

TAX COURT OF NEW JERSEY

Joshua D. Novin  
Judge



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NOT FOR PUBLICATION WITHOUT THE APPROVAL  
OF THE TAX COURT COMMITTEE ON OPINIONS

August 7, 2015

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Catherine M. DeAppolonio, Esq.  
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Re: Patricia Lane Fields v. Roselle Borough  
Docket No. 015569-2013

Dear Mr. Linder and Ms. DeAppolonio:

This letter constitutes the court's opinion after trial in the above-referenced matter challenging the 2013 tax year assessment on plaintiff's single-family residence. For the reasons stated more fully below, the assessment is reduced.

**I. Procedural History and Factual Findings**

Patricia Lane Fields ("plaintiff") is the owner of the single-family home located at 931 Spruce Street, in the Borough of Roselle, County of Union and State of New Jersey. The property is identified on the tax map of the Borough of Roselle as Block 2306, Lot 8 (the "subject property"). For the 2013 tax year, the subject property was assessed as follows:

Land:	\$ 52,000
<u>Improvements:</u>	<u>\$108,300</u>
Total	\$160,300

The average ratio of assessed to true value, commonly referred to as the Chapter 123 ratio, for Roselle Borough (“defendant”) for the 2013 tax year is 57.61%, with a corresponding Chapter 123 common level range between 48.97% and 66.25%. See N.J.S.A. 54:1-35a(a); N.J.S.A. 54:1-35a(b). When the average ratio is applied to the assessment, the implied equalized value of the subject property for the 2013 tax year is \$278,250.30.

Plaintiff filed a petition of appeal with the Union County Board of Taxation (the “Board”) challenging the 2013 tax year assessment on the subject property. On August 23, 2013, the Board entered a Memorandum of Judgment (the “Judgment”) denying plaintiff’s claim for relief under judgment code “2A” – “Assessment within Range.” Plaintiff filed a timely Complaint with the Tax Court contesting the Board’s Judgment. The defendant did not file a Counterclaim. The matter was tried to conclusion on February 9, 2015.

At trial, plaintiff offered the testimony of a State of New Jersey certified general real estate appraiser (“plaintiff’s appraiser”) and offered the appraisal report of plaintiff’s appraiser into evidence. Defendant raised three objections to plaintiff’s appraiser’s testimony and admission of his appraisal report. Defendant argued that plaintiff’s appraiser should be barred from testifying because he did not personally inspect the interior of the subject property. Instead, plaintiff’s appraiser engaged a State of New Jersey certified residential real estate appraiser, as an independent contractor (the “independent contractor appraiser”), to inspect and photograph the interior of the subject property.<sup>1</sup> Defendant further objected to the admission of the appraisal report because it was executed on December 22, 2014 and reflects that the licenses of plaintiff’s appraiser and the independent contractor appraiser expired on December 31, 2013.

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<sup>1</sup> Defendant did not contest plaintiff’s appraiser’s experience and qualifications to be an expert witness, rather defendant’s counsel asserted that plaintiff’s appraiser reliance upon the independent contractor appraiser’s interior inspection of the subject property prohibited his testimony as an expert witness in this matter.

Finally, defendant argued that because the appraisal report designated plaintiff's appraiser as "supervisory appraiser" and not as "appraiser", the testimony of the "appraiser" was required in order to admit the appraisal report into evidence.

The court reserved decision on accepting plaintiff's appraiser as an expert and admitting his appraisal report into evidence. The court invited plaintiff and defendant to submit post-trial briefs addressing plaintiff's appraiser's qualifications to testify as an expert, admission of the appraisal report and plaintiff's appraiser's designation in the appraisal report as "supervisory appraiser". The parties submitted post-trial briefs addressing those issues.

## **II. Conclusions of Law**

### **a. Qualification and admissibility**

Under N.J.R.E. 702, an individual possessing particular knowledge, skill, experience, training or education, may be qualified by the court as an expert and therefore, permitted to offer opinion testimony. An expert must be suitably "qualified and possessed of sufficient specialized knowledge to be able to express and to explain the basis of that opinion." State v. Moore, 122 N.J. 420, 458-59 (1991). Thus, not only must a witness be duly qualified to testify as an expert, but for the expert's opinion to be meaningful to the trier of fact, it must be supported by a proper foundation, based on credible facts and data. Peer v. City of Newark, 71 N.J. Super. 12, 21 (App. Div. 1961), certif. denied, 36 N.J. 300 (1962). As set forth in Rosenberg v. Tavorath, 352 N.J. Super. 385, 401 (App. Div. 2002):

In addition to determining whether a witness is qualified to testify as an expert, the trial court must also decide the closely related issue as to whether the expert's opinion is based on facts and data. Biunno, Current N.J. Rules of Evidence, comment 2 on N.J.R.E. 702 (2002). As construed by applicable case law, N.J.R.E. 703 requires that an expert's opinion be based on facts, data, or another expert's opinion, either perceived by or made known to the expert, at or before

trial. Buckelew v. Grossbard, 87 N.J. 512, 524 (1981); Nguyen v. Tama, 298 N.J. Super. 41, 48-49 (App. Div. 1997).

Therefore, it is incumbent upon the trial court, after qualifying a witness as an expert, to evaluate the facts or data which form the basis of the expert's opinion. An expert's conclusions must be rooted in facts and data perceived or made known to the expert at or before trial.

Although, they need not be admissible, the facts and data must be "of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject."

N.J.R.E. 703. Thus, the expert must "give the why and wherefore" of his or her opinion, rather than a mere conclusion." Rosenberg v. Tavorath, *supra*, 352 N.J. Super. at 401 (quoting Jimenez v. GNOC, Corp., 286 N.J. Super. 533, 540 (App. Div.), certif. denied 145 N.J. 374 (1996)). The bare conclusions of an expert, unsupported by factual evidence and data will not withstand judicial scrutiny and is an inadmissible "net opinion." State v. Townsend, 186 N.J. 473, 494-495 (2006).

In support of qualifying plaintiff's appraiser as an expert in this matter, plaintiff relies upon the Tax Court's opinion in Elrabie v. Borough of Franklin Lakes, 24 N.J. Tax 158 (Tax 2008). In Elrabie, the taxpayers objected to admission of defendant's expert's appraisal report based upon his testimony that he did not personally inspect the interior of the residence prior to reaching an opinion on value. In that case, defendant's expert's appraisal report was signed by both the expert and an appraiser he employs, and contained a certification indicating that only the employee appraiser personally inspected the interior of the property. The employee appraiser reported his findings and observations to defendant's expert, who inspected the exterior of the taxpayers' residence. Thus, defendant's expert obtained information regarding the interior condition of the taxpayers' property from his employee appraiser, from individuals who performed a municipal-wide revaluation and from the multiple listing service.

In rejecting the taxpayers' argument, the court concluded that defendant's expert possessed "a sufficient basis upon which to opine on the value" of the taxpayers' property, thereby rendering his testimony and appraisal report admissible. Id. at 163. In reaching that conclusion, the court pointed to the Appellate Division's decision in Jablin v. Borough of Northvale, 13 N.J. Tax 103 (App. Div. 1991). There the court advanced the view that an expert's failure to conduct an interior inspection of the property "speaks to the weight to be accorded testimony as opposed to its admissibility." Id. at 108. The court, in examining N.J.R.E. 703 and N.J.S.A. 2A:83-1, observed that an expert is permitted to rely upon "facts or data. . . made known to him at or before the hearing" and to "testify regarding information of comparable land sales obtained from the owner, seller, purchaser, lessee...or the broker or attorney who 'negotiated...or [was] cognizant of such sales...'" Id. at 106. Although Jablin, supra, did not address admissibility of the expert's report, it is well-settled that if a witness is qualified as an expert, then the expert's report may be admitted into evidence to assist the trier of fact. See Little Egg Harbor Township v. Bonsangue, 316 N.J. Super. 271, 280 (App. Div. 1998).

Here the objections raised by defendant to the court qualifying plaintiff's appraiser as an expert and admission of the appraisal report speak to issues of credibility and the weight to be accorded plaintiff's appraiser's testimony in this matter. Plaintiff's appraiser is a State of New Jersey certified general real estate appraiser, who provided credible testimony that his license and the license of the independent contractor appraiser, were in full force and effect both as of the valuation date and as of the date of the appraisal report. Moreover, in the past, this court had qualified plaintiff's appraiser as an expert in property valuation. Thus, the court is satisfied that

plaintiff's appraiser possessed the requisite knowledge, skill, experience and training to be qualified as an expert in property valuation and to express opinion testimony.

Turning to the closely aligned issue, under N.J.R.E. 703, whether the facts or data relied upon by plaintiff's appraiser were perceived or made known to him at or before trial, the court affirmatively concludes that they were. Plaintiff's appraiser candidly testified that he inspected only the exterior of the subject property however, the independent contractor appraiser inspected and photographed both the interior and exterior of the subject property. However, in reaching his opinion of value for the subject property, plaintiff's appraiser provided credible testimony that "we review, we discuss and analyze all the data together and come up with our opinion of value based on the facts of the subject and the mls and/or tax data used." Plaintiff's appraiser confirmed that he examined the interior photographs and multiple listing service records for the subject property in order to gauge its condition. Significantly, the "Appraiser's Certification" in the appraisal report was signed by both plaintiff's appraiser and the independent contractor appraiser, signaling that the views and opinions expressed therein were plaintiff's appraiser's opinions. Thus, the record is replete with factual evidence, data and information about both the subject property and the comparable sales, upon which plaintiff's appraiser relied, to form his opinion of value.

Hence, the court concludes that plaintiff's appraiser's opinion of value for the subject property was sufficiently supported by facts and data. The facts, data and information were made known to plaintiff's appraiser prior to preparation of the appraisal report and his testimony in this matter. Moreover, the sources of factual information and data were of a type reasonably relied upon by other experts in his field. N.J.R.E. 703. Thus, plaintiff's appraiser possessed the requisite skill, knowledge and experience to be qualified as an expert in property valuation, and

acquired or gained access to sufficient factual data and information upon which he was able to base an opinion of value for the subject property, thereby rendering his opinion testimony and appraisal report admissible.

The court further concludes that plaintiff's appraiser's designation as "supervisory appraiser" on the "Appraiser's Certification" contained in the appraisal report has no bearing on plaintiff's appraiser's qualification as an expert and admission of the appraisal report in this matter. A "trainee" real estate appraiser must perform appraisal services under the "direct supervision" of a state certified general or residential real estate appraiser designated as "supervising appraiser." N.J.A.C. 13:40A-4.6. A "supervising appraiser" is required to "[p]ersonally inspect, with the trainee, the interior and exterior of each appraised property until the supervising appraiser determines that the trainee is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice." N.J.A.C. 13:40A-4.6(e)(6). Here, the independent contractor appraiser was not a "trainee" real estate appraiser requiring direct supervision. Credible evidence was presented during trial that the independent contractor appraiser was a State of New Jersey certified residential real estate appraiser. Thus, the provisions of N.J.A.C. 13:40A-4.6(e)(6) requiring the "supervising appraiser" to personally inspect the subject property with the "trainee" were inapposite. Moreover, by executing the "Appraiser's Certification" plaintiff's appraiser certified that the statements contained in the appraisal report are true and correct, the reported opinions and conclusions are his personal, impartial and unbiased opinions and conclusions, and that the opinions, analyses and conclusions contained therein have been prepared in accordance with the Uniform Standards of Professional Appraisal Practice. Thus, the opinions, conclusions and

analysis contained in the appraisal report constitute plaintiff's appraiser's analysis, opinions and conclusions.

**b. Presumption of Validity**

“Original assessments and judgments of county boards of taxation are entitled to a presumption of validity.” MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes, 18 N.J. Tax 364, 373 (Tax 1998). “Based on this presumption, the appealing taxpayer has the burden of proving that the assessment is erroneous.” Pantasote Co. v. City of Passaic, 100 N.J. 408, 413 (1985) (citing Riverview Gardens v. North Arlington Borough, 9 N.J. 167, 174 (1952)). “The presumption of correctness...stands, until sufficient competent evidence to the contrary is adduced.” Little Egg Harbor Township v. Bonsangue, 316 N.J. Super. 271, 285-86 (App. Div. 1998). A taxpayer can only rebut the presumption by introducing “cogent evidence” of true value. That is, evidence “definite, positive and certain in quality and quantity to overcome the presumption.” Aetna Life Ins. Co. v. Newark City, 10 N.J. 99, 105 (1952). Thus, at the close of plaintiff's proofs, the court must be presented with evidence which raises a “debatable question as to the validity of the assessment.” MSGW Real Estate Fund, LLC, supra, 18 N.J. Tax at 376.

In evaluating whether the evidence presented meets the “cogent evidence” standard, the court “must accept such evidence as true and accord the plaintiff all legitimate inferences which can be deduced from the evidence.” Id. at 376 (citing Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520 (1995)). The evidence presented, when viewed under the Brill standard “must be ‘sufficient to determine the value of the property under appeal, thereby establishing the existence of a debatable question as to the correctness of the assessment.’” West Colonial Enters, LLC v. City of East Orange, 20 N.J. Tax 576, 579 (Tax 2003) (quoting Lenal Properties, Inc. v. City of Jersey City, 18 N.J. Tax 405, 408 (Tax 1999), aff'd, 18 N.J. Tax 658 (App. Div.

2000), certif. denied, 165 N.J. 488 (2000)). “Only after the presumption is overcome with sufficient evidence... must the court ‘appraise the testimony, make a determination of true value and fix the assessment.’” Greenblatt v. Englewood City, 26 N.J. Tax 41, 52 (Tax 2011) (quoting Rodwood Gardens, Inc. v. City of Summit, 188 N.J. Super. 34, 38-39 (App. Div. 1982)).

At the close of plaintiff’s proofs, defendant moved to dismiss the matter under R. 4:37-2(b), arguing that plaintiff failed to overcome the presumption of validity. The court denied defendant’s motion and placed a statement of reasons on the record.

However, concluding the presumption of validity has been overcome, does not equate to a finding by the court that the assessment is erroneous. Once the presumption has been overcome, “the court must then turn to a consideration of the evidence adduced on behalf of both parties and conclude the matter based on a fair preponderance of the evidence.” Ford Motor Co. v. Edison Township, 127 N.J. 290, 312 (1992). The court must be mindful that “although there may have been enough evidence [presented] to overcome the presumption of correctness at the close of plaintiff’s case-in-chief, the burden of proof remain[s] on the taxpayer...to demonstrate that the judgment under review was incorrect.” Id. at 314-15 (citing Pantasote Co., supra, 100 N.J. at 413).

### **III. Valuation**

The plaintiff’s appraiser employed the comparable sales approach to reach an opinion of the true market value of the subject property. In plaintiff’s appraiser’s opinion, the true market value of the subject property, as of the October 1, 2012 valuation date, was \$185,000.

“There are three traditional appraisal methods utilized to predict what a willing buyer would pay a willing seller on a given date, applicable to different types of properties: the comparable sales method, capitalization of income and cost.” Brown v. Borough of Glen Rock, 19 N.J. Tax 366, 376 (App. Div. 2001) (citing Appraisal Institute, The Appraisal of Real Estate

81 (11<sup>th</sup> ed. 1996), certif. denied, 168 N.J. 291 (2001)). “[T]he answer as to which approach should predominate depends upon the facts in the particular case.” WCI-Westinghouse, Inc. v. Township of Edison, 7 N.J. Tax, 610, 619 (Tax 1985), aff’d, 9 N.J. Tax 86 (App. Div. 1986). The sales comparison approach derives an opinion of market value “by comparing properties similar to the subject property that have recently sold, are listed for sale, or are under contract.” Appraisal Institute, The Appraisal of Real Estate 377 (14<sup>th</sup> ed. 2013). The sales comparison approach involves a “comparative analysis of properties” and requires the expert to focus on the “similarities and differences that affect value...which may include variations in property rights, financing, terms, market conditions and physical characteristics.” Id. at 378. “When data is available, this [approach] is the most straight forward and simple way to explain and support an opinion of market value.” Greenblatt v. Englewood City, supra, 26 N.J. Tax at 53 (citing Appraisal Institute, The Appraisal of Real Estate 300 (13<sup>th</sup> ed. 2008)). Here the court concludes, as did plaintiff’s appraiser, the sales comparison approach is the most appropriate method to determine the true market value of the subject property.

Based on the evidence offered during trial, the court concludes the subject property is a 3,055 square foot bi-level style, single-family home, approximately 53 years old, in average condition, and is situated on a 6,000 square foot lot. The home consists of a total of ten rooms, five bedrooms, three full bathrooms, an unfinished room in the lower level, a two-car garage and a rear patio area.

Engaging in the sales comparison approach, plaintiff’s appraiser relied on the sale of three single-family homes in Roselle Borough. The unadjusted sales prices of the comparable sales ranged from \$129,800 to \$180,000. After adjustments, the adjusted sales prices ranged from \$163,000 to \$207,100.

Comparable sale one located at 530 Thompson Avenue, Roselle Borough, New Jersey sold in January 2012, for a reported price of \$129,800. This comparable is a bi-level style home, located approximately 0.58 miles from the subject property, and is situated on a 4,000 square foot lot. Comparable sale one consists of a total of seven rooms, three bedrooms, two full bathrooms, a one-car garage, and has a gross living area of 2,070 square feet. Plaintiff's appraiser made the following adjustments to the sales price of comparable sale one: (i) a positive adjustment of \$2,000 for site size; and (ii) a positive adjustment of \$5,000 for the lack of an additional full bathroom; and (iii) a positive adjustment of \$19,700 for gross living area, calculated at \$20.00 per square foot; and (iv) a negative adjustment of \$2,000 for functional utility; and (v) a positive adjustment of \$4,000 for the lack of central air conditioning; and (vi) a positive adjustment of \$2,500 for the presence of a one-car garage; and (vii) a positive adjustment of \$2,000 for lack of a patio.

In total, plaintiff's appraiser made net adjustments of 25.6% and gross adjustments of 28.66% to comparable sale one. The final adjusted sale price was \$163,000.

Comparable sale two located at 233 Douglas Road, Roselle Borough, New Jersey sold in September 2012, for a reported price of \$180,000. This comparable is split-level style home, located approximately .86 miles from the subject property, and is situated on a 6,050 square foot lot. Comparable sale two consists of a total of eight rooms, three bedrooms, two and a half bathrooms, a one-car garage, and has a gross living area of 1,311 square feet. Plaintiff's appraiser made the following adjustments to the sales price of comparable sale two: (i) a negative adjustment of \$10,000 for location; and (ii) a negative adjustment of \$15,000 for condition; and (iii) a positive adjustment of \$2,500 for the lack of an additional half bathroom; and (iv) a positive adjustment of \$34,900 for gross living area, calculated at \$20.00 per square

foot; and (v) a negative adjustment of \$2,500 for a partial basement; and (vi) a negative adjustment of \$2,000 for basement finishes; and (vii) a negative adjustment of \$2,000 for functional utility; and (viii) a positive adjustment of \$2,500 for the presence of a one-car garage; and (ix) a negative adjustment of \$2,000 for presence of a deck.

In total, plaintiff's appraiser made net adjustments of 3.6%, and gross adjustments of 40.77% to comparable sale two. The final adjusted sale price was \$186,400.

Comparable sale three located at 1282 Shaffer Avenue, Roselle Borough, New Jersey sold in September 2012, for a reported price of \$180,000. This comparable is split-level style home, located approximately .66 miles from the subject property, and is situated on a 6,012 square foot lot. Comparable sale three consists of a total of seven rooms, three bedrooms, one full and one half bathroom, a one-car garage, and has a gross living area of 1,526 square feet. Plaintiff's appraiser made the following adjustments to the sales price of comparable sale three: (i) a negative adjustment of \$15,000 for condition; and (ii) a positive adjustment of \$7,500 for the lack of an additional full and half bathroom; and (iii) a positive adjustment of \$30,600 for gross living area, calculated at \$20.00 per square foot; and (iv) a negative adjustment of \$2,500 for a partial basement; and (v) a negative adjustment of \$2,000 for functional utility; and (vi) a positive adjustment of \$4,000 for the lack of central air conditioning; and (vii) a positive adjustment of \$2,500 for the presence of a one-car garage; and (viii) a positive adjustment of \$2,000 for lack of a patio.

In total, plaintiff's appraiser made net adjustments of 15.1%, and gross adjustments of 49.22% to comparable sale three. The final adjusted sale price was \$207,100.

The court finds that comparable sale one lacks credibility as evidence of the true market value of the subject property as of the valuation date. Although comparable sale one was

consummated approximately ten months prior to the valuation date, plaintiff's appraiser did not make any time adjustment. Plaintiff's appraiser's report states that "property values are stable" and that "support for the above conclusions is based upon an analysis of local trends and past 12 months of sales data." However, neither plaintiff's appraiser's testimony nor his appraisal report provide any studies or market data supporting his "analysis of local trends". Moreover, the appraisal report does not contain the "sales data" upon which such conclusion was premised. Therefore, the court is unable to gauge the reasonableness of comparable sale one as evidence of the subject property's true market value.

Although comparable sale two and three were not identical home styles to the subject property, the court concludes that plaintiff's appraiser's use of these comparable sales, with similar alternate design styles, was reasonable and was supported by the evidence. During trial, plaintiff's appraiser stated that comparable sale two and three were "chosen as the most similar alternative design" to a bi-level style home. Although a bi-level home and split-level home contain similar attributes, plaintiff's appraiser explained that a basement adjustment was necessary to comparable sales two and three because a split-level style home contains only "a part basement", while a bi-level style home does not contain a basement. Moreover, due to the "excessively large gross living area" of the subject property, plaintiff's appraiser expressed difficulty in uncovering "other sales in Roselle of any style that was that size..." Therefore, plaintiff's appraiser "chose...the next similar style...comps two and three, being split-levels". Thus, the court will rely on comparable sale two and three as evidence of the subject property's true market value.

However, plaintiff's appraiser's adjustments for location, condition, and functional utility lack a proper foundation, based on credible facts, objective market data and studies, to be

meaningful to the court. The above-cited adjustments are without adequate support in the record, other than the knowledge, experience and impressions of plaintiff's appraiser.

Plaintiff's appraiser concluded that a negative location adjustment of \$10,000 was warranted to comparable sale two because it "backs to Roselle Golf Course" and "the market pays more for a golf course view". In plaintiff's appraiser's opinion, a location adjustment for property abutting a golf course is an "industry accepted adjustment." However, effective cross-examination revealed that plaintiff's appraiser did not conduct a paired sales analysis of homes in Roselle located adjacent to and distant from golf course amenities to isolate the adjustment amount. Thus, plaintiff's appraiser's location adjustment is simply not supported by a proper foundation, based on credible facts, objective market data and analysis, to be meaningful and reliable to the court.

Plaintiff's appraiser further concluded that negative condition adjustments of \$15,000 were warranted to comparable sales two and three for their "superior condition". Plaintiff's appraiser did not conduct interior inspections of the comparable sales, instead his condition adjustments were "based on...looking at the interior photos on the mls of the comp and coming up with our opinion of what the market reaction is going to be to the subject." However, plaintiff's appraiser provided no further explanation to the court supporting his condition adjustments. Plaintiff's appraiser did not describe his observations or identify any distinguishing features, characteristics or differences in the quality of the interior finishes of comparable sale two, three and the subject property to justify his condition adjustments. Moreover, plaintiff's appraiser did not annex to the appraisal report copies of the interior photographs he reviewed of comparable sale two and three which formed the basis of his condition adjustments. Here, plaintiff's appraiser provided the court with bare conclusions that

the “condition” of comparable sale two and three was “superior” to the subject property. Stated differently, plaintiff’s appraiser failed to provide the court with any substantive factual evidence to support his conclusions.

Moreover, plaintiff’s appraiser provided no testimony, evidence or explanation for his functional utility adjustment. Although the subject property’s gross living area far exceeds that of comparable sales two and three, plaintiff’s appraisal provided no insight into why a functional utility adjustment was warranted. Thus, the court is left unable to evaluate and assess the merits of such adjustment.

For an expert’s testimony to be of any value to the trier of fact, it must have a proper foundation. See Peer v. City of Newark, supra, 71 N.J. Super. at 21. The opinions of an expert must be supported by data, facts or information available to the expert at or prior to trial. N.J.R.E. 703. When an expert “offers an opinion without providing specific underlying reasons...he ceases to be an aid to the trier of fact.” Jimenez v. GNOC, Corp., 286 N.J. Super. 533, 540 (App. Div. 1996). The expert is required to “give the why and wherefore of his expert opinion, not just a mere conclusion.” Id. at 540. The opinion of an expert “lacking in such foundation and consisting of bare conclusions unsupported by factual evidence is inadmissible.” Rosenberg v. Tavorath, supra, 352 N.J. Super. at 401 (citing Johnson v. Salem Corp., 97 N.J. 78, 91 (1984)). Similarly, when an expert’s opinion lacks a foundation, supported by facts and objective market data, “the court cannot extrapolate value.” Inmar Associates v. Edison Township, 2 N.J. Tax 59, 66 (Tax 1980). Thus, if an expert does not provide a sufficient explanation of the basis of his adjustments, “the opinion of the expert is entitled to little weight in this regard.” Dworman v. Tinton Falls, 1 N.J. Tax 445, 458 (Tax 1980) (citing to Passaic v. Gera Mills, 55 N.J. Super. 73 (App. Div. 1959), certif. denied, 30 N.J. 153 (1959)).

Hence, the court accepts as reasonable the following adjustments to comparable sale two: (i) the positive adjustment of \$2,500 for the lack of a half bathroom; and (ii) the positive adjustment of \$34,900 for gross living area; and (iii) the negative adjustment of \$2,500 for a partial basement; and (iv) the negative adjustment of \$2,000 for basement finishes; and (v) the positive adjustment of \$2,500 for a one-car garage; and (vi) the negative adjustment of \$2,000 for the presence of a deck. This results in total adjustments of a positive \$33,400 ( $\$2,500 + \$34,900 - \$2,500 - \$2,000 + \$2,500 - \$2,000 = \$33,400$ ), and an adjusted sales price of \$213,400 ( $\$180,000 + \$33,400 = \$213,400$ ).

The court further accepts as reasonable the following adjustments to comparable sale three: (i) the positive adjustment of \$7,500 for the lack of a full and a half bathroom; and (ii) the positive adjustment of \$30,600 for gross living area; and (iii) the negative adjustment of \$2,500 for a partial basement; and (iv) the positive adjustment of \$4,000 for lack of central air conditioning; and (v) the positive adjustment of \$2,500 for a one-car garage; and (vi) the positive adjustment of \$2,000 for the lack of a patio. This results in total adjustments of a positive \$44,100 ( $\$7,500 + \$30,600 - \$2,500 + \$4,000 + \$2,500 + \$2,000 = \$44,100$ ), and an adjusted sales price of \$224,100 ( $\$180,000 + \$44,100 = \$224,100$ ).

Due to the similarities which exist between comparable sale two and three in gross living area, location and amenities, the court will give equal weight to comparable sales two and three. Thus, after consideration of the comparable property sales, the court concludes that the true market value of the subject property on October 1, 2012 was \$218,750.

Having reached a conclusion of the fair market value of the subject property, the court must turn its attention to a determination of the correct assessment for the 2013 tax year. This process involves application of the Chapter 123 average ratio. N.J.S.A. 54:1-35a(a). This

requires the fair market value of the subject property to be evaluated against the average ratio for the taxing district for the tax appeal year. The Chapter 123 average ratio for the Borough of Roselle for the 2013 tax year is 57.61%, with a lower limit of 48.97% and an upper limit of 66.25%. The ratio of assessment, \$160,300, to fair market value, \$218,750, yields a ratio of 73.28%, which exceeds the upper limit of the common level range.

Consequently, under N.J.S.A. 54:51A-6(a), the formula for determining the revised taxable value of the subject property for the 2013 tax year is:

$$\text{True market value} \quad \times \quad \text{Average ratio} \quad = \quad \text{Revised taxable value}$$

Thus, the calculation for the 2013 tax year is:

$$\$218,750 \quad \times \quad .5761\% \quad = \quad \$126,000 \text{ (rounded)}$$

The court will therefore enter judgment setting the assessment on the subject property for the 2013 tax year as follows:

Land:	\$ 52,000
<u>Improvements:</u>	<u>\$ 74,000</u>
Total	\$126,000

Judgment shall be entered accordingly.

Very truly yours,



Joshua D. Novin, J.T.C.