged that with the purchase price to reach his conclusion. The referee found that DC's appraisal was deficient in many areas.

The city presented evidence that Polk Road frontage sells for between \$650 and \$1,000 per front foot. Although a substantial portion of the frontage lacked water and sewerage, the city

is obligated to provide such service. The property had 1,342 feet of frontage on a golf course. The city concluded that the true cash value of the property was \$455,900.

The referee found that the city's market method was the best indication of the property's true cash value. He noted that Michigan courts have consistently found that the selling price is not conclusive evidence of true cash value, because the sales price reflects many different factors. The referee found that the city's evidence did not support an increase in the true cash value because its appraisal was incomplete, and the revisions to DC's appraisal did not constitute a separate valid appraisal.

DC moved for rehearing, asserting that the amount in dispute exceeded \$100,000, thus the small claims division lacked jurisdiction; that the referee disregarded the recent sales price of the property; that the referee made no specific findings of fact regarding the valuation; and that the decision was not supported by substantial evidence. In a March 21, 2003 order, the tribunal denied the motion for rehearing, but sua sponte vacated the opinion and judgment, finding that the parcel was commercial property and the amount in contention was \$115,450, which was in excess of the jurisdictional limits of the small claims division. The tribunal found no merit to DC's other claims.

The city moved for reconsideration, asserting that where its assessed SEV was \$200,000 and DC claimed that the true SEV should be \$100,000, the amount in contention was \$100,000, which was within the jurisdictional limits of the small claims division. In an order entered April 21, 2003, the tribunal granted the motion for reconsideration. It found that DC's final amount in contention was \$87,500 and the city's final amount in contention was \$27,950. It found that it had erred in determining the final amount in contention as the difference between the final proposed state equalized value and the city's final proposed state equalized value. It therefore concluded that the parties' amounts in contention did not exceed the jurisdictional limits of the small claims division, and that it had erred in vacating the judgment. The tribunal reinstated the January 29, 2003 opinion and judgment.

### III. DC's Claims On Appeal

#### A. Standard Of Review

Our review of a tribunal decision is limited. When fraud is not alleged, review is confined to whether the tribunal committed an error of law or adopted a wrong legal principle.<sup>1</sup> We will accept the tribunal's findings of fact as final if they are supported by competent, material, and substantial evidence.<sup>2</sup>

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<sup>1</sup> *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352; 483 NW2d 416 (1992).

<sup>2</sup> *Id.*

## B. Jurisdiction

DC first argues that the small claims division of the tribunal lacked jurisdiction over this matter. MCL 205.762(1) governs the jurisdiction of the small claims division. It provides in part, “Property other than residential property may be included in a proceeding before the residential property and small claims division, if the amount of that property’s taxable value or state equalized value in dispute is not more than \$100,000.”

The tribunal elected to determine the amount in dispute by comparing the claimed value of DC of \$225,000, and the amount of the assessment, \$400,000, and dividing by two to reduce the actual cash value to the SEV. The city did not file a counterclaim seeking to raise the assessment. Although DC initiated the proceedings in the small claims division, it now asserts that the amount in dispute should be the difference between the values presented at the hearing. Courts will give great weight to an agency’s interpretation of the statute it is charged with administering.<sup>3</sup> DC has not given a persuasive reason to reject the tribunal’s interpretation of its enabling statute. The tribunal could reasonably conclude that the amount in dispute was the difference between the assessed value and DC’s claimed value. Therefore, we decline to reverse on this ground.

## C. Evidence Of The Property’s Purchase Price

DC also asserts that the tribunal ignored evidence of the purchase price, and that its valuation was not supported by the evidence. The tribunal is under a duty to apply its expertise to the facts of the case to determine the appropriate method for determining the true cash value of property.<sup>4</sup> Regardless of the approach selected, the value determined must represent the usual price for which the property would sell.<sup>5</sup> The three common approaches to valuation are capitalization of income, market sales-comparison, and cost-less-depreciation.<sup>6</sup>

While the sale price of a particular piece of property does not control the determination of its value, a cursory rejection of such evidence is erroneous.<sup>7</sup> The ultimate selling price of the property may be the result of many factors that are personal to the parties, but might not be the “usual” selling price.<sup>8</sup> The market sales comparison approach has the capacity to cure this deficiency by relying on evidence of the sales prices of a number of comparable properties,

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<sup>3</sup> *Adrian School Dist v Michigan Public School Employees’ Retirement System*, 458 Mich 326, 336; 582 NW2d 767 (1998).

<sup>4</sup> *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984).

<sup>5</sup> *Meadowlanes Ltd Dividend Housing Ass’n v City of Holland*, 437 Mich 473, 485; 473 NW2d 636 (1991).

<sup>6</sup> *Id.*

<sup>7</sup> *Jones & Laughlin*, *supra* at 354.

<sup>8</sup> *Antisdale*, *supra* at 278.

showing that factors extrinsic to the properties have not entered into the value the parties placed on the properties.<sup>9</sup>

The tribunal did not dismiss out of hand the actual sales price of the property. It found that DC relied almost exclusively on the sales price to establish the property's value. However, the city presented evidence showing that the sales price was not the best indication of the value of the property. Therefore, we conclude that DC's argument on this point is without merit.

#### D. Basis Of The Tribunal's True Cash Value Finding

Finally, DC argues that there was no substantial evidence to support the tribunal's valuation of \$400,000. However, our review indicates that there was substantial evidence to support the tribunal's finding of true cash value. The city presented a land value map of the district in which the property was located, showing the value of other frontage on Polk Road. The city also pointed out deficiencies in DC's appraisal, that water and sewer services were available for the entire frontage, and that the property had 1,342 feet of golf course frontage. Given the adjustments to the appraisal presented by DC, we conclude that there was substantial evidence to support the tribunal's valuation.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra

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<sup>9</sup> *Id.* at 278-279.