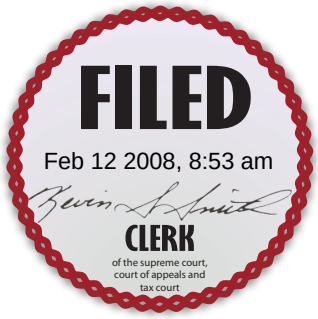

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IN THE
COURT OF APPEALS OF INDIANA

AGT, INC., et al.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A04-0606-CV-322
	)	
CITY OF LAFAYETTE, IN, REDEVELOPMENT COMMISSION,	)	
	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Lesley A. Meade, Judge
Cause No. 79D05-0311-CP-1

February 12, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

AGT, Inc., and Anthony G. Taylor ("Taylor") (collectively "AGT"), pro se, appeal the trial court's judgment entered on a jury verdict, which ordered the City of Lafayette, Indiana, Redevelopment Commission ("City") to pay $217,275 to AGT as damages for real estate condemned by the City in an eminent domain proceeding. AGT presents the following issues for review:

1. Whether the trial court abused its discretion when it admitted and refused to strike the expert valuation testimony of Michael Godby.

2. Whether the trial court abused its discretion when it admitted the expert valuation testimony of Dale Webster.

3. Whether the trial court abused its discretion when it refused AGT's request for the court to instruct the jury to disregard Webster's and Godby's valuation testimony.

4. Whether the trial court abused its discretion when it did not admit a record of the Tippecanoe County Assessor's Office.

We affirm.

FACTS AND PROCEDURAL HISTORY

The relevant facts are set out in our prior decision, AGT, Inc. v. City of Lafayette, Ind., Redev. Comm'n, 802 N.E.2d 1, 1-2 (Ind. Ct. App. 2003), trans. denied, ("AGT I"), as follows:

> [The City] commenced an eminent domain proceeding to condemn certain real estate owned by [AGT] for construction of a fire station. During the pendency of the proceedings, AGT's interest in said land was conveyed to Anthony G. Taylor, the president and owner of AGT. . . . The City filed its Complaint in Condemnation on February 7, 2001. Thereafter, on March 5, 2001, the trial court entered an Order of Appropriation and, pursuant to statute, appointed three local appraisers, Edward Geswein, Charlie Coffman, and Michael Godby, to assess damages. The appraisers subsequently filed their Report of Appraisers with the trial court, assessing

> the landowner's damages at $215,000. On April 24, 2001, the trial court accepted the report and entered Judgment of Condemnation and Order, noting that the City had paid to the clerk of the court the amount of the award as determined by the court-appointed appraisers. On May 1, 2001, Defendant's Exception to Appraisers['] Report and Request for Trial by Jury was filed.
>
> At trial, each party presented evidence regarding the fair market value of [AGT's] property. . . . The City's first expert witness opined the fair market value to be $180,000. The City then proceeded to call each of the court-appointed appraisers as expert witnesses, beginning with Edward Geswein. . . . Geswein was permitted to testify regarding his appointment, with Coffman and Godby, to appraise the property in question. Geswein also testified as to how the three arrived at an appraised fair market value of $215,000 in their report. Coffman and Godby followed with similar testimony regarding their appraisal.[] During Godby's testimony, the City introduced into evidence a document (City's Exhibit II) detailing the comparables he used in the appraisal.[] The average of the three comparables in City's Exhibit II is $215,331.67. The City did not offer the actual report of the court-appointed appraisers into evidence. . . .
>
> At the conclusion of the trial on May 3, 2002, the jury awarded Taylor damages in the amount of $215,332, and the trial court entered judgment accordingly.

Id. at 1-4. AGT appealed, and this court held that the trial court committed reversible error by overruling AGT's objection to the identification of three of the City's expert witnesses as court-appointed appraisers. Id. at 5. Thus, we reversed the judgment and remanded the case for a new trial.

The case was retried before a jury on May 16-18, 2006. At the retrial, Godby and Webster testified for the City, giving their respective expert opinions on the value of the real estate subject to condemnation. AGT objected and moved to strike the valuation testimony of both experts, but the trial court denied the motions. AGT also requested that the trial court instruct the jury to disregard Godby's and Webster's valuation testimony,

but the trial court refused the proposed instructions. On May 18, 2006, the trial court entered judgment on a jury verdict awarding $217,275 to AGT. AGT now appeals.

DISCUSSION AND DECISION

Issue One: Admission of Godby's Testimony

AGT contends that the trial court abused its discretion when it admitted and refused to strike the valuation testimony of Godby, one of the City's expert witnesses. Specifically, AGT argues that Godby's testimony should not have been admitted and should have been struck because Godby testified that someone other than the City or AGT paid Godby for his services. AGT maintains that such testimony allowed the jury to infer that Godby was a court-appointed expert witness. We cannot agree.

In eminent domain proceedings, "'the amount of the appraisers' award paid into the court by the condemnor and upon which award the landowner based his exceptions is not admissible in evidence upon the trial of these exceptions. . . . .'" AGT I, 802 N.E.2d at 4 (quoting State v. Jordan Woods, Inc., 248 Ind. 208, 225 N.E.2d 767, 771-72 (1967)). Admission of the amount of the award into evidence is reversible error. Id. (citing Jordan Woods, Inc., 225 N.E.2d at 771-72). But, "[w]hile the amount of the appraisers' award is not admissible, a court-appointed appraiser may testify at trial without reference to the report or his or her previous appointment in the case." Id. at 5. In that regard, our supreme court has explained:

> If otherwise qualified, the mere fact that he had been an appraiser in a condemnation proceeding would not render him incompetent to testify as to the value of the land. The fact that the appraisers' report is not admissible does not disqualify the appraiser. It is true the cause is tried de novo, but the appraiser can be examined as to the value of the land independent of the

> report and without reference to it, and, for that matter, without the jury knowing that he was an appraiser.

Id.

In AGT I, the trial court admitted the testimony of Ed Geswein, Charlie Coffman, and Michael Godby regarding the value of the subject real property. In the course of the experts' respective testimonies, the "jury was made aware of the facts that Geswein, Coffman, Godby were the court-appointed appraisers in the case. While the actual appraisers' report was not admitted into evidence, each of these witnesses testified regarding the amount of their joint appraisal and how they had arrived at that figure." Id. AGT timely objected, and, on appeal, we held that the admission of such testimony was error. Id. We rejected the City's argument that any error was harmless, reasoning that it was "possible that the jury found the court-appointed appraisers and their joint evaluation more credible precisely because of the appraisers' prior official involvement in the case." Id. Thus, we reversed the judgment and remanded for a new trial. Id. at 6.

Here, at the retrial, the City offered into evidence the testimony of Godby, one of the court-appointed appraisers. On direct examination, Godby testified as follows about the nature of his engagement for the appraisal:

> Q: All right. Did you make an appraisal on the subject property of this action, which is 1710-1712 South Street?
>
> A: That's correct.
>
> Q: Now, was that done either on behalf of the city or Mr. Taylor?
>
> A: Neither one.
>
> Q: It was an independent appraisal?

A: That's correct.

Transcript at 325. At that point, AGT objected in a sidebar.[1] AGT argued that, from the reference to Godby's opinion as an "independent appraisal," the jury could infer only that Godby's appraisal was conducted on behalf of the court and that "it is inadmissible to identify the court[-]appointed appraisers to the jury." Appellant's App. at 282. The trial court overruled the objection.

Later, Godby testified regarding the fee he was paid for his appraisal:

Q: Okay. Were you paid for that appraisal?

A: Yes, I was.

Q: What was your fee and how much were you paid?

A: My original fee was $1,375.00.

Q: And were you paid for that?

A: Yes.

Q: And was that payment from the City of Lafayette or did we pay you for the appraisal you made, the city?

A: No, I don't believe so.

Q: Okay, did Mr. Taylor pay you?

A: No.

Q: This would have been from the party that would have asked you to make the appraisal?

[1] AGT's objection here and its objections at other points during the trial were made during bench conferences. The bench conferences were not transcribed because they were not recorded by the trial court's digital recording equipment. During the pendency of this appeal, the trial court granted AGT's motion to certify a statement of the evidence regarding the unrecorded sidebars. Therefore, the bases of AGT's objections made during this and other sidebars was obtained from our review of AGT's verified statement of the evidence filed with this court and approved by the trial court.

A: That's correct.

Transcript at 326. AGT objected again, incorporating the reasons given in its previous objection to Godby's testimony. AGT argued that the jury could conclude only that Godby was paid by the court. The trial court again overruled the objection.

On appeal, AGT contends that the only inference arising from Godby's testimony is that Godby was a court-appointed appraiser. In support, AGT cites to our opinion in AGT I. As noted above, there we held that the amount of the appraiser's award and the fact of the court appointment were not admissible at the trial on the City's condemnation complaint. Id. at 5. But we also held that the mere fact that one had been a court-appointed appraiser did not render him or her incompetent to testify as to the value of the land. Id.

Here, Godby gave his opinion on the value of the subject real estate. He testified further that he had been hired and paid by someone other than the parties. We reject AGT's argument that the only reasonable inference is that Godby was a court-appointed appraiser. The jury could well have presumed that Godby was paid by a third party unrelated to the instant proceedings. Indeed, another witness testified that he had once been hired to appraise the subject property incident to a mortgage application. And AGT cites to no other cases, nor could we find any, indicating that evidence that an expert was hired or paid by someone other than the parties raises a presumption that the expert was appointed by the court. Thus, we conclude that the trial court did not abuse its discretion when it admitted and refused to strike Godby's valuation testimony.

Issue Two: Admission of Webster's Testimony

AGT also contends that Webster's testimony should not have been admitted. In particular, AGT states that the parties stipulated that the income method of valuation would not be used at trial, but that Webster's conclusion regarding the value of the condemned property was based at least in part on the income method of valuation. Analysis of AGT's argument would require a review of that stipulation, but AGT has not provided a copy of the stipulation in the record. We cannot determine the merit of AGT's claim that Webster's testimony violated the conditions of the stipulation, without reviewing the stipulation itself. Therefore, the claim is waived.

AGT also argues that "[t]here was no factual data to support [Webster's] conclusion of the subject properties [sic] highest and best use or his opinion of value of $180,000.00." Appellant's Brief at 27. In support, AGT points out that Webster testified that factual support of his opinion of the subject property's highest and best use "was not necessary, so [he] did not do it." Appellant's Brief at 27 (quoting Transcript at 499). But AGT does not make a cogent argument or include citations to authorities in support of its contentions. See Ind. Appellate Rule 46(A)(8)(a). As such, the issue is waived.[2]

Waiver notwithstanding, AGT's argument is without merit. When read in context, the language AGT quoted from Webster's testimony does not support his argument that

[2] AGT also argues that Webster's testimony should have been struck for lack of "factual data" to support Webster's opinion of value. But AGT did not object to Webster's testimony during the trial and only moved to strike after the close of all evidence. Thus, AGT waived that argument. See Norrington v. Smith, 154 Ind. App. 413, 290 N.E.2d 60, 63 (1972) (holding that where a party moves to strike the evidence at the close of both plaintiff's and defendants' evidence and the moving party never objected to the introduction of such evidence during the trial, a court properly overrules the motion to strike the evidence).

Webster testified that he did not need factual data to support his conclusion. During cross-examination, Webster testified as follows:

> Q: And you do not have the analysis for the highest and best use [in your report]?
>
> A: I would have—I would have put it into my actual report. I did not make a separate analysis in my work file[.] I simply put it into the report.
>
> Q: So, the actual analysis, the factual data to support your highest and best use conclusion is not in your work file, and it's not in your report?
>
> A: It's in my report. I just said that.
>
> Q: The factual data is [sic] that supports that?
>
> A: The factual data that I used.
>
> Q: What factual data did you use?
>
> A: Well, let's see ["]is it physically possible[,"] that data is on the site description.
>
> Q: Okay.
>
> A: ["]Legally permissible[,"] that's in the zoning section of the report. There's a copy of the zoning map. ["]Economically feasible[,"] that would be my estimation of the, if it's economically feasible or not.
>
> Q: Isn't that the definition of highest and best use, financially feasible, physically possible, and legally permissible?
>
> A: If I may be permitted to read the definition?
>
> Q: No, I'm aware of what the definition is. What I'm asking you is the factual data to support your conclusion on its highest and best use, which I believe you stated was small office or small retail. I want to know where the factual data is to support the conclusion?

A: It's not all the time factual data. As stated in the highest and best use is [sic] an opinion. May I read the definition to you?

Q: I'm aware of what the definition is. What I want to know is the opinion of your—your opinion of highest and best use, what—where is the factual data to support that opinion?

A: It was my opinion. I don't understand what you mean by factual . . .

Q: So, your opinion is not supported by factual data. Is that correct?

A: What are you looking for?

Q: I'm looking for the support, the analysis to support your conclusion that the highest and best use is for small office or small retail?

A: Within the definition, I followed the definition . . . .

Q: Is that—considering the definition . . .

Court: Just a minute.

Q: I'm sorry.

Court: I don't [think] he finished his answer.

Q: Okay.

A: We seem to be going back and forth on what the highest and best use is. You want some kind of numbers where as I'm coming with [the] definition and saying that there is an existing use, and that's part of the definition.

Q: So that I'm clear and can move on. Your conclusion, i.e., your opinion of highest and best use, you do not have any factual data in your work file or in the report to support that conclusion?

A: By the definition factual data was not necessary, so I did not do it.

Q: Is that—is the highest and best use an opinion?

A: Yes, sir.

Transcript at 497-99. Following that testimony, the court asked AGT what the factual data might consist of. AGT replied that such factual data

> would consist of analysis comparing a feasibility study is what it would consist of. It would consist of a feasibility study saying ["]I took the subject and it has these specific uses and this particular use would generate this much money, this particular use would generate that much money; this particular use would general that much money.["]

Id. at 500-01.

In direct examination, Webster, a real estate appraiser, testified that he had been hired to appraise the property in 1999 for a bank, which he believed was going to make a mortgage on it. Then, in 2000, he was hired by the City again to appraise the property, which the City intended to purchase. In both appraisals, Webster opined that the highest and best use of the property was small office and small retail and that the property value was $180,000. In support, he noted that the property has poor accessibility and is in a high traffic area.

Webster was qualified as an expert without objection. On cross-examination, AGT asked Webster whether his opinion of the property's value was supported by "factual data." Id. at 497-99. Webster replied that his report, which was not admitted into evidence, contained information on which he based his opinion. AGT had ample opportunity to cross-examine Webster and attempt to impeach his credibility. Whether Webster's ultimate conclusion was based on factual data goes to the weight of the testimony, not its admissibility. Thus, AGT's contentions that the trial court should not have admitted and should have struck Webster's testimony are without merit.

Issue Three: Jury Instructions

AGT contends that the trial court abused its discretion when it refused AGT's proposed jury instructions. Specifically, AGT argues that trial court should have instructed the jury to disregard Webster's and Godby's valuation testimony. We address the argument as to each instruction in turn.[3]

The manner of instructing a jury is left to the sound discretion of the trial court Patton v. State, 837 N.E.2d 576, 579 (Ind. Ct. App. 2005). Its ruling will not be reversed unless the instructional error is such that the charge to the jury misstates the law or otherwise misleads the jury. Id. Jury instructions must be considered as a whole and in reference to each other. Id. In reviewing a trial court's decision to give or refuse a tendered instruction, we consider: (1) whether the instruction correctly states the law; (2) whether there is evidence in the record to support the giving of the instruction; and (3) whether the substance of the tendered instruction is covered by other instructions that are given. Id. Before a defendant is entitled to a reversal, he must affirmatively show the instructional error prejudiced his substantial rights. Id.

Proposed Final Instruction #1

Here, AGT proposed Final Instruction #1 at trial, as follows: "You, the jury, are not to consider in reaching your verdict, the opinion o[f] value testimony of City's

[3] In its brief, AGT's argument that the trial court should have given proposed Final Instruction #1 is combined with AGT's argument that the trial court should have struck Webster's testimony. But AGT does not set out any argument specifically regarding proposed Final Instruction #1. Thus, whether the trial court abused its discretion by refusing to give proposed Final Instruction #1 is arguably waived. Nevertheless, we address the merits of that issue because we read AGT's brief as using the same arguments to support both contentions.

witness Dale Webster." Transcript at 623. [4] At trial, AGT argued that the jury should be so instructed for three reasons. First, it argued that Webster's testimony "lacked a foundation for his conclusion" because there were not "adequate facts elicited from his testimony either on direct or cross to support his conclusion of opinion of value to justify him stating an opinion of value." Transcript at 613-14. Second, AGT argued that "there was a stipulation in which the parties apparently had agreed that the income approach would not be used, and Mr. Webster testified that he weighed and used all three of those [valuation methods, including the income approach] in concluded [sic] his value." Id. at 615. And, third, AGT argued that "the City's case in chief is a case in rebuttal." Id. In that regard, AGT offered evidence of the highest and best use and how to determine the value of the highest and best use by employing a "comparable [valuation] method." Id.

On appeal, AGT argues that Webster provided no "factual data" to support his opinion of value and that Webster's opinion was based on an improper use of valuation methods. We have already determined that AGT's first argument is without merit. And, as noted above, we cannot consider AGT's arguments based on the stipulation because the stipulation is not in the appellate record. Finally, AGT does not support the third argument with cogent reasoning or citation to the record. Therefore, it is waived. See App. R. 46(A)(8)(a).

[4] AGT did not include in the appendix copies of its proposed jury instructions. Upon reviewing the transcript, we discern that AGT submitted handwritten proposed jury instructions, prepared immediately before argument regarding those instructions. The trial court read the proposed instructions into the record.

Proposed Final Instruction #2

AGT also contends that the trial court abused its discretion when it refused to give proposed Final Instruction #2. That instruction required the jury to disregard Godby's valuation testimony, using language identical to that in AGT's proposed Final Instruction #1. At trial, AGT incorporated by reference its arguments in favor of proposed Final Instruction #1, namely, lack of foundation; that Godby's conclusion was based on the income approach in violation of the stipulation; and that the City improperly offered evidence using a valuation method different than AGT had used, even though the City's was a case in rebuttal. In its brief on appeal, AGT states:

> This [instruction] was based on the fact that the jury was informed of Godby's prior involvement in the case which revealed the appraiser[']s award and his court appointment. All of which are inadmissible. The trial court refused to give [AGT's] proposed Final Instruction #2. [AGT's] proposed instruction was an accurate statement of the law, relevant to the issues, supported by the record, and was not covered by another instruction.

Appellant's Brief at 22.

But AGT did not argue to the trial court that the proposed Final Instruction #2 should be given because the jury could have inferred from Godby's testimony that he was a court-appointed appraiser in the case. Thus, that argument is waived on appeal. Cavens v. Zaberdac, 849 N.E.2d 526, 533 (Ind. 2006). To the extent that AGT presents other arguments in its brief on this issue, those arguments are not set out in a cogent manner or distinct from the arguments addressed in Issue One above. Therefore, any such arguments are also waived. See App. R. 46(A)(8)(a).

Issue Four: Admission of Certified Public Record

AGT contends that the trial court should have admitted into evidence one of AGT's exhibits. Specifically, AGT argues that the trial court abused its discretion when it refused to admit Defendant's Exhibit 52, a certified auditor's card as "evidence of [a] comparable propert[y's] sale[] price." Appellant's Brief at 30. We cannot agree.

The decision to admit or exclude evidence is within the sound discretion of the trial court and is afforded great deference on appeal. Davidson v. Bailey, 826 N.E.2d 80, 85 (Ind. Ct. App. 2005) (quoting Bacher v. State, 686 N.E.2d 791, 793 (Ind. 1997), aff'd on other grounds after remand, 722 N.E.2d 799 (Ind. 2000)). A decision will be reversed only for a manifest abuse of that discretion. Id. An abuse of discretion occurs if the trial court's decision is against the logic and effect of the facts and circumstances before the court. Sullivan Builders & Design, Inc. v. Home Lumber of New Haven, Inc., 834 N.E.2d 129, 134 (Ind. Ct. App. 2005), trans. denied. We will not reverse the trial court's admission of evidence absent a showing of prejudice. Id.

Initially, we address the City's argument that AGT has not preserved the issue for review. In support, the City points out that AGT did not formally offer Exhibit 52 into evidence. However, our review of the transcript reveals that the admissibility of Exhibit 52 was discussed at length in the jury's absence after the City objected to Taylor's competence to testify about "comparable" properties. In that sidebar, AGT argued that Exhibit 52 showed the value of a comparable property, that it was admissible as a certified copy of a public record, and that it was relevant to show support for Taylor's

opinion as to the value of AGT's property. The trial court then informed AGT that the court would not admit the document into evidence.

AGT did not then offer Exhibit 52 into evidence. AGT, as a pro se litigant, is still held to the standard of an attorney, but that standard has been met here. The substance of the exhibit was made known to the court and the reason for its admission was argued by AGT. See Ind. Evid. Rule 103(2) (stating that error may not be predicated on exclusion of evidence unless substance of evidence was made known by offer to prove or was apparent from context within which questions were asked). Thus, AGT has preserved the issue for review.

Next we address AGT's claim that the trial court should have admitted Exhibit 52. At trial, Taylor, on behalf of AGT, opined that the damages for the taking of AGT's property totaled $950,000. As discussed above, he argued during a sidebar that the sale price for the "comparable" property, as evidenced in Exhibit 52, supported his opinion on the value of AGT's property. Exhibit 52 is a copy of a record maintained by the Tippecanoe County Assessor's office, certified as an accurate copy by the Tippecanoe County Auditor's Office. The document, entitled "Appraisal Comments," purports to show the sale price of the other property, which Taylor deemed to be comparable to AGT's property.

But the trial court ruled that it would not admit Exhibit 52. The court acknowledged that Exhibit 52 was a certified copy of a public record, but noted that the document could not be admitted for the truth of the matter asserted, namely, the sale price of the other property. The court explained:

> This is a print out of a Unisus T 220 and it's been certified as true and correct copies of the Tippecanoe County Auditor Office, but that doesn't mean that's what the sale actually was for. Sales could be structured in any number of different ways and just because it appears on the tax records this way doesn't mean that that is correct. I'm going to have a problem—I'm going to have a problem just admitting them for that purpose because there [were] too many—what all went with it? Did the personal property go with it? Did some equipment go with it? I don't know. . . .
>
> * * *
>
> This is information that they have received and they have included in their records, but it is not their job to verify the accuracy of record or to complete—keep a record of. . . . [Exhibit 52] doesn't show any basis for trustworthiness, uh, this is just information in their record.

Transcript at 98-99.

Exhibit 52 is a record from the county assessor's office that shows a snapshot summary of the sale.[5] In relevant part, that record lists the "sale price" of a parcel that Taylor believed to be comparable to the subject property. But, as noted by the trial court, that record does not disclose the particulars of the sale, such as whether the sale price included inventory, personal property, fixtures, or other items outside of the real property and the permanent improvements on the real property.

Conversely, a Sales Disclosure Form (State Form 46021) contains the kind of information that might have been admissible. Such a form must be filed in order to record any document conveying real estate, and it requires the parties to the sale of real estate to disclose the details of the transaction. Ind. Code § 6-1.1-5.5-3. In particular, the form requires the parties to the real estate transaction to disclose details that may affect the purchase price, such as whether: (1) the sale involved an exchange for other real

[5] The trial court referred to the record as from the county auditor's office, but Taylor replied that the record was maintained by the assessor's office and the copy was certified by the auditor's office.

property, (2) there was a familial or business relationship between the buyer and seller, (3) personal property was included in the sale, (4) the property is subject to any security interests such as mortgages or trust deeds, or (5) the transfer was for no or discounted consideration.

Here, Taylor testified that AGT's damages totaled $950,000. In support, AGT offered into evidence a document purporting to show the sale price of another parcel that AGT deemed to be comparable to AGT's property. But the details of that sale are necessary to give meaning to the sale price. Exhibit 52 does not contain such information.

AGT argues that the document was admissible under Indiana Evidence Rule 902, regarding self-authentication. But, as the City points out, the admission of that document would require us to consider Evidence Rule 803(8), which provides, in relevant part:

> The following are not excluded by the hearsay rule, even though the declarant is available as a witness: . . .
>
> Unless the sources of information or other circumstances indicate lack of trustworthiness, records, reports, statements, or data compilations in any form, of a public office or agency, setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law.

(Emphasis added).

As noted above, the document that AGT offered into evidence was a certified copy of a public record, namely, a record maintained by the Tippecanoe County Assessor's Office in the regular course of business. But, again, extrinsic evidence is required to give meaning to the sale price listed in that record. Without information regarding the nature

of the sale of the "comparable" parcel of real estate, we do not know whether the sale price listed in the assessor's "Appraisal Comments" included the real estate and improvements or whether the transaction included the sale or exchange of other real or personal property. Thus, we agree with the trial court that the price reflected in the public record that AGT offered into evidence indicates a lack of trustworthiness. See Ind. Evid. Rule 803(8). As such, we conclude that the trial court did not abuse its discretion when it declined to admit the Appraisal Comments into evidence.

Conclusion

We conclude that the trial court did not abuse its discretion when it admitted and refused to strike Godby's expert valuation testimony. Disclosure of the fact that Godby was hired and paid by someone other than the parties for his services does not necessarily imply that he was a court-appointed appraiser in the eminent domain proceeding. And AGT waived its argument that the trial court should not have admitted Webster's expert valuation testimony. Waiver notwithstanding, our review of the record discloses that Webster provided adequate "factual data" to support his opinion of the subject property's value. For the same reasons stated above, we also find no abuse of discretion in the trial court's refusal to instruct the jury to disregard Godby's and Webster's valuation testimony.

Finally, we conclude that the trial court did not abuse its discretion when it refused to admit Defendant's Exhibit 52. The trial court correctly found that the exhibit, which purported to show the sale price of another parcel of real property, lacked trustworthiness

because the document did not include details of the sale, which might have affected the total sale price.

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.