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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2010-002

JUNE TERM, 2010

John J. Uckele	}	APPEALED FROM:
	}	
	}	
v.	}	Property Valuation and Review Division
	}	
Town of Shelburne	}	DOCKET NO. PVR 2008-190

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

Taxpayer appeals the state appraiser's decision assessing his property in Shelburne, Vermont at $189,300. We affirm.

Taxpayer owns a 0.3 acre lot in the Town of Shelburne improved with a single-family home. In 2004, the property was appraised at $86,800. In 2008, the Town completed a reappraisal, and listed taxpayer's property at $189,300, an increase of over 100% in four years. Taxpayer appealed the valuation to the Board of Civil Authority, which changed the assessed value to $213,900, based on its assessment of the property's condition.

Taxpayer appealed this decision to the state appraiser. At the hearing, taxpayer submitted the list of sales from Shelburne and highlighted properties that sold below their assessed value, claiming that this demonstrated the Town's assessments were inflated. The Town appraiser testified that a sales comparison analysis was used to set the value of taxpayer's property. Following a hearing and property inspection, the state appraiser concluded that the Board's adjustments were unwarranted and set the value at $189,300. The state appraiser explained that although taxpayer contested the assessment, he did not submit any evidence to support a fair market value different from the assessed value. Taxpayer appeals.

We apply a deferential standard of review to decisions of the state appraiser and will affirm where the "findings [are] rationally drawn from the evidence and are based on a correct interpretation of the law." Great Bay Hydro Corp. v. Town of Derby, 2007 VT 10, ¶ 5, 181 Vt. 574 (mem.). The goal of property tax appraisal is to list all properties at fair market value so that "no property owner pays more than his or her fair share of the tax burden." Barnett v. Town of Wolcott, 2009 VT 32, ¶ 4, 185 Vt. 627 (mem.). The Town's valuation is entitled to a presumption of validity, which 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). At all times, "the burden of persuasion remains on the taxpayer as to all contested issues." Id. at 146.

On appeal, taxpayer argues that his property is over assessed. First, taxpayer bases his argument on the overall percentage change in property values in Vermont from 2004 to 2008 which, according to taxpayer's calculation, represents an average state-wide increase of 7.05%. Taxpayer asserts that the over 100% increase in his reappraised value—apparently in comparison

to the statewide average, but with no analysis beyond the facial difference—is unfair. Taxpayer raises this argument for the first time on appeal; therefore we do not address it. See Bull v. Pinkham Eng'g Assocs., 170 Vt. 450, 459 (2000) ("Contentions not raised or fairly presented to the trial court are not preserved for appeal."). Taxpayer also submits letters from real estate agents valuing his property and highlights a number of Shelburne properties that sold for well below assessed value, but the letters were not presented to the state appraiser and so will not be considered in this appeal. See id. Taxpayer did present to the state appraiser a couple of properties in Shelburne that sold for less than their assessed value, and pointed to a property in the nearby town of Essex assessed for less than taxpayer's property.

We conclude that taxpayer has not met his burden of demonstrating that the state appraiser's decision to rely on the Town's comparable sales method analysis was arbitrary or unlawful. See Sondergeld v. Town of Hubbardton, 150 Vt. 565, 568 (1988). The critical question in this case is whether the assessed value of the subject property generally corresponds to the assessed value of comparable properties in the Town. See 32 V.S.A. § 4467; Kachadorian v. Town of Woodstock, 144 Vt. 348, 350 (1984). Taxpayer's assertion that some properties in Shelburne sold at far less than their assessed value does not necessarily undermine the Town's comparable sales analysis of his property, particularly given the state appraiser's observation that taxpayer did not account for numerous Shelburne properties that sold at or above their assessed value. Nor does taxpayer demonstrate that the appraiser abused his discretion in declining to accord persuasive weight to the evidence of the Essex house that showed only its assessed value. The state appraiser, as the trier of fact, has discretion to determine the weight, credibility, and persuasive effect of the evidence and as such was free to accept or reject comparable properties submitted by taxpayer. See Kruse v. Town of Westford, 145 Vt. 368, 374 (1985). There was no abuse of discretion evident in the state appraiser's electing not to rely on taxpayer's proposed comparable properties given the lack of evidence as to the circumstances of their sales and the similarity of these properties to taxpayer's property.

Finally, we address the Town's motion to strike portions of taxpayer's printed case on the grounds that some of the items were not admitted before the state appraiser and therefore not part of the record on appeal. We dismiss the motion as moot because we do not rely on any of the contested items in resolving this appeal.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice