

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

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-111

JAN 15 2010

JANUARY TERM, 2010

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| Marion Lamothe | } | APPEALED FROM: |
| | } | |
| | } | |
| v. | } | Property Valuation and Review |
| | } | Division |
| | } | |
| | } | |
| Town of St. Albans | } | DOCKET NO. PVR 2008-80 |

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

Taxpayer appeals pro se from a decision of the state appraiser setting the 2008 listed value of the subject property at \$171,000. Taxpayer contends the appraiser made a number of erroneous findings. We affirm.

The subject property consists of a single-family older home on 0.34 acres in the Town of St. Albans. Following a townwide reappraisal in 2008, the listers set the value of the property at \$189,300. Taxpayer appealed, and the Board of Civil Authority reduced the value to \$173,600. Taxpayer appealed that determination to the state appraiser, claiming that the fair market value was \$156,400. Following an evidentiary hearing, the appraiser set the listed value at \$171,000. This appeal followed.

Our review on appeal is limited. The state appraiser's decision is deemed presumptively correct and its findings conclusive if supported by the evidence. Garbitelli v. Town of Brookfield, 2009 VT 109, ¶ 5, ___ Vt. ___ (mem.). The appraiser, as the 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). Moreover, we have upheld the "use of any or all methods" or "combination of methods" that results in a rational determination of fair market value. Lake Morey Inn Golf Resort Ltd. P'ship v. Town of Fairlee, 167 Vt. 245, 248-49 (1997). If the record contains "some basis in evidence for [the] valuation, the appellant bears the burden of demonstrating that the exercise of discretion was clearly erroneous." Id. at 248 (quotation omitted). A decision "within the range of rationality" must be affirmed." Breault v. Town of Jericho, 155 Vt. 565, 569 (1991).

Assessed in light of these standards, we find no grounds to disturb the judgment. The Town submitted evidence of fair market value based on both comparable sales and a cost approach utilizing a variety of factors relating to size, quality and condition, depreciation, and the like. The two usable comparables yielded adjusted sales prices of \$174,700 and \$176,800, which averaged out to \$175,700, although the appraiser found that neither comparable was ideal. The cost approach, adjusted for the Town's common level of appraisal, yielded a value of

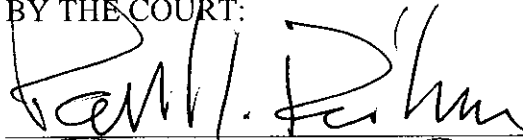
\$166,256. The appraiser ultimately determined to reconcile the two approaches by settling on the average, which resulted in an estimated value of about \$171,000.

Taxpayer challenges the values assigned to certain factors underlying the cost approach employed by the Town and relied on by the appraiser. These include the decision to characterize the house as a 1.50 story dwelling rather than a 2.00 story dwelling; to list the home as 94 percent rather than 100 percent complete because of certain ongoing renovations; to assign a \$4000 rather than a \$1000 value to landscape improvements; to assign certain values to the property's two porches; to select a 50 percent rather than a 65 to 90 percent depreciation for the garage; and to designate a quality grade of 3.25 rather than 1.50 for the property. Taxpayer also asserts that the appraiser incorrectly adjusted the sales prices of the two comparables.

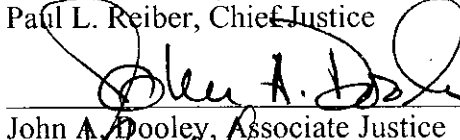
Taxpayer raised these claims at the hearing, but the appraiser found the Town's cost-approach and sales analyses, and the factors underlying them, to be reliable and supported by the evidence, and taxpayer has not demonstrated that its findings in this regard were "clearly erroneous." Lake Morey Inn, 167 Vt. at 248. There is an element of judgment in such determinations which the appraiser must exercise, and we find no basis to conclude that its decisions were arbitrary or outside the range of reason and rationality. Accordingly, the judgment must be upheld. Breault, 155 Vt. at 569.

Affirmed.

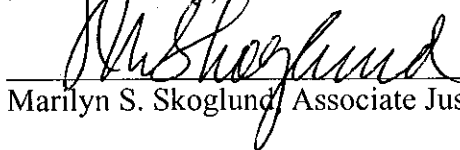
BY THE COURT:



Paul L. Reiber, Chief Justice



John A. Dooley, Associate Justice



Marilyn S. Skoglund, Associate Justice