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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-318

JUNE TERM, 2010

David P. Sloterbeck	}	APPEALED FROM:
	}	
	}	
v.	}	Property Valuation and Review Division
	}	
	}	
Town of Landgrove	}	DOCKET NO. PVR 2008-70

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

Taxpayer appeals the state appraiser's valuation of his real property located in the Town of Landgrove. We affirm.

Taxpayer owns a contiguous parcel of land located partly in the Town of Weston and partly in the Town of Landgrove. The family home, a guest house, and 20.88 acres of land are located in the Town of Weston, which valued the property in 2008 at nearly $700,000 before deducting the value of land placed in the current use program. The Town of Landgrove assessed the contiguous 12-acre parcel at $133,660 in 2008 following a town-wide reassessment, which resulted in a 100% common level of appraisal. Taxpayer appealed the assessment first to the town listers and then to the town board of civil authority, but no change was made. Taxpayer then appealed to the state appraiser, who reduced the assessment to $114,819. On appeal, taxpayer argues that (1) the Town erred by determining that the highest and best use of the property was residential development; and (2) the Town's working guidelines are discriminatory and incomplete with regard to undeveloped properties not suited for development. According to taxpayer, because of problems with wetness and access, his Landgrove property should have been assessed at $22,000 or lower.

In its assessment, the Town recognized that taxpayer's 12-acre Landgrove land is part of a contiguous 32.88-acre parcel. The Town concluded that the highest and best use of the property is residential use, but noted that there was some standing water in what appeared to be shallow soil at the southern end of the property. The Town also noted that there is currently no easy access to the parcel, but cited the opportunity for road access via an existing road. Overall, the Town rated the eight wooded acres of the parcel as "inferior" and the four pasture acres as "average." In making this determination, the Town acknowledged taxpayer's submission of a report by a forest-management consultant opining that the parcel had "very limited" development potential.

In his appeal to the state appraiser, taxpayer's principal objection to the Town's assessment was that, by his calculations, it overvalued his land compared to how the Town of Weston had valued the land on the Weston side of the contiguous parcel. Citing the overall

Weston land value and making assumptions about how that valuation was apportioned to his two Weston pastures, taxpayer opined that the Town of Langrove was overvaluing the subject parcel by at least fourfold. Taxpayer noted the wetness and lack of drainage of the Landgrove land and concluded that substantial investment would be required to create roads and driveways on the property. Taxpayer did not introduce any evidence of market sales, however.

The Town's evidence included the sales used to create its land chart, a description of the methodology used to analyze and test the sales, a copy of the valuation chart, and an explanation of how the land values were applied to taxpayer's property. The per-acre value was determined from the valuation chart based on the total parcel size of 32.88 acres (including the Weston parcel) and the designated quality of the woodlot and pasture. The Town also introduced evidence of two market sales of land within Landgrove and eight market sales in adjoining towns within the previous three years. The per-acre value in nine of the ten comparable sales was higher than that set for taxpayer's property. Testimony from the Town also indicated that real estate values were significantly higher in Landgrove than Weston and that Weston's common level of appraisal was currently at 82%, compared to Landgrove's 100%.

Based on his site visit and the submissions and testimony of the parties, the state appraiser concluded that the Town of Landgrove had used an appropriate approach to value, but determined nonetheless that, given the impediments to development of the Landgrove property, the highest and best use of the property is forestry and pasture land rather than residential use. Based on his determination that both the woodlot and pasture lands should have been designated as "inferior," the state appraiser reduced the value of the property to $114,919. In making this determination, the state appraiser concluded that the Town's comparable sales supported its assumptions as to land valued in Landgrove. The state appraiser also noted that taxpayer had not offered any market sales or property assessments to support his argument that the Town of Westgrove should adopt Weston's assessed values for his land.

Upon review of the record, we conclude that taxpayer has failed to meet his burden of demonstrating that the state appraiser erred in valuing his Landgrove property. See Garbitelli v. Town of Brookfield, 2009 VT 109, ¶ 5, 987 A.2d 327 (mem.) (stating that, on appeal to this Court, state appraiser's decision is deemed presumptively correct and its findings will be conclusive if supported by evidence); Lake Morey Inn Golf Resort, Ltd. P'ship v. Town of Fairlee, 167 Vt. 245, 248 (1997) (noting that if record contains any evidence in support of real property valuation, taxpayer bears burden of demonstrating that appraiser's exercise of discretion was clearly erroneous). Taxpayer challenges Landgrove's designation of "residential use" as the highest and best use of the property, but on appeal from the Town's assessment, the state appraiser agreed with taxpayer that the highest and best use of the property was forestry and pasture land. Taxpayer seems to argue, however, that the state appraiser's valuation is still suspect because it is based on the Town's flawed guidelines and methodology. Although taxpayer points out what he perceives to be deficiencies in the Town's guidelines, he failed to present any credible evidence demonstrating that his property is overvalued with respect to fair market value or the assessed value of other properties in the town. See Beaudry v. Town of Chester, 143 Vt. 182, 186 (1983) (noting that because taxpayers failed to demonstrate that town had assessed their property at more than fair market value, town was not required to prove that its appraisal method complied with relevant constitutional or statutory criteria). Indeed, as noted, he failed to present any comparable market sales or land assessments in Landgrove.

Although taxpayer claims that Weston valued his contiguous land at a far lower rate, that claim is based on several unproven assumptions. Further, even assuming that this is a relevant issue and that taxpayer proved the disparity, the Town presented evidence that Landgrove real

estate was significantly more valuable than real estate in Weston and that Weston's current common level of appraisal was significantly lower than that of Landgrove. Given all of these circumstances, we find no basis to overturn the state appraiser's assessment of taxpayer's Landgrove property.

Affirmed.

BY THE COURT:

____
John A. Dooley, Associate Justice

____
Marilyn S. Skoglund, Associate Justice

____
Brian L. Burgess, Associate Justice