

STATE OF MICHIGAN
COURT OF APPEALS

CASSAR GROUP,

Petitioner-Appellant,

v

TOWNSHIP OF COMMERCE,

Respondent-Appellee.

UNPUBLISHED

August 16, 1996

No. 181812

LC No. 198744

Before: Taylor, P.J., and Murphy and E.J. Grant,* JJ.

PER CURIAM.

Petitioner appeals as of right the October 5, 1994 opinion and judgment of the Michigan Tax Tribunal, Small Claims Division, that determined the 1993 and 1994 true cash values of industrial property owned by petitioner. We remand.

Petitioner purchased the subject property in 1989 for \$200,000. The initial 1993 property tax assessment was \$68,100. Petitioner protested, but the Board of Review upheld the assessment. Petitioner then initiated proceedings in the small claims division, claiming that the true cash value of the subject property was \$75,000, and therefore, the \$68,100 assessment improperly exceeded fifty percent of the true cash value. The Tax Tribunal's hearing officer concluded that the 1993 true cash value was \$200,000, and went on to revise the 1993 assessment to \$100,000. The hearing officer also concluded that the 1994 true cash value was \$220,000.

I.

Petitioner takes issue with the tax tribunal's findings and conclusions concerning the true cash value, average level of assessment, and applicable equalization factor.

In the absence of fraud, error or law, or the adoption of wrong principles, our review is limited to determining whether the tribunal's decision is supported by competent, material, and substantial evidence on the whole record. Const 1963, art 6, § 28; *Edward Rose Building Co v Independence*

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

Twp, 436 Mich 620, 631-632; 462 NW 2d 325 (1990). A decision of the tribunal shall include a concise statement of facts and conclusions of law stated separately. MCL 205.751(1); MSA 7.650(51)(1). Adequate findings of fact are particularly important in proceedings before the small claims division because review is hindered by the informal record maintained in those proceedings. *Oldenburg v Dryden Twp*, 198 Mich App 696, 699; 499 NW 2d 416 (1993).

In this case, the tribunal's findings of fact are devoid of any information which would give this Court an opportunity for meaningful appellate review. We cannot ascertain what evidence and reasoning was relied upon by the tribunal member in order to arrive at his conclusions. Although we are not of the opinion that more testimony need be taken, we must remand to the small claims division for more specific fact findings and elaboration. *Oldenburg, supra*, 700-701.

II.

Petitioner also takes issue with the tribunal's method of calculating the property's true cash value. The referee stated that he recognized respondent's cost-less-depreciation and market methodology to be the most accurate, but did not elaborate on how he utilized these approaches in arriving at the true cash value. Therefore, we cannot determine if the method used by the tribunal is accurate and reasonably related to the true cash value of the subject property. *Meadowlanes Limited Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 482, 485; 473 NW 2d 636 (1991). On remand, the referee must also elaborate on the method used in arriving at his true cash value determination.

III.

Last, petitioner claims that the tribunal erred in failing to exclude the 1994 tax year from the appeal. Petitioner argues that because it made a request to exclude 1994, the tribunal was obligated to do so. We disagree.

MCL 205.737(5); MSA 7.650(37)(5) states:

If the residential property and small claims division of the tribunal has jurisdiction over a petition, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.

Contrary to petitioner's argument, the language of the statute implies that the tribunal does have discretion. The tribunal may grant or deny such a request. We decline to interpret the

word “request” as synonymous with the word “order.” We find no error of law in the tribunal’s decision to include the 1994 tax year in the instant appeal.

We remand for further action consistent with this opinion. We do not retain jurisdiction.

/s/ Clifford W. Taylor

/s/ William B. Murphy

/s/ Edward J. Grant