

Circuit Court for Anne Arundel County
Case No. C-02-CV-20-000977

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 773

September Term, 2020

BWI II, LP

v.

SUPERVISOR OF ASSESSMENTS
OF ANNE ARUNDEL COUNTY

Graeff,
Nazarian,
Wells,

JJ.

Opinion by Nazarian, J.

Filed: February 2, 2022

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal involves the property tax valuation of the Fast Park facility (the “Property”) located at 1718 West Nursery Road in Anne Arundel County and owned by BWI II Limited Partnership (“BWI LP”). The County’s Supervisor of Assessments (“Supervisor”) valued the Property at \$14,309,300 as of January 1, 2017. BWI LP disagreed with the valuation and appealed to the Property Tax Assessment Appeals Board (the “Board”). The Board upheld the Supervisor’s valuation. BWI LP appealed to the Maryland Tax Court, which agreed with the Board, then sought judicial review in the Circuit Court for Anne Arundel County, which affirmed the Tax Court’s decision. BWI LP appeals again and we affirm.

I. BACKGROUND

A. Overview Of Methods Used To Establish Valuation Of Real Property.

“Commercial real property is valued, for property tax purposes, at its market value.” *Cordish Power Plant Ltd. P’ship v. Supervisor of Assessments for Balt. City*, 427 Md. 1, 5 (2012). Commercial real property must be valued by a Supervisor “once in every 3-year cycle.” Md. Code (1985, 2019 Repl. Vol.), § 8-104(b)(1) of the Tax-Property Article (“TP”). Each three-year cycle begins on the “date of finality,” defined as “January 1, when assessments become final for the taxable year next following,” TP § 1-101(i), so “[t]he date of finality for real property that is valued . . . is the January 1 immediately before the 1st taxable year to which the assessment based on the new value is applicable.” TP § 8-104(b)(2). The Property at issue here had last been valued as of January 1, 2014, so the new date of finality, and thus the relevant time of valuation, is January 1, 2017.

Assessing property values can be a complex task, so we begin with an overview of the three traditional ways of establishing market value. The *first* method is the cost to reproduce method (“cost method”). Under the cost method, the market value of a piece of real property “is the cost to build the same building or improvement on the land on which the property at issue is located.” *Cordish*, 427 Md. at 5 (citation omitted). “The cost to reproduce or replace the building is reduced by depreciation and then added to the value of the land itself to arrive at the total appraisal of the entire property.” *Id.* Both parties agree this method is most useful when valuing newer properties and was not the ideal method for valuing this Property.

The *second* method is the sales comparison approach. Under the sales comparison approach, market value depends on “the range of prices of recently-sold properties that are comparable to the property in issue.” *Id.* The Court of Appeals defines comparable properties as “properties . . . of the same or similar nature, and, typically, geographical location as the property to be valued.” *Id.* The value of “the comparable properties are adjusted to account” for differences in the characteristics between the comparable property and the property at issue. *Id.* Both parties valued the Property using the sales comparison approach.

The *third*, and preferred method is the capitalization of income approach (“income approach”). Under the income approach, “the value of a property is based upon what income the property is expected to generate on an annual basis, reduced by its operating expenses to yield its new operating income.” *Id.* at 6. Appraisers using this method

determine the capitalization rate, a “rate that reflects the anticipated benefits and risk if the property were acquired.” *Id.* “Once the capitalization rate is calculated, it is then applied to the property at issue, by dividing it into the net operating income to derive value.” *Id.* at 7. Both parties also utilized this approach in valuing the Property.

B. History And Administrative Proceedings.

In 2001, BWI LP acquired the Property, known as Fast Park. The Property consists of 19.61 acres of land and “is improved for use as a lighted, off-airport, asphalt-surfaced parking lot and shuttle operation serving nearby BWI Thurgood Marshall International Airport.” The Property has a parking capacity of 2,156 cars. In 2002, BWI LP built a 1,571 square foot office building on the Property to manage the parking business. As of the January 1, 2014 date of finality, the Supervisor valued the Property at \$18,741,200 utilizing the income approach. The Board agreed with the Supervisor, but the Tax Court reduced the fair market value of the Property to \$9,550,000, noting it was “mindful of the fact that this property is income producing property but that a prospective buyer would look at the capitalization of stabilized rent as well as the capitalization of any overage rent.”

On January 1, 2016, BWI LP, as lessor, and the Parking Company of America (“PCA”), as lessee, entered into a lease agreement for a base term of five years that expired on January 1, 2021. Under the lease, rent during the base term was \$840,000 per year. The lease also contained provisions allowing for renewal and negotiations:

[PCA] has two options to renew the lease upon expiration of the base term for five year intervals each upon the same terms and conditions as the base year. Use of the premises is limited solely for the operation of parking facilities. Rent during the

base term of the lease is \$70,000 per month (\$840,000 per year). Rent during each succeeding renewal term (should options to renew be exercised by [PCA]) is subject to negotiation at the time of exercise of the option to renew.

Assistant Supervisor John Scally set the Property's value as of January 1, 2017 at \$14,309,300. BWI LP appealed this tax assessment to the Board on the ground that "the valuations that were assessed over a three-year period represents nearly a hundred thousand-dollar increase over the tax cycle." The Board affirmed Mr. Scally's valuation. BWI LP appealed again to the Maryland Tax Court, urging the court to find the assessment overstated.

The Tax Court held a hearing on February 24, 2020. BWI LP and the Supervisor submitted competing appraisals and testimony. In its opening arguments, BWI LP asserted it "looked to the lease [between BWI LP and PCA] as the primary source of valuation." BWI LP hired John Hentschel to value the Property and testify as an expert witness. Mr. Hentschel testified that he previously appraised the Property for the January 1, 2014 date of finality. For this appeal, Mr. Hentschel looked at the Property, "[r]eviewed the income and expenses and operations of the [P]roperty, did a market analysis similar to what I did the last time . . . did two approaches to value, did a [sales comparison] approach and income approach." He determined "the reasonably probable, maximally productive use that represents the property's highest and best use would be for continuation of its present use" as a parking lot.

By using the sales comparison approach, Mr. Hentschel reviewed six recent land sales in the vicinity of the Property. He found the Property "superior" to all six comparable

sales. Mr. Hentschel made adjustments for differences in the characteristics between the comparable properties and the Property and found “a range of indicated values from \$328,000 to \$415,900 per acre” Based on this analysis, Mr. Hentschel opined that the Property had an indicated value of \$400,000 per acre. He concluded that when multiplied by the size of the Property, 19.61 acres, the sales comparison approach yielded a value of \$7,850,000.

Mr. Hentschel ultimately discarded the sales comparison approach because he believed that the income approach was “the better indicator of value in this instance since the property is currently leased to and being used as an offsite airport parking facility and thus has been accorded greater weight.” Under the income approach, Mr. Hentschel performed two different analyses, a present value analysis and a direct capitalization analysis, to set the Property’s value, as of January 1, 2017, at \$10,325,000.

Mr. Hentschel testified he reviewed survey publications to figure out applicable capitalization and discount rates. Because “information concerning yields and capitalization rates associated with properties leased to parking facilities are relatively scarce,” Mr. Hentschel relied on office, industrial, and retail property capitalization rates. He opined *first* that “a capitalization rate of 8% is applicable for the unencumbered fee simple interest in the land as if unimproved.” *Second*, after considering the risk associated with the Property as improved, he concluded “a going-in capitalization rate of 9.5%” was appropriate. *Third*, Mr. Hentschel estimated the terminal capitalization rate at 10.2% “by capitalizing the projected income in the year following the end of the holding period (in

this case, the year following the expiration of the current lease term, year 5).” *Finally*, Mr. Hentschel estimated the discount rate at 11.0%.

After calculating the capitalization and discount rates, Mr. Hentschel employed a direct capitalization analysis and present value analysis, respectively, to determine the value of the Property as of the January 1, 2017 date of finality. The direct capitalization approach, which “transforms one single number or income amount into a value,” yielded a value of \$8,675,000. The present value analysis, “which involves projecting the anticipated benefits of the investment . . . on an annual basis over the course of the anticipated holding period, applying an appropriate yield rate to convert the stream of benefits into a present value,” yielded a present value of \$10,325,000. In his present value analysis, Mr. Hentschel placed great importance on the revenue stemming from the lease between BWI LP and PCA.

Mr. Hentschel testified that as part of his analysis under the income approach, he looked at the financial circumstances of a similarly situated property, Fast Park 2, located at 784 Elkridge Landing Road, to determine the Property’s estimated rent value for 2021 (after the five year lease between BWI LP and PCA expired). Mr. Hentschel concluded that the rent at Fast Park 2 “remained constant at 21 percent of revenues.” Using this information, Mr. Hentschel predicted that if 21 percent of the Property’s revenue in 2021 was from rent, rent would increase from \$840,000 per year to \$1,227,316.

The Tax Court questioned Mr. Hentschel about the differences between the Property lease and the Fast Park 2 lease, and the relationship between the tenants and landlords:

[THE COURT]: The lease at—who is the landlord at 784 Elkridge Landing?

[MR. HENTSCHEL]: Same people. . . . It's . . . the former landowner and [PCA].

[THE COURT]: Okay. . . . Because that lease seems to be very different in structure than the one for this [P]roperty.

[MR. HENTSCHEL]: Why do you say that?

[THE COURT]: Rent is percentage of revenue seems to be changing. Is the lease there fixed every term? Every year?

[MR. HENTSCHEL]: There's a component of fixed and there's a component of overage.

[THE COURT]: So there is a—that's not present in this lease?

[MR. HENTSCHEL]: No.

[THE COURT]: So I said it's different in structure.

[MR. HENTSCHEL]: It's different in structure, but we're not looking at the structure, we're looking at the totality of affordability for a parking lot operator.

[THE COURT]: Okay. And (inaudible) the same two parties, the landlord and lease then.

[MR. HENTSCHEL]: Different parties I believe.

[THE COURT]: I thought you just told me the recipient of the lease payments is the same for both properties.

[MR. HENTSCHEL]: There is an element of that that's the same. There are minority partners, there are other partners.

Mr. Hentschel recognized that some minority partners with an interest in BWI LP were related to partners with an interest in PCA, and that seven out of the thirteen BWI LP partners had an interest in PCA. On cross-examination, Mr. Hentschel acknowledged that the manager of BWI LP and the president of PCA were related. Nonetheless, he concluded “the lease is the result of an arm[']s length transaction since the parties comprising the lessor . . . are not identical with the parties comprising the lessee” Based on his

appraisal, Mr. Hentschel concluded the Property had a fair market value of \$10,325,000 as of January 1, 2017.

Mr. Scally testified as an expert witness on behalf of the Supervisor. Similar to Mr. Hentschel, Mr. Scally used both the sales comparison approach and the income approach to value the Property. Employing the sales comparison approach, Mr. Scally reviewed four recent land sales in the vicinity of the Property. He found the Property had an indicated value of \$625,000 per acre. When multiplied by the land size, the sales comparison approach yielded a market value of \$12,256,250. Mr. Scally added \$1,422,100 for the improvements to conclude a total value of \$13,678,350. Mr. Scally disagreed with Mr. Hentschel's analysis under the sales comparison approach, testifying that "there's better sales" Mr. Hentschel should have used and that Mr. Scally's analysis was "more comparable."

Under the income approach, Mr. Scally opposed Mr. Hentschel's view that the revenue from the Property was an important factor in determining the fair market value. Rather, Mr. Scally testified "we should be using the lease structure and lease payments, not so much anything to do with the parking income from the tenant":

[THE COURT]: So you agree with the approach that petitioner did in terms of valuating the lease payments?

[MR. SCALLY]: Well, no, see I hesitate to agree. There's definitely some problems in there and my biggest hang-up is going to be whether or not it's an arm's-length I think.

* * *

[COUNSEL FOR SUPERVISOR]: But does that revenue from parking, does it affect any factors that you used in your analysis?

[MR. SCALLY]: The only factor would've affect it would've been my cap rate decision, the showing that the income of the tenant is doing well . . . the risk factor associated that would be even less than what I think it already is.

As a result, Mr. Scally employed the income approach by applying market rental rates (instead of rates generated from the lease).¹

Mr. Scally considered the 2014 Tax Court case for the Property, noting “the Court adopted an approach that exactly mirrors this, except for the change in values, where they have a base rent based on the market land value and an overage rent, based on 50 percent of the net income. This is similar to [Fast Park 2]” Using the structure of the 2014 case, Mr. Scally agreed with Mr. Hentschel in predicting the Property would have a base rent of \$1,107,184 for the year 2021. He also, however, factored in overage rent to conclude that under the income approach, the Property had a value of \$16,015,000 as of January 1, 2017.

Mr. Scally noted he would utilize different approaches depending on whether the lease was an arm's-length transaction. Mr. Scally disagreed with Mr. Hentschel's opinion that the lease was arm's-length because “there's related parties.” Because he did not consider the lease an arm's-length transaction, and thus disagreed that the lease reflected the fair market value, Mr. Scally testified that the “pro forma” income approach was the most appropriate method to value the Property. Under this approach, Mr. Scally appraised

¹ Mr. Scally also disagreed with Mr. Hentschel's discount rate under the income approach, noting “he's . . . using a discount rate of an 11, and I would think an appropriate one would be an eight.”

the Property at \$14,309,300 as of the January 1, 2017 date of finality.

In its ruling, the Tax Court took issue with the fact that “the same entity has interest in both—as landlord and as tenant. There is some overlap there.” Mr. Hentschel tried to alleviate the court’s worries, noting “from my perspective as an appraiser . . . since the minority partners would have rights if they felt that they were aggrieved to bring action against the majority partners. . . . [T]here would be an arm’s-length nature to the transaction.” Ultimately, though, the Tax Court reasoned that it could not give “greater weight” to the lease between BWI LP and PCA in determining the value of the Property because of the relationship between the tenant and the landlord was not an arm’s-length transaction:

Based on all of the testimony and documents . . . I am not convinced that the lease that’s in place for this property meets the requirements to be treated as an arm’s-length transaction. The majority owner of as landlord is also majority owner as tenant.

There was a lot of testimony that the minority owners could try some legal remedy if they think they are not been given a fair share of the profits, but there’s lots of reasons why minority owners, even if they’re 49 percent, might not want to go ahead and try a legal remedy to get an increase in the payments. Besides, I don’t know how independent they are from the majority owner. We had some testimony that they aren’t the same, but maybe there is some financial relationship between them or something else. I don’t know.

The Tax Court found no evidence or testimony in the record to lend support to Mr. Hentschel’s “speculation” that the market rate, and thus value, of the Property, was the same as the rental rates:

But I’m reasonably confident in saying that there’s nothing to

say that the rental rates are market rates. So all of this sophisticated analysis of how to deal with the rate that's in place now and making guesses as to what it will be when the current five year term ends are just speculation.

The Tax Court acknowledged there were other ways of valuing the Property, apart from BWI LP's income approach, but it was unable to arrive at a specific value given the evidence presented during the hearing:

That being said, there's other methods that could be used to put a value on the real estate. And one is to look at findings from [*Supervisors of Assessments of Allegany Cnty. v. Ort Child. Tr. Four*, 294 Md. 195 (1982)] and say this property is encumbered with a lease payment, and no matter what the property is worth an upper limit of what the owner would get from it is a legally enforceable limit—lease that exists for the next four years from the date of finality.

I did some quick arithmetic and assumed that this would be a very low cap rate because I can't imagine that they couldn't make the lease payments in the foreseeable future, but certainly for the next four years. Which means that the minimum value of this investment would be just under seven and a half million. Unfortunately that's just a minimum and I'm reasonably certain it's worth something more than that. My problem is I have no way of determining what that is.

The Tax Court also discarded the sales comparison approach, finding that “both parties were very successful in explaining how the others were not very representative.” Based on these findings, the Tax Court held it had “an obligation to affirm the value that was set by the [Board] if I don't have sufficient information that I can accept and give me a different evaluation.” The Tax Court thus affirmed the Board's valuation of the Property.

BWI LP sought judicial review in the Circuit Court for Anne Arundel County, which held a hearing on September 14, 2020. BWI LP contested the “process of the [Tax

Court’s] decision itself,” as well as the Tax Court’s finding that the lease between BWI LP and PCA was not an arm’s-length transaction. The Supervisor asked the circuit court to affirm the decision of the Tax Court, noting “the Tax Court said that it wasn’t convinced that the lease reflected the market lease rate because there was an overlap in ownership between the lessor and the lessee.”

The circuit court agreed with BWI LP “that the decision of the Tax Court is brief,” but that it nevertheless “explained the basis for rejecting the lease and there’s enough on the record and what they said when they rendered their decision, I believe it’s adequate to support their conclusion.” On March 18, 2020, the circuit court affirmed the Tax Court’s decision and BWI LP filed a timely appeal. We supply additional facts as necessary below.

II. DISCUSSION

BWI LP raises two issues on appeal that we rephrase.² *First*, it contends the Tax

² BWI LP stated the Questions Presented in its brief as follows:

1. Did the Tax Court deny due process so as [to] render its decision arbitrary, capricious, and unreasonable, because the Tax Court failed to make specific findings of fact and conclusions of law so that a taxpayer and a reviewing court could understand the basis for the decision?
2. Did the Tax Court err in concluding that Appellant failed to meet its burden of proof on its income-analysis approach to valuation?
 - A. Did The Tax Court Overlook That Appellant’s Income-Method Appraisal Valuation Was Based On A Discounted Cash-Flow Analysis Using Market Rent and Data?
 - B. Did The Tax Court Otherwise Err In Failing To Consider The Lease Among Other Factors?

Court deprived BWI LP of due process by failing to make specific findings on the record about why it was affirming the Board’s valuation of the Property. *Second*, it argues the Tax Court should have found BWI LP met its burden of proving that the Supervisor erred in its assessment of the Property.

Its title notwithstanding, the Maryland Tax Court is an administrative agency, and we review its decisions against the same standard as other agency decisions. *Frey v. Comptroller of Treasury*, 422 Md. 111, 136 (2011). When reviewing Tax Court decisions, we look through the decision of the circuit court and review the Tax Court directly. *Id.* at 136–37. The Tax Court’s factual findings “must meet the substantial evidence standard,” *Gore Enter. Holdings, Inc. v. Comptroller of Treasury*, 437 Md. 492, 504 (2014) (citing *Frey*, 422 Md. at 137), which means that we decide “whether a reasoning mind reasonably could have reached the factual conclusion the [Tax Court] reached.” *State Ins. Comm’r v. Nat’l Bureau of Cas. Underwriters*, 248 Md. 292, 309 (1967). “[W]e afford great weight to the [Tax Court’s] legal conclusions when they are premised upon an interpretation of the statutes that the [Tax Court] administers.” *Frey*, 422 Md. at 138. We review Tax Court legal conclusions premised upon case law, however, “without deference.” *Id.*

A. The Tax Court Made Sufficiently Specific Findings Of Fact And Conclusions Of Law.

First, BWI LP alleges the Tax Court erred in “not set[ting] forth its factual findings or specific conclusions of law that gave rise to its conclusion that the lease was not arm’s length” and “not set[ting] forth its factual findings or specific conclusions of law that gave rise to any conclusion that [BWI LP’s] income-method approach failed for lack of

sufficient evidence.” BWI LP urges us to hold that “[t]he Tax Court’s broad, conclusory statements and boilerplate assertions are insufficient to comport with due process.” We disagree and hold BWI LP was afforded due process when the Tax Court made specific findings of fact and conclusions of law, on the record, to explain why it decided to affirm the Board’s valuation of the Property.

To support the assertion that the Tax Court erred in not providing the parties or the reviewing court with “specific findings of fact and conclusions of law,” BWI LP relies on *Mehrling v. Nationwide Ins. Co.*, 371 Md. 40 (2002). In that case, Ms. Mehrling protested the termination of her contract, and the insurance company moved to dismiss asserting she lacked standing because she had declared bankruptcy and any claim belonged to the bankruptcy trustee. *Id.* at 47. The administrative law judge (“ALJ”) for the Office of Administrative Hearings recommended to the Maryland Insurance Administration (“MIA”) that the insurance company’s motion be granted. *Id.* at 48.

Ms. Mehrling filed exceptions that attached a copy of a bankruptcy order to show that she did indeed have standing. *Id.* The insurance company moved to strike Ms. Mehrling’s exceptions, arguing MIA “was confined to considering solely the evidentiary record made before the ALJ.” *Id.* The Insurance Commissioner agreed with the insurance company and adopted the ALJ’s recommendation. But the Court of Appeals reversed and remanded, concluding that the Insurance Commissioner had “failed to address with sufficient clarity whether he considered the new evidence presented in [Ms. Mehrling’s] exceptions, and, if he did consider it, failed to provide a rationale for his findings and

conclusions, consistent with that evidence, upon which we may conduct meaningful judicial review.” *Id.* at 62.

The Court reasoned that “[i]n order to apply the appropriate standard of review . . . the reviewing court must first know how and why the agency reached its decision. . . . At a minimum, one must be able to discern from the record the facts found, the law applied, and the relationship between the two.” *Id.* at 65 (quoting *Forman v. Motor Vehicle Admin.*, 332 Md. 201, 220–21 (1993)). Because it was “unclear whether the [Insurance] Commissioner indeed considered the new evidence in [Ms. Mehrling’s] exceptions,” namely the copy of the bankruptcy order, “the appropriate disposition of this case is to remand to the MIA to prepare legally adequate findings of facts and conclusions of law based on the administrative record as a whole.” *Id.* at 65, 66–67.

This case can readily be distinguished from *Mehrling*. In contrast to the Insurance Commissioner’s failure to acknowledge the new evidence presented, the Tax Court here did acknowledge the evidence presented during the hearing. Indeed, the Tax Court was actively involved and expressed specific conclusions during the hearing itself:

- When Mr. Hentschel discussed his comparison to the Fast Park 2 lease under the income approach analysis, the Tax Court became concerned about the relationship between BWI LP and PCA, asked Mr. Hentschel whether there were “any other parking lot leases that we can look at to see if they make sense compared to this one,” and stated, “I have problems when the same entity has interest in both—as landlord and as tenant.”
- During this same conversation, the Tax Court stated it thought the Fast Park 2 lease and the Property lease were “very different in structure,” a factor it found important in order to “get the picture of the market

here.”

Then, at the end of the hearing, the Tax Court summarized its findings as to each issue addressed during the hearing, including whether the lease constituted an arm’s length transaction and the weight it gave each analysis:

- With regard to the arms-length transaction issue, the Tax Court found that “[b]ased on all of the testimony and documents that were put in . . . I am not convinced that the lease that’s in place for this property meets the requirements to be treated as an arm’s-length transaction.” The Tax Court then proceeded to summarize the testimony concerning the minority partners’ legal remedies, but ultimately concluded that it was “reasonably confident in saying that there’s nothing to say that the rental rates are market rates.”
- The Tax Court acknowledged that rental and market rates were not the only methods available to value the Property, citing *Ort* for the principle that “no matter what the property is worth an upper limit of what the owner would get from it is a legally enforceable limit.” The court, however, distinguished *Ort* because it could not “determin[e] what that [upper limit] is.”³
- The Tax Court then went on to explain that it could not find error in the Board’s valuation under the sales comparison approach, because “both parties were very successful in explaining how the others were not very representative.” In other words, the court explicitly informed the parties that the comparables were blown

³ BWI LP also contests “[t]he Tax Court was required to consider the lease, as it would be something that an able and prospective buyer would consider” under *Ort*. But *Ort* expressly does not *require* the Tax Court to consider the rental rates in a lease to value the property at issue. *See Ort*, 294 Md. at 208 (“Even where a leasehold advantage is admitted, the analysis which prohibits any consideration of contract rent is at odds with the willing seller-willing purchaser approach to market value for property tax purposes.”); *see also id.* at 211 (“Then, says the Supervisor, in order to assess the leasehold included in the real estate . . . economic rent must be the rent used in capitalizing income and lower contract rent must be disregarded. . . . [The applicable statute] does not express a standard of valuation.”).

apart by each other.

For all of these reasons, which the Tax Court stated on the record before both parties, the Tax Court concluded it had “an obligation to affirm the value that was set by the [Board].” This was more than sufficient. The Tax Court explained what it found persuasive and what it didn’t find persuasive. To be sure, the Tax Court’s ruling itself was brief, but there is substantial evidence in other parts of the record supporting the Tax Court’s decision as to why it affirmed the Board’s valuation and rejected BWI LP’s methodology.

B. The Tax Court Did Not Err In Concluding BWI LP Failed To Meet Its Burden Of Proof On Its Income Approach To Valuation.

Second, BWI LP alleges there was not substantial evidence in the record for the Tax Court to reject BWI LP’s assessment and valuation of the Property. BWI LP argues the Tax Court “overlooked or ignored” many aspects of Mr. Hentschel’s appraisal and testimony, specifically his discounted cash-flow analysis under the income approach. BWI LP contends similarly that the Tax Court failed to consider the lease between BWI LP and PCA in affirming the Board’s valuation and concluded incorrectly “that the parties were related.” The Supervisor responds that the Tax Court “exercis[ed] its authority to weigh evidence and make factual findings” and thus acted within its discretion. We agree with the Supervisor.

Before the Tax Court, BWI LP, as the taxpayer, bore the burden “to show error in the assessment.” *Comptroller of Treasury v. Clise Coal, Inc.*, 173 Md. App. 689, 696 (2007) (citing *Fairchild Hiller Corp. v. Supervisor of Assessments for Washington Cnty.*, 267 Md. 519, 523 (1973)). By statute, the Tax Court was required to affirm the Board’s

decision “[a]bsent affirmative evidence in support of the relief being sought or an error apparent on the face of the proceeding from which the appeal is taken.” Md. Code (1988, 2016 Repl. Vol), § 13-528(b) of the Tax-General Article. Moreover, “[a]dministrative decisions, such as those by the tax court, receive considerable deference by reviewing courts.” *Foss NIRSystems, Inc., v. Comptroller of Treasury*, 151 Md. App. 44, 52 (2003) (citations omitted).

The Tax Court did consider Mr. Hentschel’s appraisal and testimony, and engaged Mr. Hentschel directly throughout his testimony. For example, the court addressed Mr. Hentschel’s discounted cash-flow analysis and his comparison of the Property to Fast Park 2:

[THE COURT]: The lease at—who is the landlord at 784 Elkridge Landing?

[MR. HENTSCHEL]: Same people.

[THE COURT]: The owner of the—

[MR. HENTSCHEL]: It’s a—it’s a—the former landowner and [PCA].

[THE COURT]: Okay.

[MR. HENTSCHEL]: Okay?

[THE COURT]: Because that lease seems to be very different in structure than the one for this property.

[MR. HENTSCHEL]: Why do you say that?

[THE COURT]: Rent is percentage of revenue seems to be changing. Is the lease there fixed every term? Every year?

[MR. HENTSCHEL]: There’s a component of fixed and there’s a component of overage.

[THE COURT]: So there is a—that’s not present in this lease?

[MR. HENTSCHEL]: No.

[THE COURT]: So I said it's different in structure.

This dialogue between BWI LP's expert appraiser and the Tax Court demonstrates that the Tax Court "considered the [] evidence advanced by BWI LP and, acting within its discretion to evaluate the evidence, gave it diminished weight." It is not our role to "substitute [our] judgment for the expertise of those persons who constitute the administrative agency," *People's Couns. for Balt. Cnty. v. Loyola Coll. in Md.*, 406 Md. 54, 66–67 (2008) (citation omitted), and we can see from the record that the Tax Court considered, evaluated, and rejected BWI LP's arguments on their merits.

Given the substantial evidence in the record, we see no error in the Tax Court's finding that BWI LP fell short of proving that the lease between BWI LP and PCA was an arm's-length transaction. The Tax Court stated explicitly during Mr. Hentschel's testimony that it was concerned that "the same entity has interest in both—as landlord and as tenant." The Tax Court's finding was consistent with its concern about the familial relationships between BWI LP partners and PCA partners, and the court's decision to reject BWI LP's characterization of the agreement as arm's-length fell well within the court's discretion. On this record, the Tax Court's decision fulfilled its statutory duty to affirm the Board's valuation of the Property absent affirmative evidence to the contrary.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. APPELLANT TO PAY
COSTS.**