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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-332

APRIL TERM, 2004

Richard and Barbara Griffin	APPEALED FROM:
v.	Property Valuation and Review Division
Town of Vershire	DOCKET NO. PVR 2002-79

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

Taxpayers appeal a state appraiser= s decision assessing their property at the same value as that established by the Town of Vershire. We affirm.

Taxpayers= property consists of a two-story prefabricated modular home situated on a 116-acre parcel of land. In 2002, the Town assessed the property at $226,400.00. Taxpayers filed appeals first to the town listers, then to the town board of civil authority, and finally to the state division of property valuation. Each time, the original assessed value was upheld. Taxpayers now appeal to this Court, arguing that (1) the Town violated 1 V.S.A. ' 312 by failing to keep minutes of the grievance hearing before a town lister; (2) the Town deprived them of their right to due process by having only one lister present at the grievance hearing; (3) the state appraiser violated Vermont constitutional and statutory law by failing to assess their property uniformly, relative to other properties in the Town, based on the four elements of the Town= s valuation that they challenged; and (4) the listed value of the subject property adopted by the state appraiser does not correspond to the listed value of other comparable properties in the Town.

We need not address taxpayers= first two issues concerning Vermont= s Open Meeting Law because taxpayers failed to avail themselves of the statutory injunctive and declaratory relief available under that law. See 1 V.S.A. ' 314(b). Appeals to the division of property valuation are reviewed de novo. See 32 V.S.A. ' 4467. Hence, taxpayers have failed to demonstrate how any procedural defect in the grievance hearing before the town lister had a prejudicial impact on the proceeding before the division of property valuation. Indeed, the only detrimental impact claimed by taxpayers in their brief is that the minutes from the lister hearing would have benefitted their appeal to the board of civil authority by suggesting that only one lister decided their grievance.

As taxpayers acknowledge, the crux of their appeal is the alleged lack of uniformity in the assessment of their property relative to other comparable properties in the town. Taxpayers complain that, rather than evaluate the specific elements of the Town= s valuation challenged in their appeal, the state appraiser engaged in only a general evaluation of the parties= comparable properties relative to the subject property. Specifically, taxpayers refer to four elements of the Town= s valuation that they contested: (1) the Town gave their modular home a higher quality rating than the other modular homes in the town; (2) the Town should have given their property, like other comparable properties, a five-percent functional deficiency for their long driveway; (3) the Town graded their land higher than other comparable properties; and (4) their malfunctioning, prefabricated fireplace was valued too highly compared to the fireplaces in other homes.

We conclude that, for purposes of our review, the state appraiser= s findings were sufficient to support its assessment of taxpayers= property. See Lake Morey Inn Golf Resort v. Town of Fairlee, 167 Vt. 245, 251 (1997) (state appraiser need not explain precise mathematics, but rather valuation must be within range of rationality; principal inquiry on review is whether state appraiser= s decision reveals to parties and this Court how decision was reached). The state appraiser acted properly in basing its assessment on a general comparison between the subject property and the comparable properties submitted by the parties. Notwithstanding any minor inconsistencies in the valuation of a property= s particular features relative to other properties, the critical test is whether the assessed value of the subject property generally corresponds to the assessed value of comparable properties. See 32 V.S.A. ' 4467; Kachadorian v. Town of Woodstock, 144 Vt. 348, 350 (1984). After making findings regarding the subject property and each of the parties= comparable properties, the state appraiser determined that the original assessment of taxpayers= property satisfied that test. Taxpayers have failed to meet their burden of demonstrating that the state appraiser= s decision was arbitrary or unlawful. See Sondergeld v. Town of Hubbardton, 150 Vt. 565, 568, 571 (1988) (state appraiser= s decision is presumptively correct, and taxpayer retains burden of demonstrating that valuation is arbitrary or unlawful).

We find no merit in taxpayers= argument that because the Town= s A common level of appraisal@ is eighty-six percent of fair-market value, their property must be multiplied by .86 to arrive at the appropriate equalization rate. The common level of appraisal is a ratio designed to equalize property values across Vermont for purposes of the state education property tax and has nothing to do with equalizing the assessed values of individual properties within each town. See 32 V.S.A. ' 5401(3) (common level of appraisal means ratio of aggregate value of local education property tax grand list to aggregate value of equalized education property tax grand list). Although the state appraiser did not go through the two-step procedure for assessing property stated in Kachadorian, 144 Vt. at 350, taxpayers have failed, as noted, to meet their burden of demonstrating that the state appraiser= s assessed value of their property does not correspond to the assessed value of other comparable properties within the Town.

Affirmed.

BY THE COURT:

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Paul L. Reiber, Associate Justice