

Affirmed and Opinion filed October 7, 1999.



In The

Fourteenth Court of Appeals

NO. 14-98-01027-CV

HOUSTON INDEPENDENT SCHOOL DISTRICT, Appellant

V.

MARSHALL MCDONALD, Appellee

**On Appeal from the County Civil Court at Law No. 1
Harris County, Texas
Trial Court Cause No. 647,005**

OPINION

In 1995, appellant Houston Independent School District (HISD) brought special condemnation proceedings to condemn land owned by appellee Marshall McDonald in the Lamar Terrace subdivision of Houston, Texas. Following a special commissioner's hearing to determine the fair market value of the property, appellee appealed the commissioner's award to county court. The county court jury returned a verdict favorable to appellee, rejecting HISD's appraisal valuations and agreeing with those of appellee. Appellant presents two points of error, raising factual insufficiency of the evidence to support the jury's fair market value

finding, and error by the trial court in denying a remittitur. In the alternative, HISD requests that this Court enter a remittitur on appeal. We affirm the trial court judgment.

At trial below, HISD presented testimony from a licensed real estate appraiser that the fair market value of the two lots in question was \$77,850.00 and \$76,900.00, respectively. Appellee, McDonald, as the property owner, testified without objection that at the time the property was taken by HISD, the fair market value of the two lots was \$125,000.00 and \$120,000.00, respectively. Appellant contends that McDonald's testimony regarding the value of his property "is so weak as to be clearly wrong and manifestly unjust." We disagree.

When reviewing a challenge to the factual sufficiency of the evidence, we must consider all of the evidence. *Plas-Tex, Inc. v. U.S. Steel Corp.*, 772 S.W.2d 442, 445 (Tex. 1989). The verdict can be set aside only if the evidence that supports the verdict, standing alone, is so weak as to be clearly wrong and manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986). It is not enough that a court on review may disagree with the jury's results. *Id.*

It is well-settled in Texas that the owner of property can prove its market value by his own opinion testimony, even though he may not be qualified to testify about the value of like property belong to another. Moreover, even if the owner is not asked if he is familiar with the market value of his property, his opinion testimony of the value is sufficient if it shows that it refers to market value. *Porras v. Craig*, 675 S.W.2d 503, 504-5 (Tex. 1984). Here, appellee specifically testified as to "market value" of the property. Therefore, we find that the testimony constituted legally and factually sufficient evidence of market value from which the jury could assess valuation. That appellee's valuations were significantly higher than those of HISD's expert witness, and that HISD's witness was a licensed appraiser while appellee was not, does not make appellee's figures clearly wrong and manifestly unjust, contrary to appellant HISD's argument. Appellant does not present us with any authority that would support its contention that the jury must give more weight and credibility to a licensed appraiser than to the homeowner under these circumstances, and, indeed, Texas law holds to the contrary.

A jury is not bound by the opinion evidence of experts and can form its own opinion from other evidence and by utilizing its own experience and common knowledge. *Simmonds v. St. Louis, B & M Ry. Co.*, 127 Tex. 23, 91 S.W.2d 332 (1936); *West v. Houston Lighting & Power Company*, 483 S.W.2d 352 (Tex. Civ. App.- Houston [1st Dist.] 1972, no writ); *City of Houston v. Ready*, 370 S.W.2d 210 (Tex. Civ. App.- Houston [1st Dist.] 1963, no writ).

As we find sufficient evidence to support the jury's verdict and judgment below, we overrule appellant's first point of error. As appellant's second point of error regarding remittitur was conditioned upon a granting of appellant's first point of error, we do not reach appellant's second point.

The judgment below is affirmed.

/s/ Bill Cannon
Justice

Judgment rendered and Opinion filed October 7, 1999.

Panel consists of Justices Sears, Cannon and Lee.¹

Do Not Publish — TEX. R. APP. P. 47.3(b).

¹ Senior Justice Ross A. Sears, Bill Cannon, Norman R. Lee sitting by assignment.