

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

ENTRY ORDER

VERMONT SUPREME COURT
FILED IN CLERK'S OFFICE

SUPREME COURT DOCKET NO. 2008-528

SEP 4 2009

SEPTEMBER TERM, 2009

Desmond Willey and Kelly Willey	}	APPEALED FROM:
	}	
	}	
v.	}	Property Valuation and Review
	}	Division
	}	
	}	
Town of Averill	}	DOCKET NO. PVR 2007-64

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

Taxpayers appeal the state appraiser's decision adjusting the assessed value of their lakefront property. We affirm.

Taxpayers own a camp and adjoining land on Averill Lake in the Town of Averill, one of the Unified Towns and Gores (UTG) of Essex County. The UTG appraisers assigned a grand list appraisal value of \$227,000 to the property and later rejected taxpayers' grievance. Following taxpayers' appeal, the UTG Board of Governors, the equivalent of a board of civil authority, upheld the appraised value of the property. Taxpayers appealed again, and the state appraiser reduced the appraised value of the property to \$185,800. Taxpayers now appeal to this Court, briefly argued on one page in support of their claim that their property is still appraised at too high an amount.

Taxpayers first argue that the state appraiser failed to consider that their property is an inferior lot due to its size and topography. We disagree. The state appraiser explicitly took into consideration the size and topography of the property—including that it sloped steeply downward to a rocky shoreline—in assessing its value. Indeed, the state appraiser adjusted downward the front footage of the property to account for the irregular shoreline that jutted out from the lake.

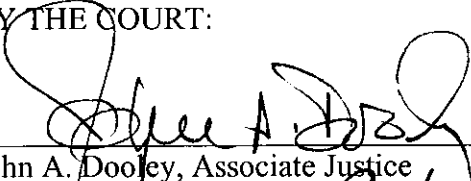
Next, taxpayers challenge the state appraiser's statement that the camp has the potential for conversion to year-round occupancy. In support of this argument, taxpayers state that local and state laws prohibit the alteration of the shorefront and that year-round occupancy would require additions to the property that "may" not be possible under those laws. Taxpayers' general statements about restrictive lakefront zoning laws do not demonstrate that year-round occupancy would be impossible. In any event, there is no indication that the state appraiser's brief comment about the potential for year-round occupancy had any impact on the appraised value of the property. Instead, the state appraiser reached this value by evaluating the current condition of the camp property and comparing it to other camps on the lake.

Taxpayers next state that one of the comparable sales is flawed and should not be used, but fail to indicate the comparable sale to which they are referring. While acknowledging that neither of the comparable sales was excellent, the state appraiser considered the various differences in lot size, living space, quality of the shoreline and other factors before adjusting the sales prices to compare the properties to the subject property. The state appraiser's findings and conclusions regarding the comparable sales were well within his discretion. See Harte v. Town of Bennington, 153 Vt. 256, 258 (1989) (stating that reliance on comparable properties is within factfinder's discretion and will be upheld unless the comparable properties "are so different that comparison is illogical"); see also Lake Morey Inn Golf Resort, Ltd. P'ship v. Fairlee, 167 Vt. 245, 248 (1997) (noting that state appraiser's decision "will be deemed presumptively correct and its findings will be conclusive if they are supported by the evidence").


Finally, taxpayers appear to believe that the state appraiser inaccurately concluded that all properties in a municipality are comparable for the purposes of determining appraisal value. That appraiser cited Justice Dooley's concurring opinion in Bowen v. Town of Burke, 153 Vt. 131, 135 (1989) for the proposition that all town properties must be considered in determining the equalization ratio, not the appraisal value. There is, therefore, no error.

Affirmed.

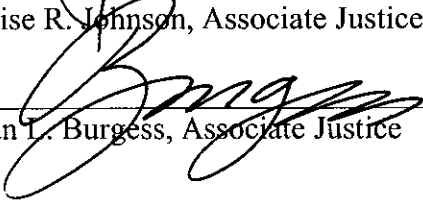
BY THE COURT:



John A. Dooley, Associate Justice



Denise R. Johnson, Associate Justice



Brian L. Burgess, Associate Justice