

STATE OF MICHIGAN
COURT OF APPEALS

GORDON GROSSMAN BUILDING CO.,
Petitioner-Appellant,

UNPUBLISHED
April 10, 2014

v

CITY OF MELVINDALE,
Respondent-Appellee.

No. 313405
Tax Tribunal
LC No. 00-413111

Before: DONOFRIO, P.J., and CAVANAGH and JANSEN, JJ.

PER CURIAM.

Petitioner appeals as of right the Michigan Tax Tribunal’s final opinion and judgment determining the true cash value, state equalized value, and taxable value of petitioner’s property. Because the Tax Tribunal did not adopt a wrong legal principle in determining the true cash value of petitioner’s property, we affirm.

Petitioner argues that the Tax Tribunal used an improper method in determining the true cash value (TCV) of petitioner’s property for the 2011 and 2012 tax years. This Court’s review of a decision of the Tax Tribunal is very limited. *Drew v Cass Co*, 299 Mich App 495, 498; 830 NW2d 832 (2013). “In the absence of fraud, this Court reviews a decision of the Tax Tribunal to determine whether the tribunal committed an error of law or adopted a wrong legal principle.” *WA Foote Mem Hosp v City of Jackson*, 262 Mich App 333, 336; 686 NW2d 9 (2004).

The tribunal’s factual findings will not be disturbed as long as they are supported by competent, material, and substantial evidence on the whole record. Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence. The appellant bears the burden of proof in an appeal from an assessment, decision, or order of the Tax Tribunal. [*Drew*, 299 Mich App at 499 (internal quotation marks and citations omitted).]

“True cash value” is the starting point for determining the taxable value of real and tangible personal property in Michigan. In general, property must be assessed at 50 percent of its true cash value. “True cash value” is defined in relevant part as “the usual selling price that could be obtained for the property at private sale, and not at auction sale.” True cash value is synonymous with fair market value and refers to the probable price that a willing buyer and a willing

seller would arrive at through arm's length negotiation. [*Detroit Lions, Inc v City of Dearborn*, 302 Mich App 676, 696; 840 NW2d 168 (2013) (internal quotation marks, brackets, ellipses, and citations omitted).]

“The Tax Tribunal is under a duty to apply its expertise to the facts of a case in order to determine the appropriate method of arriving at the true cash value of property, utilizing an approach that provides the most accurate valuation under the circumstances.” *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 389; 576 NW2d 667 (1998). The petitioner bears the burden of proof to establish true cash value. *Id.*

The Tax Tribunal has a duty to make its own, independent determination of true cash value. The Tax 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 cash value.

The three most common approaches for determining true cash value are the capitalization-of-income approach, the sales-comparison or market approach, and the cost-less-depreciation approach. However, variations of these approaches and entirely new methods may be useful if found to be accurate and reasonably related to fair market value. Regardless of which approach is used, the value determined by the Tax Tribunal must be the usual price for which the property would sell. [*Id.* at 389-390 (citations omitted).]

The determination of true cash value is not an exact science, and “the process of weighing evidence involves a considerable amount of judgment and reasonable approximation.” *Id.* at 398. The Tax Tribunal is not required to quantify every possible factor affecting value. *Detroit Lions, Inc*, 302 Mich App at 701. When reviewing the Tax Tribunal's determination of TCV, “[t]his Court may not substitute its judgment for that of the [Tax Tribunal], even if we would have reached a different result than the [Tax T]ribunal.” *Id.* at 701-702.

The Tax Tribunal may not *automatically* accept the taxing authority's assessment, given that the Tax Tribunal must make an independent determination of TCV. *President Inn Props, LLC v Grand Rapids*, 291 Mich App 625, 640; 806 NW2d 342 (2011). Nonetheless, “the Tax Tribunal may adopt the assessed valuation on the tax rolls as its independent finding of TCV when competent and substantial evidence supports doing so.” *Id.* In *President Inn Props*, 291 Mich App at 641-642, this Court held that the Tax Tribunal did not abdicate its responsibility to independently determine TCV when it adopted the assessed valuation on the tax rolls. This Court noted that the assessed valuations on the tax rolls were in evidence based on the parties' stipulation and that the Tax Tribunal's determinations fell within the range of valuations in evidence. *Id.* at 642. Consequently, the determinations were supported by competent and material evidence. *Id.*

In the instant cast, petitioner challenges the Tax Tribunal's determination of the subject property's TCV for the 2011 and 2012 tax years. In particular, petitioner contends that the Tax Tribunal adopted a wrong legal principle because it failed to consider or apply what petitioner describes as the “income appraisal approach,” apparently referring to the capitalization-of-

income approach. In particular, petitioner advocates that because its property, a rental duplex, is an income-producing property, and because there are no other rental duplexes in Melvindale, the TCV of the subject property should have been determined by comparison to nearby multi-unit apartment complexes. However, the fact that a property produces income does not mean that an income-capitalization method of valuation must be used to determine TCV. *President Inn Props*, 291 Mich App at 638. Instead, any method recognized as accurate and reasonably related to fair market valuation is an acceptable means to determine TCV. *Id.* Here, the Tax Tribunal found that petitioner's proposed method of valuation was flawed because the three allegedly comparable properties offered by petitioner were multi-unit apartment complexes, comprised of 234 units, 172 units, and 32 units, respectively, whereas petitioner's property is a duplex.

Further, petitioner's president testified that respondent's property record card was accurate. The property record card presented the cost-less-depreciation approach, one of the three traditional methodologies for determining TCV. *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App at 390. The Tax Tribunal utilized the cost-less-depreciation approach when it adopted the assessed valuation of TCV from the property record card as its independent finding of TCV. This determination was supported by competent, material, and substantial evidence because the property record card was presented as an exhibit by respondent, and petitioner agreed that the property record card was accurate. Cf. *President Inn Props*, 291 Mich App at 641-642 (finding no error in the Tax Tribunal's adoption of the assessed valuation on the tax rolls where the tax rolls were in evidence based on the parties' stipulation and the valuation was within the range of valuations in evidence). Therefore, the record reflects that the Tax Tribunal properly adopted the assessed valuation as its independent finding of TCV. *Id.* at 640.

Finally, petitioner asserts that the amount it paid for the property in 2002 should have been held to constitute the TCV of the property on December 31, 2010. Petitioner offers no principled reason to conclude that the Tax Tribunal was required to use this figure as the TCV in this case, other than making a general, unsupported assertion that property values have been "on the downside"; this argument is deemed abandoned given petitioner's cursory treatment of it. *Charles A Murray Trust v Futrell*, 303 Mich App 28, 57 n 11; 840 NW2d 775 (2013). In any event, as discussed, the record reflects that the Tax Tribunal properly used its expertise to determine which method provided the most accurate valuation under the circumstances. *Detroit Lions, Inc*, 302 Mich App at 701. Accordingly, petitioner has failed to establish that the Tax Tribunal adopted a wrong legal principle.

Affirmed.

/s/ Pat M. Donofrio
/s/ Mark J. Cavanagh
/s/ Kathleen Jansen