

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-425

MARCH TERM, 2003

	}	APPEALED FROM:
	}	
Little Estate	}	Property Valuation and Review Board
	}	
v.	}	DOCKET NO. 2001-2
	}	
Town of Williamstown	}	
	}	
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Appellant Little Estate, James Riddell, Executor, appeals *pro se* the State Appraiser's opinion upholding the listed value of a 98-acre parcel of land at \$54,400. On appeal, appellant asks the Court to reduce the tax base valuation of the property to \$44,000 and order the town to refund the excess property tax paid. We affirm.

Appellant owns a 98-acre parcel of unimproved land in the town of Williamstown ("Town"). The Town Listers set the 2001 listed value of appellant's property at \$54,400. Appellant appealed this valuation to the Board of Civil Authority and submitted an appraisal report prepared by Bruce Ellison ("Ellison report") that estimated the property's value at \$44,000. After a hearing, the Board affirmed the Town Listers' appraised value. Appellant then appealed to the state appraiser. In support of his appeal, he submitted an appraisal prepared by Stephen Twombly ("Twombly report"), which estimated the property's value at \$43,000. The Town submitted an appraisal estimating the property's value at \$72,600. The state appraiser issued an opinion upholding the \$54,400 listed value. In reaching his conclusion, he relied heavily on the Town's appraisal and gave little evidentiary weight to the Twombly report. This appeal followed.

It is difficult to ascertain appellant's arguments on appeal. In his docketing statement, he raises the following points of error: (1) the state appraiser should have considered the Ellison report in reaching its decision; (2) the property's selling price should have been given more weight in the appraiser's decision; (3) the town's property card erroneously lists the property as having both crop and pasture land when there is no clear land on the woodlot; (4) the town's property card does not list the 15-20 acre swamp situated on the property; and (5) the property card lists a two-acre homestead even though it is a woodlot with no plan of development at this point. He offers little to no support for these allegations in his brief.

The state appraiser's decision will be deemed presumptively correct and his findings will be conclusive if they are supported by the evidence. Lake Morey Inn Golf Resort, Ltd. P' ship v. Town of Fairlee, 167 Vt. 245, 248 (1997). The appraiser, as trier of fact, has the discretion to determine the weight, credibility and persuasive effect of the evidence. Kruse v. Town of Westford, 145 Vt. 368, 374 (1985). The degree of comparability between the subject parcel and comparables goes to the weight of the evidence and is a matter for the trier of fact. Scott Construction, Inc. v. City of Newport Bd. of Civil Authority, 165 Vt. 232, 239 (1996). Once the state appraiser has shown some basis in evidence for his valuation, the appellant bears the burden of demonstrating that the exercise of discretion was clearly erroneous. Breault v. Town of Jericho, 155 Vt. 565, 569 (1991). If the decision is within the range of rationality, it must be affirmed. Id.

In determining the property's tax valuation, the appraiser made extensive findings of fact and conclusions of law. He gave little evidentiary weight to the Twombly report, explaining that " three of the five [comparable] sales are out of town and three of the five sales are at the \$27,000 price range which is exceptionally low for a typical ninety eight acre parcel of land." Instead, he relied on the Town's appraisal, which set out three comparable sales in support of its assessed value of \$72,500. He made several adjustments to the Town's estimate based on the evidence and his inspection of the property and arrived at a fair market value of \$59,900. The appraiser explained that, given the wide range of estimates from direct sales (\$43,000 in appellant's appraisal, \$72,500 in the Town's appraisal, and the appraiser's \$59,900 estimate), the cost approach to value would be the most reliable indicator of the property's fair market value. Using this approach, he concluded that the property's fair market value was \$57,300, which equalized to a listed value of \$54,400. The appraiser noted the similarity between the cost value estimate and the estimate derived from the direct sales approach. Consequently, the appraiser accepted the \$54,400 fair market value set by the Board of Civil Authority.

We find the appraiser's valuation of the subject property supported by the evidence and well within the range of rationality. As to appellant's allegations of error, there is no indication that the state appraiser had the Ellison report before it nor is there any indication that he knew of the amount the estate's executor paid to purchase the subject property. Even if this information had been presented, however, these alleged errors would not support a conclusion that the appraiser exercised his discretion in a clearly erroneous way. Similarly, there is no evidence to support appellant's assertion that misinformation in the town's property card resulted in an unjust valuation of the property. The appraiser's valuation of the subject property is in accordance with the evidence and the statutory requirements for determining fair market value and his methodology was not clearly erroneous. See Lake Morey Inn Golf Resort, Ltd. Partnership, 167 Vt. at 250.

To the extent Appellant raises other arguments on appeal, his brief is so inadequate that we cannot discern them and therefore do not address them. See Johnson v. Johnson, 158 Vt. 160, 164 n.1 (1992).

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

Denise R. Johnson, Associate Justice

Frederic W. Allen, Chief Justice (Ret.),

Specially Assigned