Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2019-374

APRIL TERM, 2020

William Hansen Jr.* & Rebecca DeLabruere* v. Town of Irasburg	}	APPEALED FROM:
	}	
	}	Superior Court, Orleans Unit,
	}	Civil Division
	}	
	}	DOCKET NO. 196-9-17 Oscv
		Trial Judge: A. Gregory Rainville

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

Taxpayers appeal pro se from the trial court's valuation of their property for the 2017 grand list. We affirm.

The record indicates the following. Following an appeal process, taxpayers' property was valued at $133,600 for the 2016 grand list. Between April 1, 2016 and April 1, 2017, taxpayers partially constructed a dwelling house on their property, which led to a reassessment. The listers valued the property, with improvements, at $223,300, for the 2017 grand list. Taxpayers appealed to the board of civil authority (BCA), which upheld the listers' valuation. Taxpayers then appealed to the trial court. Taxpayers did not contest the value of the property established in the 2016 grand list, which was then utilized in establishing the 2017 grand list value; they contest only that portion of the 2017 value that is based upon the more recent improvements.

The court considered the matter de novo and upheld the listers' valuation. It found as follows. Taxpayers' property is 8.4 acres improved with a dwelling. The parties agreed that taxpayers' home was 53% complete during the relevant period; they disputed the fair market value (FMV) of the house as completed. With respect to FMV, the court credited the testimony of two appraisers hired by the town to inspect taxpayers' property. It found that, after obtaining all necessary information about the house both via taxpayers and their own inspection, the appraisers appropriately used the Marshall & Swift cost manual to establish the value of the partially constructed home's component parts. The appraisers established that if the house was completed using the same quality materials and workmanship as used thus far, the completed value of the house would be $247,169. The court found this to be an accurate assessment. The appraisers then correctly looked at 53% of this value to arrive at an assessed value of the partially constructed home of $131,000 for the 2017 property tax year. The town's common level of appraisal (CLA) was 93.98%, which the court used to equalize the FMV.

The court rejected taxpayers' challenges to this valuation. Taxpayers argued that the value of their property should be based on their construction costs, which taxpayer Hansen calculated at $73,000. He provided receipts from local businesses and individuals who provided labor and materials and argued that the receipts showed the replacement cost of the home. Taxpayers also

asserted that there were errors in the listers' card as to the number of bedrooms, the square footage, and other details of the home. Taxpayers also provided a lister's card for a property they considered comparable to support their estimated value. This home had more square footage, but the same number of bedrooms and bathrooms and it was built at a similar time. The home also had a slightly higher build quality. Taxpayers argued that the properties could be compared by finding the price at 53% complete and then calculating the price per square foot. They asserted that the price for his home using these numbers would be $100,637, which was close to their estimate of $73,000.

The court found that taxpayer's opinion of value lacked credible support. It explained that FMV was the price that property would bring in the market, taking into consideration its availability, use, and limitations. City of Barre v. Town of Orange, 138 Vt. 484, 486 (1980). Taxpayers failed to appreciate that "replacement cost" as used by the town to derive FMV was not equivalent to an individual's costs. Instead, appraisers were required to use standardized costs when employing the cost approach, otherwise every comparable home would vary extensively in costs and the appraisals would lack the required uniformity within a community. With respect to taxpayers' claim about the number of bedrooms in the home, the court found that the appraisers had relied on information from taxpayers regarding bedrooms. In any event, the appraiser had credibly testified that the use of a room as a bedroom, as opposed to a den, had no effect on the overall tax value of the home. The court was also unpersuaded by taxpayer's reliance on a comparable property. It found that, if it used taxpayers' numbers from their cited comparable, the resulting value was $121,519.33, which was considerably closer to the listers' determination than to taxpayers' estimate. The court added that square footage and percentage complete—used by taxpayers—were just two of many factors used in considering the value of comparable properties.

For these and other reasons, the court found the value of the partially constructed home was most accurately computed as $131,000, as found by the listers. Taxpayers appealed.

Before turning to taxpayers' arguments, we briefly review the property-tax appeal process. The trial court considers de novo "the correct valuation of the property." 32 V.S.A. § 4467. "Determining the correct valuation of the property is a two-step process." Jackson Gore Inn v. Town of Ludlow, 2020 VT 11, ¶ 4 (quotation omitted). The court first determines the property's FMV, which can be accomplished using a variety of methods. Id. The FMV is then " 'equalized'—by using a common level of appraisal that is expressed as a percentage—to insure that the property is listed comparably to corresponding properties in town." Id. (quotations omitted).

The town's appraisal is presumptively "valid and legal." Id. ¶ 35 (quotation omitted). A taxpayer can easily overcome this "bursting bubble" presumption. Id. (quotation omitted). "Once the presumption disappears, the town is required to show either that it substantially complied with the relevant statutory and constitutional requirements or that its valuation was supported by independent evidence of fair market value." Id. ¶ 37 (quotation omitted). "[T]axpayer retain[s] the burden of persuasion as to contested issues." Barrett v. Town of Warren, 2005 VT 107, ¶ 8, 179 Vt. 134. "To prevail a taxpayer must show an arbitrary or unlawful valuation." Id. (quotation omitted). We leave it to the trier of fact to evaluate the weight of the evidence. Jackson Gore Inn, 2020 VT 11, ¶ 44.

Taxpayers assert that they met their burden of persuasion. They contend that the listers' card does not accurately depict the floor plan and other information about their home. Taxpayers also assert that the BCA's decision was inadequate and incorrect. Finally, taxpayers argue that the court erred in considering the comparable property they identified.

On review, "[w]e will affirm the [factfinder]'s decision if the 'findings [are] rationally drawn from the evidence and are based on a correct interpretation of the law.' " Id. ¶ 33 (third alteration in original) (quoting Barrett, 2005 VT 107, ¶ 5). "We will not disturb a fair market value determination unless an error of law exists." Barrett, 2005 VT 107, ¶ 5.

We find no grounds to disturb the trial court's decision. First, the trial court considered the proper valuation of the property de novo. It found that taxpayers overcame the presumption of validity given to the town's appraisal. The town then produced evidence of FMV that the court found credible. With respect to the information about taxpayers' home, the court found that the appraisers relied on information provided by taxpayers and determined other information, such as square footage, for themselves. One of the appraisers testified that the information he wrote down about the home was a fair and accurate description of the property. The court credited the appraisers' testimony and we do not disturb its credibility assessments on appeal.

We agree with taxpayers that the BCA's decision is not particularly detailed. The relevant statute requires only that the BCA provide "reasons" for its decision, however, which it did here. See 32 V.S.A. § 4404(c) (requiring board, within certain timeframe, to "certify in writing its notice of decision, with reasons" and identifying consequences if board fails to "substantially comply" with this requirement); see also Harris v. Town of Waltham, 158 Vt. 477, 482 (1992) (rejecting taxpayers' challenge to BCA decision, finding in relevant part that their "complaints involve the kind of detail that is no longer required after the amendments to § 4404(c) [requiring "reasons" rather than "findings"]). As in Harris, we conclude that "[t]axpayers' rights are fully protected by the de novo appeal to the Board," and that the reasons provided by the BCA "at least substantially complied with the statutory requirements." 158 Vt. at 482. We also note that the court here did not adopt the BCA's approach and instead relied upon the cost approach taken by the appraisers, finding this approach reliable and appropriate. To the extent that taxpayers complain about the BCA's alleged failure to correct inaccuracies in the listers' card, we addressed the court's assessment of the accuracy of the listers' card above. As indicated, the trial court relied on the appraisers' description of the property on the listers' card, finding it credible. Finally, the trial court explained in detail why it did not find taxpayers' comparable supportive of taxpayers' claims. While taxpayers disagree with the court's analysis, they fail to show error.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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Karen R. Carroll, Associate Justice