

IN THE SUPREME COURT OF THE STATE OF NEVADA

GORDON PETERS AND CECILE
PETERS, INDIVIDUALLY, AND AS
TRUSTEES OF THE PETERS FAMILY
TRUST 1994,

Appellants,

vs.

STATE OF NEVADA, BY AND
THROUGH ITS DEPARTMENT OF
TAXATION; NEVADA TAX
COMMISSION; COUNTY OF WASHOE,
Respondents.

No. 37382

FILED

DEC 11 2002

JANITTE M. BUCK
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

Gordon and Cecile Peters appeal an order of the district court upholding the State Board of Equalization's valuation of their residence. We affirm, concluding that the Peters' arguments are without merit.

The Peters assert that the State Board's valuation of their residence and lot was unjust and inequitable because it was based upon the county assessor's valuation of their property, which: (1) overestimated the value of their lot by failing to account for the areas adjacent to the lot; (2) utilized comparable properties that were not truly comparable; and (3) assessed the lot as a view lot, despite the fact that the lot was never so designed or marketed. Additionally, the Peters argue that the county assessor misclassified their home as a single story home with a higher quality class than it deserved.

A taxpayer has a right to file a suit in district court to recover taxes paid in excess of what was justly owed.¹ The State Board's valuation

¹NRS 361.420.

of a taxpayer's property is, however, presumed to be valid unless the taxpayer shows by clear and satisfactory evidence that the valuation is unjust and inequitable.² To meet that burden a taxpayer must demonstrate that the State Board "applied a fundamentally wrong principle, or refused to exercise its best judgment, or that the assessment was so excessive as to give rise to an implication of fraud and bad faith."³

We conclude that the Peters have failed to provide clear and satisfactory evidence that the State Board's valuation of their property was unjust or inequitable. The record demonstrates that the county assessor acted appropriately under NRS 361.227(5)(a) and employed his best judgment by using information from comparable property sales to determine the value of the Peters' property. While the Peters argue that the county assessor should have considered three other vacant lots, the Peters have failed to refute the county assessor's assertion that the vacant lots were not comparable because they were so steep that they were unsuitable for building. The comparable properties used by the county assessor were not identical to the Peters' property; however, they were neither significantly superior nor inferior to the Peters' property.

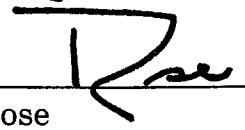
Finally, while there is some conflict in the record between the assessor's testimony and the official reappraisal record, there is no evidence to suggest that the final valuation of the Peters' property was excessive. The appreciation in the value of Peters' property at the time of its five-year reappraisal is consistent with the fact that the Peters' home

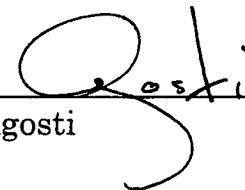
²NRS 361.430.

³Weiss v. State of Nevada, 96 Nev. 465, 467, 611 P.2d 212, 214 (1980).

had not been completed when the prior appraisals were performed and the fact that the Peters made improvements in order to garner a view of the city. Therefore, we conclude that the Peters have failed to overcome the presumption that the State Board's valuation was valid. Accordingly, we
ORDER the judgment of the district court **AFFIRMED**.

 _____, C.J.
Young

 _____, J.
Rose

 _____, J.
Agosti

cc: Hon. Steven R. Kosach, District Judge
Woodburn & Wedge
Attorney General
Washoe County District Attorney
Washoe District Court Clerk