

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

Randall Nadeau :
v. : A.A. No. 14 - 139
Rhode Island Vehicle Value Commission :

ORDER

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and Recommendations of the Magistrate.

After a de novo review of the record, the Court finds that the Findings and Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto. It is, therefore,

ORDERED, ADJUDGED AND DECREED

that the Findings and Recommendations of the Magistrate are adopted by reference as the decision of the Court; the decision of the Rhode Island Vehicle Value Commission is AFFIRMED.

Entered as an Order of this Court at Providence on this 29th day of May, 2015.

By Order:

/s/
Stephen C. Waluk
Chief Clerk

Enter:

/s/
Jeanne E. LaFazia
Chief Judge

Randall Nadeau :
 :
 v. : A.A. No. 2014 – 139
 :
 R.I. Division of Motor Vehicles :

FINDINGS AND RECOMMENDATIONS

Ippolito, M. In this appeal, Mr. Randall Nadeau urges that the Rhode Island Vehicle Value Commission erred when it rejected his appeal of a motor vehicle excise tax assessment. Jurisdiction for the instant appeal is vested in the District Court by Gen. Laws 1956 § 44-34-8 and the applicable standard of review is found in subsection 42-35-15(g). This matter has been referred to me for the making of findings and recommendations pursuant to Gen. Laws 1956 § 8-8-8.1. After a review of the entire record I find that — for the reasons explained below — the decision of the Vehicle Value Commission in this case is supported by reliable, probative, and substantial evidence of record and is not clearly erroneous; neither is it contrary to law. Accordingly, I recommend that it be affirmed.

I
FACTS AND TRAVEL OF THE CASE

Appellant, a resident of Gloucester, is the owner of a 1998 Volkswagen vehicle that was assessed at a value of \$1,026.00 on his 2013 motor vehicle tax bill.¹ In 2014 the assessment was raised to \$1,785.00, an increase of \$759.00.²

Believing himself aggrieved by the new assessment, Mr. Nadeau, on September 2, 2014 — filed an appeal with the Rhode Island Vehicle Value Commission, pursuant to Gen. Laws 1956 § 44-34-8.³ The Commission conducted a public hearing regarding all pending appeals on September 19, 2014. No members of the public attended. The Commission upheld all the assessments previously issued and denied all the appeals, including Mr. Nadeau's.

On October 8, 2014, Mr. Nadeau filed a complaint for judicial review in the Sixth Division District Court. After a conference failed to resolve the instant appeal a briefing schedule was set. The Vehicle Value Commission filed its Memorandum of Law on January 30, 2015; thereafter, Mr. Nadeau filed a one-page informal memorandum on March 3, 2015.

¹ See Mr. Nadeau's 2013 Gloucester Tax Bill, attached to Appellant's Memorandum.

² See Mr. Nadeau's 2014 Gloucester Tax Bill, attached to Appellant's Memorandum.

³ Actually, Mr. Nadeau believed his assessment had gone up by three thousand dollars. As he explains in his memorandum, he confused "Full Value" figure on his tax bill with the "Taxable Valuation" figure. See Appellant's Memorandum of Law, at 1.

II
LAW REGARDING REVIEW

A
Jurisdiction

Jurisdiction to hear appeals from the decisions of the Commission is vested in the Rhode Island District Court by Gen. Laws 1956 § 44-34-8(b):

44-34-8. — Appeal procedure. — (a) ...

(b) Within thirty (30) days of the notification of the decision of the tax assessor or the commission, an aggrieved taxpayer may appeal the decision to the district court for the judicial division within which the city or town is located.

(c) ...

B
Administrative Procedures Act

The standard of review which this Court must employ is enumerated in Gen. Laws 1956 § 42-35-15(g), a provision of the Rhode Island Administrative Procedures Act (APA), which provides as follows:

(g) Standard of review. The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the appellant have been prejudicial because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

This standard is akin to the standard of review found in Gen. Laws 1956 § 42-35-15(g), the State Administrative Procedures Act (APA).

Under the APA standard, the District Court “* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are ‘clearly erroneous.’”⁴ Thus, the Court will not substitute its judgment for that of the agency (here, the Commission) as to the weight of the evidence on questions of fact.⁵ Stated differently, the findings of the Commission must be upheld even though a reasonable mind might have reached a contrary result.⁶

III APPLICABLE LAW

This case centers on Mr. Nadeau’s displeasure with the Commission’s assessment of his vehicle’s value. And so we must ask, what method did the Commission follow in making this assessment? The answer is, the one expressly prescribed in statute. Within the Motor Vehicle and Trailer Excise Tax Act we find the following provision Gen. Laws 1956 § 44-34-11(c) provides —

⁴ Guarino v. Department of Social Welfare, 122 R.I. 583, 584, 410 A.2d 425 (1980) citing Gen. Laws 1956 § 42-35-15(g)(5).

⁵ Cahoone v. Board of Review of the Department of Employment Security, 104 R.I. 503, 246 A.2d 213 (1968).

⁶ Id., at 506-507, 246 A.2d at 215.

(c) The commission shall annually determine the presumptive values of vehicles and trailers subject to the excise tax in the following manner:

(1) Not earlier than September 30 and not later than December 31 of each year, the commission shall by rule adopt a methodology for determining the presumptive value of vehicles and trailers subject to the excise tax which shall give consideration to the following factors:

(i) The average retail price of similar vehicles of the same make, model, type, and year of manufacture as reported by motor vehicle dealers or by official used car guides, such as that of the National Automobile Dealers Association for New England. Where regional guides are not available, the commission shall use other publications deemed appropriate; and

(ii) Other information concerning the average retail prices for make, model, type, and year of manufacture of motor vehicles as the director and the Rhode Island vehicle value commission may deem appropriate to determine fair values.⁷

(2) ...

Mr. Nadeau concedes that the increase in his valuation from 2013 to 2014 is wholly attributable to a faithful application of this provision by the Commission.

IV

ANALYSIS

A

Appellant's Position

In his memorandum Mr. Nadeau presents his position quite clearly and simply — “[he] believe[s] the NADA clean retail value that is presently being used is not realistic[.]” because his vehicle “could not possibly be worth \$759 more than it was

⁷ Gen. Laws 1956 § 44-34-11(c)(1)(Emphasis added).

the previous year.”⁸ He notes his understanding that there is legislation pending that would modify the computation of valuations, which he hopes will be changed.⁹ Finally, he asks for consideration of his appeal.¹⁰

B

Appellee’s Position

In its memorandum the Commission urges that the valuation it set in this matter was determined by an application of Gen. Laws 1956 § 44-34-11(c)(1)(i) and Rule 1.02 of the applicable Value Commission Rules.¹¹

Next (and for Mr. Nadeau’s benefit), it clarifies that his vehicle’s assessment did not go up as much as he believed.¹²

C

Resolution

Of course, pursuant to the Administrative Procedures Act, the role of the District Court is limited to determining whether the decision of the Commission was made upon unlawful procedure, is contrary to law, is clearly erroneous, or is arbitrary or capricious. For the reasons that follow, I find none of these standards have been

⁸ See Appellant’s Memorandum, at 1.

⁹ See Appellant’s Memorandum, at 1.

¹⁰ See Appellant’s Memorandum, at 1.

¹¹ See Appellee’s Memorandum, at 4 and Rules appended to Appellee’s Memorandum as Appendix A.

¹² See Appellee’s Memorandum, at 5. This was the confusion of “Full Value” and “Taxable Valuation” referenced ante, at 2, n. 3.

met by Appellant; I therefore conclude that the decision of the Commission should be affirmed.

As stated above, in the review of the facts found below by the Commission, this Court's role is limited. See "Standard of Review," ante, at 3-4. See also Link v. State, 633 A.2d 1345, 1348 (R.I. 1993)(opining, construing prior law — which was also "substantively identical" to the APA procedure — that the District Court's role was to review the trial record to determine if the decision was supported by competent evidence). But, this is of little significance, since Mr. Nadeau makes no criticism of the Commission's factual determination (ie., the valuation made pursuant to the NADA book); no, he condemns the very use of the NADA valuations.

But Mr. Nadeau understands that the NADA valuations are required to be used by § 44-34-11(c), which neither the Commission nor this Court can ignore. As component parts of the Executive Department and the Judicial Department respectively, we are bound by the laws promulgated by the Legislative Branch. We also gather from his Memorandum that Mr. Nadeau is fully aware that the remedy for him, and all persons similarly situated, is to make use of his right to petition the General Assembly for a change in the law. Constitutionally, this Court can do no more than to wish him well in that endeavor.

V
CONCLUSION

Upon careful review of the evidence, I recommend that this Court find that the decision of the Vehicle Value Commission was made upon lawful procedure and was not affected by error of law. Gen. Laws 1956 § 42-35-15(g)(3),(4). Furthermore, said decision is neither arbitrary nor capricious and is not clearly erroneous in view of the reliable, probative and substantial evidence on the whole record. Gen. Laws 1956 § 42-35-15(g)(5),(6).

Accordingly, I recommend that the decision of the Rhode Island Vehicle Value Commission AFFIRMED.

_____/s/_____
Joseph P. Ippolito
MAGISTRATE

May 29, 2015