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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A10-255**

In the Matter of the Petition  
of Southern Minnesota Beet Sugar Cooperative  
for Review of 2006 Real Estate Taxes Payable in 2007,

and

In the Matter of the Petition  
of Southern Minnesota Beet Sugar Cooperative  
for Review of 2007 Real Estate Taxes Payable in 2008.

**Filed September 21, 2010  
Affirmed  
Wright, Judge**

Renville County District Court  
File Nos. 65-CV-07-106, 65-CV-07-242

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Considered and decided by Wright, Presiding Judge; Worke, Judge; and Bjorkman, Judge.

## **UNPUBLISHED OPINION**

**WRIGHT**, Judge

In this appeal from the district court's decision on appellant's petition for review of two real-property tax assessments, appellant argues that the district court (1) erred in its valuation of appellant's property by (a) incorrectly identifying certain property as taxable real property, (b) using a single valuation method to determine the value of the property, and (c) misapplying that valuation method; (2) abused its discretion by quashing appellant's subpoena duces tecum for respondent's expert; (3) erred by rejecting appellant's unequal-assessment claim; and (4) abused its discretion by awarding excessive expert-witness costs to respondent. We affirm.

## **FACTS**

Appellant Southern Minnesota Beet Sugar Cooperative (SMBSC) is composed of approximately 600 sugar-beet farmers who have farms within a 100-mile radius of the main SMBSC facility. The farmers grow the sugar beets on their farms and bring them to the main SMBSC facility for processing into sugar, molasses, and other products. SMBSC owns one main parcel on which the sugar-beet processing plant is located and nine supporting parcels, totaling approximately 1,471 acres.

For tax years 2006 and 2007, respondent County of Renville (county) assessed the value of SMBSC's real property at \$40,752,600 and \$40,761,200, respectively. SMBSC contested the county's 2006 and 2007 assessments by initiating a challenge in district

court under Minn. Stat. § 278.01, subd. 1(a) (2008), alleging inaccurate and unequal assessment of its real property.

The district court granted partial summary judgment on multiple issues based on decisions of the Minnesota Tax Court and the Minnesota Supreme Court in earlier litigation regarding SMBSC's property taxes for its sugar-beet processing plant for tax years 2003 and 2004. *See S. Minn. Beet Sugar Coop. v. Cnty. of Renville*, 737 N.W.2d 545 (Minn. 2007) (*SMBSC*). In doing so, the district court determined that (1) "all land improvements and the exterior shells of bins, tanks, and silos are taxable real property"; (2) the highest and best use of SMBSC's plant "as improved is continued use as a sugar beet processing plant"; and (3) SMBSC's plant is a special-purpose property.

After an 11-day trial, the district court issued extensive findings of fact and conclusions of law. The district court (1) determined that SMBSC offered sufficient evidence to invalidate the county's assessment; (2) determined that the market value of SMBSC's real property for tax years 2006 and 2007 was \$49,442,000, and \$50,169,000, respectively; and (3) rejected SMBSC's claim that it had been unequally assessed. After considering the parties' posttrial motions, the district court issued amended findings of fact and conclusions of law. In its amended decision, the district court also awarded costs and disbursements to the county. This appeal followed.

## **DECISION**

A property owner may challenge a county's assessment of its property if the owner believes that the property has been assessed at a value greater than its actual value or has been unequally assessed in comparison with other property. Minn. Stat. § 278.01,

subd. 1(a); *Irongate Enters., Inc. v. Cnty. of St. Louis*, 736 N.W.2d 326, 329 (Minn. 2007). The petition for review of the assessment may be filed with the tax court or the district court of the county where the tax is levied. Minn. Stat. § 278.01, subd. 1(a). Upon receiving a tax-review petition, the district court “shall without delay summarily hear and determine the claims, objections or defenses made by the petition and shall direct judgment to sustain, reduce or increase the amount of taxes due.” Minn. Stat. § 278.05, subd. 1 (2008). The district court also “may, in its discretion,” award disbursements for or against either party. Minn. Stat. §§ 278.07, 279.18 (2008). The district court’s orders and judgment are subject to review as in other civil cases. Minn. Stat. § 279.21 (2008).

## I.

The principal issue in this appeal is whether the district court erred in determining the market value of SMBSC’s taxable real property. This determination involves (1) identifying which property is taxable as real property, (2) determining which method or methods of valuation to use, and (3) applying the valuation method or methods to determine the property’s market value. *See SMBSC*, 737 N.W.2d at 551-60 (reviewing various aspects of valuation determination). SMBSC challenges each aspect of the district court’s valuation determination.

Because our review of a district court’s valuation determination is deferential, *id.* at 557, we will not disturb the district court’s valuation of property for tax purposes unless the district court’s decision is clearly erroneous or completely lacks explanation, *see Equitable Life Assurance Soc’y of U.S. v. Cnty. of Ramsey*, 530 N.W.2d 544, 552

(Minn. 1995) (stating that the “inexact nature of property assessment” mandates deferential review); *see also* Minn. R. Civ. P. 52.01 (providing that district court’s findings of fact are not set aside unless clearly erroneous). A district court’s decision is clearly erroneous if it lacks reasonable support in the record. *See SMBSC*, 737 N.W.2d at 557.

**A.**

We first consider whether the district court properly identified the real property subject to taxation. *See id.* at 551. SMBSC asserts error in the district court’s inclusion of three structures as taxable real property. Whether certain property bears the characteristics of real property set forth in Minn. Stat. § 272.03, subd. 1 (2008), is a factual determination that will not be reversed on appeal unless clearly erroneous. *Id.* at 551, 553. But the application of section 272.03, subdivision 1, to determine whether certain property is subject to taxation constitutes a legal determination, which we review *de novo*. *Id.* at 553.

The first structure at issue is the Weibull bin, which is a large piece of equipment used in conditioning sugar. The Weibull bin has exterior and interior layers of steel separated by insulation. It also has a floor and a central support column that contains an elevator. In the parties’ earlier litigation, the tax court determined that the “two-layered shell, roof, floor, and interior column of the Weibull bin” are taxable real property. *Id.* at 550 (quotation omitted); *see also* Minn. Stat. § 272.03, subd. 1(c)(iii) (defining as “real property” subject to taxation the “exterior shell” of an equipment structure if the shell “has structural, insulation, or temperature control functions or provides protection from

the elements”). In the subsequent litigation at issue here, the district court agreed with this determination.

Arguing that only the exterior layer of the Weibull bin should have been considered real property under Minn. Stat. § 272.03, subd. 1(c)(iii), SMBSC contends that the district court erred by relying on the tax court’s prior determination regarding the Weibull bin. But this argument fails to acknowledge that the Minnesota Supreme Court affirmed the tax court’s findings and its determination that the “exterior shell[ ]” of the Weibull bin is taxable real property. *SMBSC*, 737 N.W.2d at 553. Although the decisions of the tax court and the supreme court addressed taxation for two years preceding those at issue here, SMBSC does not contend, nor is there any evidence in the record, that any aspect of the Weibull bin has changed since that time. As such, the record lacks any evidentiary basis on which SMBSC can rely to demonstrate that the district court erred by relying on the tax court’s earlier determination that the multiple sheltering and insulating layers of the Weibull bin act as one external shell subject to taxation.

SMBSC also argues that the district court erred in its determination that a heavy-equipment shop is taxable real property for the tax years at issue here because the building did not exist at the time of the valuations. But the only record evidence of the building’s demolition is the testimony of SMBSC’s chief executive officer that the building was torn down *sometime* before the April 2008 trial. This evidence is countered by the testimony of the county’s expert that he examined and measured the building. The district court credited that testimony. In light of the evidence that the shop existed during

the relevant time period, the district court did not err by concluding that the heavy-equipment shop is real property subject to taxation for the tax years at issue here.

SMBSC also argues that the district court erred in its conclusion that a beet-receiving station is taxable real property because it “is clearly production equipment.” The district court determined that the beet-receiving station is taxable real property because it has structural and sheltering elements, including a concrete lining and a metal roof. *See* Minn. Stat. § 272.03, subd. 1(c)(iii) (establishing exception to exclusion of production equipment from real property for equipment with structural and sheltering elements). SMBSC does not identify any evidence contrary to the district court’s findings or articulate why the district court erred by concluding that the structural and sheltering qualities of the beet-receiving station make it taxable real property. Rather, SMBSC asserts that the facility never has been taxed before this litigation. Without more, this argument is unavailing given the statutory recognition that a district court’s valuation may encompass more or less than what was considered in prior tax valuations. *See* Minn. Stat. § 278.05, subd. 1 (directing district court to “sustain, reduce or increase the amount of taxes due”). That the beet-receiving station never has been included as taxable real property does not in itself establish error in the district court’s determination.

## **B.**

SMBSC also challenges the district court’s decision to value the property based solely on a cost-valuation method. Amicus curiae Minnesota Chamber of Commerce also advances this argument. The district court’s determination as to which method or methods to use in valuing the subject property will not be reversed absent an abuse of

discretion. *Marquette Bank Nat'l Ass'n v. Cnty. of Hennepin*, 589 N.W.2d 301, 306 (Minn. 1999); *see also Equitable Life*, 530 N.W.2d at 552, 555 (stating that whether tax court erred as a matter of law by using only one valuation method presented question of law but determining that tax court's use of one valuation method was not an abuse of discretion when explained).

There are three basic methods to determining the value of real property:

(1) the market comparison approach, which is based on prices paid in actual market transactions involving comparable properties; (2) the cost approach, which is founded on the proposition that an informed buyer would pay no more for the property than the cost of constructing new property having the same utility as the subject property; and (3) the income approach, which is predicated on the capitalization of the income the property is expected to generate.

*SMBSC*, 737 N.W.2d at 555 (quoting *Equitable Life*, 530 N.W.2d at 552). “Whenever possible,” an appraiser should apply at least two approaches to market value so that the alternative value indications derived “can serve as useful checks on each other.” *Equitable Life*, 530 N.W.2d at 553. But when special-purpose property is at issue, it may not be possible to identify comparable sales. *SMBSC*, 737 N.W.2d at 556. Accordingly, as a general rule, when determining the value of special-purpose property, a court may rely solely on the cost approach if the court explains the weaknesses of the rejected approaches. *Id.*; *see also* Appraisal Institute, *The Appraisal of Real Estate* 419 (12th ed. 2001) (stating that “[t]o value special-purpose properties, the cost approach may be more appropriate and reliable” than market comparison because there may be only a few market transactions available).



SMBSC does not dispute that its property is special-purpose property, nor does it contend that it was improper for the district court to use the cost approach to value the property. Rather, SMBSC contends that the district court erred by rejecting the market-comparison approach.

The district court acknowledged the three approaches to valuation and discussed the requirement to use multiple approaches if possible. Because of the nature of SMBSC's property, neither party's expert endorsed an income approach to valuation. But the experts disagreed as to the applicability of the other two approaches. SMBSC's expert opined that a cost approach would be inappropriate because the property is an industrial property that is more than 30 years old. He, therefore, conducted a hypothetical cost-approach analysis but relied solely on a market-comparison approach to support his assessment. The county's expert opined that a cost approach would best demonstrate the value of SMBSC's special-purpose property and rejected the market-comparison approach because he believed the asserted comparable properties were insufficiently similar to SMBSC's property. The district court evaluated the market-comparison evidence proffered by SMBSC's expert and ultimately concluded that there was insufficient evidence of comparable sales to make the market-comparison approach applicable. In doing so, the district court thoroughly explained this aspect of its decision.

The district court found, and the record amply demonstrates, that all sales presented as sales of comparable properties were sales of a "going concern" that included an array of nontaxable assets, such as business interests and personal property in the form of equipment. As both experts acknowledged, if a transaction that includes sales of

business interests or personal property “is to be useful for comparison purposes, it must be dissected into its various components” and even then it “may be less reliable as an indicator of the subject’s real property value.” Appraisal Institute, *supra*, at 420. The district court determined that other considerations prevented reliable extraction of a real-property value from the sales prices. First, although there is a dispute as to whether the sales were forced sales or merely sales in a distressed industry, there is ample record evidence that the sales involved external pressure on either the buyer or the seller that could influence the sale price. *See id.* at 423 (emphasizing that all comparison transactions must be at arm’s length, without duress, and that the motivations of the parties should be considered). Second, the district court found that the evidence of the sales prices or assessments of real-property values from those sales were provided through hearsay and were from either nonparties or only one party to the transaction. *See id.* at 421 (advising caution when sales data is provided by someone who is not a party to the transaction). Because the record supports these findings, the district court did not abuse its discretion by declining to use the market-comparison approach to value SMBSC’s property.

Citing unpublished opinions of the tax court, SMBSC argues that the district court’s analysis of whether to extract real-property values from the going-concern sales prices misapplied the factors that the tax court has used to analyze that issue. *See, e.g., Jennie-O Foods, Inc. v. Cnty. of Kandiyohi*, Nos. C8-99-0404, CX-00-0492 (Minn. T. C. Sept. 11, 2001). As an initial matter, we observe that the tax court’s unpublished opinions are not controlling precedent for the district court. *See Kmart Corp. v. Cnty. of*

*Stearns*, 710 N.W.2d 761, 769-70 (Minn. 2006) (stating that the tax court is an administrative agency that “serves as an alternative to the district court for chapter 270 petitions” and its decisions are not precedential). Moreover, consideration of the *Jennie-O* factors reflects the same factors that the district court considered as noted above.

Because the record supports the district court’s determination that there are multiple complicating factors that undermine the reliability of a comparable-sales-data analysis, the district court did not abuse its discretion by declining to base its valuation of SMBSC’s real property on a market-comparison approach.

### C.

SMBSC also argues that the district court erred in its application of the cost approach. “A cost analysis requires that the value of the site be added to the total depreciated cost of all improvements to arrive at the value of the property.” *Am. Express Fin. Advisors, Inc. v. Cnty. of Carver*, 573 N.W.2d 651, 660-61 (Minn. 1998). SMBSC challenges both the district court’s valuation of the site and the district court’s valuation of the improvements.

SMBSC argues that the district court’s site valuation is erroneous because the district court failed to take land-restoration costs into account. The district court observed that “reduction in land value for environmental contamination . . . is governed by Minnesota’s ‘contamination tax’ statutes,” *see* Minn. Stat. §§ 270.91-.98 (2008 & Supp. 2009), and concluded that reduction was unwarranted because SMBSC failed to present evidence of a governmentally approved “response action plan[ ]” or a properly

calculated “contamination value,” *see* Minn. Stat. § 270.91. SMBSC contends that the district court erred by construing its land-restoration argument as a claim of environmental contamination under the contamination-tax statutes because the residue on its land falls outside the scope of the contamination-tax statutes. But SMBSC does not identify any authority warranting a reduction of the appraised value of the land because of claimed restoration costs. To the contrary, “[s]ite value is determined according to the value of the land based on its highest and best use as though vacant.” *Am. Express*, 573 N.W.2d at 661. Because the district court’s analysis reflects that it followed this maxim in valuing SMBSC’s land, the district court did not err by declining to reduce the land value because of asserted restoration costs.

SMBSC also argues that, by using a reproduction-cost approach rather than a replacement-cost approach, the district court erred by inadequately accounting for depreciation of the improvements on SMBSC’s land.

Replacement cost is the estimated cost to construct a building with an equivalent utility to the building being appraised, at current prices, using modern materials, standards, design and layout. Reproduction cost, on the other hand, is the estimated cost to construct an exact replica of the subject property using the same materials, standards, design and layout and embodying all the deficiencies and obsolescence of the subject building.

*Id.* at 660. Although a replacement-cost approach generally provides a lower and better indication of current value than a reproduction-cost approach, both methods are legitimate approaches for valuing property. *Id.*

The district court weighed three expert witnesses' cost-approach analyses for valuing the improvements on SMBSC's land and accepted only the replacement-cost analysis presented by the county's expert. SMBSC argues that the county's expert assessed reproduction cost, rather than replacement cost, and that the district court erred by accepting the expert's characterization of his analysis. But a review of the record establishes that the analysis of the county's expert is more demonstrative of replacement cost than reproduction cost. The county's expert estimated the cost to replace each of the improvements on the land with an equivalent improvement built with modern construction materials, techniques, and designs. He also sought to eliminate redundancies in the current structures. The district court not only considered all of these indications of replacement cost but also rejected the other analyses as inconsistent with replacement cost because they demonstrated the cost of improvements of greater, rather than equivalent, utility and replaced existing improvements with improvements that substantially altered the tax base of the property. Because the district court's decision reflects that it analyzed the cost of constructing buildings of equivalent utility to those in existence, the district court did not err by characterizing its valuation as a replacement-cost valuation.

Moreover, SMBSC challenges the district court's determination that it relied on replacement cost, not reproduction cost, primarily because it believes that the district court used that determination "to eliminate granting any weight for functional obsolescence for the plant." *See id.* (requiring that functional obsolescence be taken into account in calculating reproduction cost). But the district court's decision to apply only a

limited functional-obsolescence reduction in valuing the improvements was not based solely on the use of a replacement-cost analysis. Rather, the district court explained that it thoroughly considered the purpose of a functional-obsolescence deduction, personally examined the structures at issue, and discredited the testimony of some experts, including the county's expert, regarding the amount of unused space in some of the buildings. SMBSC has not demonstrated, and we decline to conclude, that this analysis and the resulting minimal deduction for functional obsolescence was an abuse of discretion.

## II.

SMBSC next argues that the district court abused its discretion by quashing its trial subpoena duces tecum of the county's expert. A district court has broad discretion in matters of trial management, including rulings on the timing and scope of discovery and the presentation of evidence and arguments at trial. *See Lundman v. McKown*, 530 N.W.2d 807, 829 (Minn. App. 1995), *review denied* (Minn. May 31, 1995); *Ciriacy v. Ciriacy*, 431 N.W.2d 596, 599 (Minn. App. 1988). Even when a district court commits errors in its trial-management decisions, the party seeking a new trial must demonstrate prejudice. *Lundman*, 530 N.W.2d at 829.

When ruling on a motion to quash a subpoena, the district court “should balance the need of the party to inspect the documents or things against the harm, burden, or expense imposed upon the person subpoenaed.” *Ciriacy*, 431 N.W.2d at 599 (quotation omitted). A district court shall quash or modify a subpoena if the subpoena “fails to allow reasonable time for compliance” or “subjects a person to undue burden.” Minn. R. Civ. P. 45.03(c)(1).

On April 23, 2008, five days before trial, SMBSC served the county's expert with a subpoena duces tecum requesting that he bring to trial various materials, including his work papers and appraisals in other cases. On the first day of trial, the county objected and moved to quash the subpoena. Because SMBSC did not immediately move for an order to compel the production of the materials of the county's expert, neither the county nor the county's expert brought the requested materials to trial. *See* Minn. R. Civ. P. 45.03(b)(2) (providing that objection to subpoena precludes access to requested materials unless subpoenaing party moves "for an order to compel the production" and the district court grants the motion). At the end of the day on May 9, 2008, the tenth day of trial, and in the midst of cross-examining the county's expert, SMBSC moved to compel production of the expert's work papers for this case. The district court denied the motion and quashed the subpoena.

The district court determined that the motion to compel was, "at this stage, untimely" and that granting it "would result in a[n] unnecessary delay in the trial." *See* Minn. R. Civ. P. 45.03(c). Although there was no definitive deadline for SMBSC to move for an order compelling production of the expert's materials, SMBSC failed to move to compel production until the end of the tenth day of trial, which was after two days of direct-examination and almost an entire day of SMBSC's cross-examination of the county's expert. Because the county's expert was the last witness scheduled for trial, compelling the production of documents at that juncture—on the last day of trial—likely would have extended the length of the trial significantly. The district court's determination that these considerations of untimeliness and delay outweighed the likely

benefit to be derived from compelling compliance with the subpoena was well within its broad discretion.

SMBSC argues that the district court misapplied rule 45.03 and that Minn. R. Evid. 705 justifies its request for the materials of the county's expert. But rule 705 merely provides that an expert can be required to "disclose" the facts or data underlying the expert's opinion on cross-examination; it does not provide a party access to the materials containing the facts or data. Minn. R. Evid. 705. The comment to rule 705 observes that, "if there is to be effective cross-examination [of an expert,] the adverse party must have advance knowledge of the nature of the opinion and the basis for it" and identifies Minn. R. Civ. P. 26 and Minn. R. Crim. P. 9.01 as the tools for discovering "much of this information." Minn. R. Evid. 705 1989 comm. cmt. Had SMBSC intended to use the expert's materials for cross-examination as contemplated in rule 705, it could have sought discovery of the materials under rule 26 well before trial. *See* Minn. R. Civ. P. 26.02(e) (permitting discovery of basic information regarding identity and opinions of expert witnesses through interrogatories and permitting district court to order "further discovery" upon party's motion). In light of SMBSC's election to forgo this method of discovery, rule 705 is inapposite.

Finally, SMBSC has not demonstrated that it was prejudiced by the district court's decision to quash the subpoena. *See Marquette Bank*, 589 N.W.2d at 307 (requiring evidence of prejudice from quashing subpoena). SMBSC was able to thoroughly cross-examine the county's expert and explore the bases for his opinions in more than one full day of cross-examination. The district court was free to discredit the expert's testimony



because he did not bring his supporting materials to court, or because he gave what SMBSC characterizes as unusual responses to questions. *See id.* (permitting consideration of expert's failure or refusal to bring requested documents in weighing expert's credibility). But it also was well within the district court's broad discretion to credit the county's expert based on his three days of testimony despite these considerations. Because the district court's decision to quash the subpoena was well within its sound exercise of discretion and did not deprive SMBSC of an opportunity to thoroughly cross-examine the county's expert, a new trial is unwarranted.

### III.

SMBSC also argues that the district court erred by rejecting its unequal-assessment claims. A taxpayer claiming unequal assessment bears the burden of proof. *SMBSC*, 737 N.W.2d at 561. To determine whether a property has been unequally assessed, the district court must compare the property's actual market value and real-estate tax assessment with the market value and real-estate tax assessments of other properties. *Id.* This analysis requires consideration of (1) the actual market value of the property at the time of the assessment and (2) "the percentage applied by the assessor to the market value on the property involved as compared with the percentage applied to other property in the assessment district, of the same class, in arriving at the full and true value for tax purposes." *Id.*

SMBSC proffered sales-ratio studies published by the Minnesota Department of Revenue to support its unequal-assessment claim. These sales-ratio studies are admissible as prima facie evidence of the level of assessment. Minn. Stat. § 278.05,

subd. 4 (2008). But market value and sales price are not synonymous, *United Nat'l Corp. v. Cnty. of Hennepin*, 299 N.W.2d 73, 76 n.4 (Minn. 1980), and the sales-ratio studies are not conclusive or binding in determining whether a taxpayer has been unequally assessed, Minn. Stat. § 278.05, subd. 4. The relevance of sales-ratio studies depends on a variety of considerations, including whether the sales price has been adjusted for terms of financing or to reflect the difference in the date of sale compared to the assessment date and whether there is an adequate sample size. *Id.*

SMBSC argues that the district court erred by rejecting its unequal-assessment claims because “there are major discrepancies in assessment between SMBSC and other Renville County taxpayers.” But the district court determined that the nine-month sales ratio from the five sales from tax year 2007 that SMBSC submitted were high enough that it did not entitle SMBSC to relief. *See id.*, subd. 4(d). And SMBSC does not identify any error in that determination. With respect to tax year 2006, the district court excluded evidence from three of six sales for which SMBSC provided sales-ratio data. The district court did so because a significant portion of the sale price was for personal property, but no evidence apportioned the personal property and real property components of the sale price. *See id.*, subd. 4(a) (requiring adjustment for terms of sale); *United Nat'l*, 299 N.W.2d at 77 (rejecting list of commercial-property sales as evidence of unequal assessment, in part because “nothing in the study or the supporting data underlying it disclosed the particular kinds of property involved or the terms and conditions of sale”). Because that left only three applicable sales-ratio studies, the district court properly concluded that the sample size was insufficient. *See Minn. Stat.*

§ 278.05, subd. 4(c). SMBSC, therefore, has not demonstrated that the district court erred by denying it sales-ratio relief.

SMBSC also contends that the district court erred by rejecting its argument that it was unequally taxed on storage tanks for both tax years at issue because other property owners, such as gas stations, are not taxed for storage tanks. But the record supports the district court's determinations that (1) underground gasoline tanks are distinguishable from the tanks on SMBSC's land, both in location and function, and (2) tanks and bins similar to those on SMBSC's land regularly are taxed as real property. Accordingly, the district court did not err by denying SMBSC's unequal-assessment claim on this basis.

#### IV.

Finally, SMBSC argues that the district court abused its discretion by awarding excessive costs to the county. In a tax-assessment challenge under section 278.05, "[i]f the tax is sustained in the full amount levied or increased, costs and disbursements may, in the discretion of the court, be taxed and allowed [against the taxpayer] and shall be included in the judgment." Minn. Stat. § 278.07; *see* Minn. Stat. § 279.18; *see also* Minn. Stat. § 549.04 (2008) (permitting award of "reasonable disbursements" to prevailing party). Absent an abuse of discretion, the district court's award of costs will not be disturbed on appeal. *Brickner v. One Land Dev. Co.*, 742 N.W.2d 706, 711 (Minn. App. 2007), *review denied* (Minn. Mar. 18, 2008).

SMBSC specifically challenges the district court's award of \$82,363 to the county for expert-witness costs. SMBSC contends that it should not be required to compensate the county for work that was duplicative of its expert's work in the previous *SMBSC*

litigation. The county maintains that it accounted for its expert's previous work and calculated its costs request accordingly. The county's billing records support the county's assertion. SMBSC also contends that the award compensated the county for excessive consultation between the county's expert and the county's privately retained counsel. But the district court specifically reduced that portion of claimed costs associated with consultation between the county's expert and its private counsel. Although the resulting cost award is large, our review establishes that it has substantial record support. Notwithstanding SMBSC's arguments to the contrary, the district court did not abuse its discretion by awarding the county \$82,363 for expert-witness costs.

**Affirmed.**