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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-503

MAY TERM, 2009

John J. McGarry	}	APPEALED FROM:
	}	
v.	}	Rutland Superior Court
	}	
Town of Pittsford Board of Civil Authority	}	DOCKET NO. 651-9-07 Rdcv
		Trial Judge: Harold E. Eaton, Jr.

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

Taxpayer appeals from a superior court judgment affirming an assessment of his property by the Town of Pittsford Board of Civil Authority. Taxpayer contends the court erred in concluding that his evidence was insufficient to rebut the presumption of validity of the Town's valuation. We affirm.

The subject property consists of 268.5 acres located on both sides of Sangamon Road, about a mile from Route 7, in the Town of Pittsford. The property is comprised of a 200-year-old farmhouse, pool, and tennis court situated on approximately seven acres on the north side of the road, as well as a guest cottage, barn, and garage on the rest of the property south of the road. Except for the guest cottage, outbuildings, and about forty-four acres of open mowed fields, the land south of the road is undeveloped, steep, rocky, and forested. The site enjoys long views to the southwest.

In 2005, the property was assessed at $336,100. In 2006, a town-wide reappraisal conducted by a professional appraisal company resulted in a steep jump in value, to $686,400, which was reduced to $644,300 after appeal to the Board. In 2007, the Town adjusted the values of well over 1000 properties to reflect specific local conditions, resulting in increased assessments on over 600 properties. Taxpayer's was among them. Along with other properties on Sangamon Road, taxpayer's neighborhood classification was changed from "Rt. 7" to "East Rt. 7 Rural," which increased the assessed value. Site adjustments for the views from the north parcel also increased the value, although a similar adjustment to the south parcel resulted in some reduction in value, with the result that the total assessment increased to $736,800 for 2007. The Board affirmed the listers' valuation, and taxpayer appealed to the superior court.

In support of his claim that the property was overvalued, taxpayer testified that he believed the property's fair market value was $400,000, based on his opinion that, if he "had to put it on the market, I doubt if I'd get any offers over $400,000." In offering his opinion, taxpayer cited "the age of the house and the nature of the land, the steepness, and also the tremendously negative influence of the traffic on Sangamon Road." A lister who had participated in the appraisal of taxpayer's property testified for the Town, explaining the history of the townwide reappraisal in 2006, and the various factors that went into the 2007 upward adjustments to taxpayer's property. In cross-examining taxpayer about the condition of the property, the Town introduced an appraisal of the property conducted in 1999 in connection with a divorce, which had valued the property at $300,000.

The court issued a written decision in November 2008, affirming the Board's valuation. The court concluded that taxpayer's evidence was insufficient to dispel the presumption of validity accorded the Board's assessment. The court gave no weight to the 1999 appraisal, which was almost a decade old, and found that taxpayer's opinion—which gave no indication of being based upon a comparison with other comparable properties or any other "studied inquiry" of the market—did not provide a rational basis to support "the fact to be proved," i.e., the $400,000 value asserted. The court further concluded that, even if the presumption had been overcome, taxpayer failed to demonstrate that the Town's 2006 reappraisal was flawed, or that the additional value attributed to the property for the 2007 assessment was unsupported. This appeal followed.

We recognize a presumption of validity in the town listers' valuation, a presumption that may be overcome by any evidence "fairly and reasonably indicating that the property was assessed at more than the fair market value." Rutland Country Club, Inc. v. City of Rutland, 140 Vt. 142, 145 (1981) (quotation omitted). In evaluating the sufficiency of such evidence, we have emphasized that the test is not the credibility or overall weight of the evidence; rather, the court must simply determine whether the evidence "afford[s] a rational basis for that which the taxpayer seeks to prove." Vt. Elec. Power Co., Inc. v. Town of Vernon, 174 Vt. 471, 472 (2002) (mem.); see also Rutland Country Club, 140 Vt. at 145-46 (holding that the standard for overcoming the presumption is "not actually one of credibility," but rather whether "the fact offered in proof afford[s] a basis for a rational inference of the fact to be proved.").

Taxpayer here vigorously argues that the court misapplied this test, improperly assessing the "credibility" of his opinion testimony in ruling that it was insufficient to rebut the presumption of validity in favor of the Town's assessment. Taxpayer misreads the court's decision. The test, as noted, requires that the evidence rationally support the fact to be proved. Here, the court found that nothing in taxpayer's testimony concerning the traffic on Sangamon Road, or the age or steepness of his property, rationally supported his opinion that the fair market value was $400,000. There was simply nothing in the testimony to explain the source or basis of the $400,000 figure; it might as easily have been $300,000 or $200,000.

Taxpayer is correct, to be sure, that a property owner is "competent" to testify to the value thereof in challenging an assessment under 12 V.S.A. § 1604, but the relevance—if any—of that evidence is a determination that lies within the sound discretion of the trial court. In State Housing Auth. v. Town of Northfield, 2007 VT 63, ¶ 10, 182 Vt. 90, for example, we held that a property owner was not required to submit an appraisal by a third party to rebut the listers' assessment where the property owner testified "as to her belief of the appraised value, and offered evidence to support her opinion," and the state appraiser "had ample opportunity to evaluate the [owner's] knowledge of the properties in issue and to make a judgment about her credibility." In these circumstances, the conclusion that the presumption of validity accorded the listers' valuation had been overcome was a "determination[] within the discretion of the hearing officer." Id. Similarly, in Giorgetti v. City of Rutland, 154 Vt. 9, 12 (1990), we rejected a claim that the taxpayer had failed to overcome the presumption of validity of the city's appraisal where he "testified fully about his own property, as well as [two] comparables, discussing not only their values but their characteristics".

Contrary to taxpayer's assertion, nothing in these cases or our caselaw supports the proposition that any taxpayer opinion, however baseless, is sufficient to rebut the presumption of validity. As noted, the test is whether the testimony rationally supports the fact to be proved. Thus, had taxpayer here testified—for example—that his land was steeper and therefore less valuable than another similar property assessed at $500,000, the $400,000 figure would have been rationally supported. Or had taxpayer cited a comparable property that had recently sold for around $400,000, again the evidence would have rationally supported the valuation. Here, however, taxpayer's opinion as to fair market value had no rational basis; he offered virtually

nothing to explain or support it. Accordingly, we cannot find that the court abused its discretion in ruling that taxpayer failed to overcome the presumption of validity accorded the Town's assessment. We note, furthermore, that the court correctly observed that taxpayer had adduced no evidence to undermine the 2006 reappraisal or the 2007 adjustment. Accordingly, we discern no basis to disturb the judgment.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Denise R. Johnson, Associate Justice

Brian L. Burgess, Associate Justice