



STATE TAX COMMISSION OF MISSOURI

MARK ALAN WILDT,)
)
Complainant,)
) Appeal Nos. 21-15850, 21-15851, and
) 21-18244
v.)
) Parcel Nos. 22X420072, 22X410172 and
) 22X140101
)
JAKE ZIMMERMAN, ASSESSOR,)
ST. LOUIS COUNTY, MISSOURI,)
)
Respondent.)

DECISION AND ORDER

Mark Alan Wildt (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on the three parcels cited above on the ground of overvaluation.¹ The assessments made by the BOE are AFFIRMED. Complainant failed to present substantial and persuasive evidence to rebut the presumption of correct assessment by the BOE as to each of the subject properties.

¹ Complainant timely filed a complaint for review of assessment for each of these respective appeals. The State Tax Commission (STC) has authority to hear and decide Complainant's appeal. Mo. Const. art. X, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

The evidentiary hearing for all of these appeals was held on May 26, 2022, via Webex. Complainant appeared pro se. Respondent was represented by counsel, Tim Bowe. The appeals were heard and decided by Senior Hearing Officer Benjamin C. Slawson. For efficiency, the appeals have been consolidated in this Decision and Order.

FINDINGS OF FACT

1. Identification and Description of Subject Properties. The three subject properties are all parcels of unimproved land in St. Louis County. All parcels are located around Complainant’s home which is located on a parcel of land not at issue here. The properties are further identified and described as follows:

Appeal No.	Parcel No.	Address	Description
21-15850	22X420072	1728 Wild Horse Creek Rd.	Unimproved parcel of land adjacent to Complainant’s property at 1736 Wild Horse Creek Rd. 1.179 acres. Wooded and heavily sloped.
21-15851	22X410172	1728 Wild Horse Creek Rd., Wildwood	Unimproved parcel of land adjacent to Complainant’s property at 1736 Wild Horse Creek Rd. 1.184 acres. Wooded and heavily sloped.
21-18244	22X140101	1736 Wild Horse Creek Rd	Unimproved parcel of land behind Complainant’s house consisting of

			1.586 acres. Also wooded and heavily sloped.
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2. Assessment and Valuation. Respondent and the BOE determined that each respective subject property's value as of January 1, 2021 as set forth in the table, below:

Appeal No.	Parcel No.	Respondent's Valuation	BOE Valuation
21-15850	22X420072	\$71,900	\$26,000
21-15851	22X410172	\$93,700	\$40,600
21-18244	22X140101	\$35,000	\$35,000

3. Complainant's Evidence. Complainant opined that the TVM of each of the subject properties as of January 1, 2021 is as follows:

Appeal No.	Parcel No.	Complainant's Opinion of TVM
21-15850	22X420072	\$18,920
21-15851	22X410172	\$29,528
21-18244	22X140101	\$25,452

Complainant submitted Exhibits A through D appeal, which were all admitted without objection. Exhibit A contains information from Zillow.com for 18756 Haystack Ln, Wildwood, MO 63005, a three-acre property Complainant found which he testified was on the market for sale for \$50,000. At the asking price, Complainant asserted that it

did not sell at \$16,611 per acre despite being on the market for 325 days. On cross examination, Complainant admitted that he did not know if the parcel was subject to any liens or encumbrances which would dissuade any potential buyers. Exhibit B is a topographical map of 18756 Haystack Ln. which Complainant argued is wooded and heavily sloped similar to the appealed properties.

Exhibits C and D contain information for 1706 Wild Horse Creek Rd. and 1710 Wild Horse Creek Rd., which are two additional parcels Complainant owns that are not at issue. These Exhibits also contain Complainant's notes about these properties in comparison with those under appeal. He states that 1710 Wild Horse Creek Rd. contains a creek that periodically floods during storms. Complainant testified that in his opinion these and the appealed properties are not desirable building sites due to each having a heavily sloped terrain. Complainant also testified that because by ordinance a three acre is required to build a house, he believes the marketability of these small parcels is affected negatively.

Complainant asserts that Respondent currently valued these properties at around \$16,048 per acre, which is less than the average of \$22,000 per acre for the three parcels appealed. Because he feels these additional unimproved lots are similar to the parcels at issue, Complainant argues this shows that the appealed properties were overvalued by Respondent. Complainant feels that \$16,048 per acre is reasonable. Therefore, he multiplied \$16,048 by the acre size of the subject properties to come up with his opinions of value for each.

All of the evidence submitted at the hearing Complainant submitted before the BOE. Complainant testified that he is not a licensed appraiser in the state of Missouri.

4. Respondent's Evidence. Respondent introduced Exhibit 1 for both respective appeals, consisting of the October 29, 2021, BOE decision letter for each respective subject property. Copies of Exhibit 1 for each respective appeal were admitted without objection.

5. Value. The TVM of each respective subject property as of January 1, 2021, are as follows:

Appeal No.	Parcel No.	TVM
21-15850	22X420072	\$26,000
21-15851	22X410172	\$40,600
21-18244	22X140101	\$35,000

CONCLUSIONS OF LAW

1. Assessment and Valuation. Residential real property is assessed at 19% of its TVM as of January 1 of each odd-numbered year. Sections 137.115.1; 137.115.5(1)(a). The TVM is "the fair market value of the property on the valuation date[.]" *Snider v. Casino Aztar/Aztar Mo. Gaming Corp.*, 156 S.W.3d 341, 346 (Mo. banc 2005) (internal quotation omitted). The fair market value is "the price which the property would bring from a willing buyer when offered for sale by a willing seller." *Mo. Baptist Children's Home v. State Tax Comm'n*, 867 S.W.2d 510, 512 (Mo. banc 1993). "True value in money is defined in terms of value in exchange not value in use." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 7 (Mo. App. S.D. 2020) (internal

quotation omitted). The TVM "is a function of [the property's] highest and best use[.]" *Snider*, 156 S.W.3d at 346. "Determining the true value in money is an issue of fact for the STC." *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008).

The TVM of a property is typically determined by the sales comparison approach, the income approach, or the cost approach. *Snider v. Casino Aztar/Aztar Missouri Gaming Corp.*, 156 S.W.3d at 346-48.

2. Evidence. The hearing officer is the finder of fact and determines the credibility and weight of the evidence. *Kelly v. Mo. Dep't of Soc. Servs., Family Support Div.*, 456 S.W.3d 107, 111 (Mo. App. W.D. 2015). "Although technical rules of evidence are not controlling in administrative hearings, fundamental rules of evidence are applicable." *Mo. Church of Scientology v. State Tax Comm'n*, 560 S.W.2d 837, 839 (Mo. banc 1977).

3. Complainant's Burden of Proof. The taxpayer bears the burden of proof and must show by a preponderance of the evidence the property is overvalued. *Westwood P'ship v. Gogarty*, 103 S.W.3d 152, 161 (Mo. App. E.D. 2003). The BOE's valuation is presumptively correct. *Tibbs*, 599 S.W.3d at 7. The "taxpayer may rebut this presumption by presenting substantial and persuasive evidence that the valuation is erroneous." *Id.* (internal quotation omitted). The taxpayer also must prove "the value that should have been placed on the property." *Id.* "Substantial evidence is that evidence which, if true, has probative force upon the issues, and from which the trier of fact can reasonably decide the case on the fact issues." *Savage v. State Tax Comm'n*, 722 S.W.2d 72, 77 (Mo. banc 1986) (internal quotation omitted). Evidence is persuasive when it has "sufficient weight and probative value to convince the trier of fact." *Daly v. P.D. George Co.*, 77 S.W.3d 645,

651 (Mo. App. E.D. 2002); *see also White v. Dir. of Revenue*, 321 S.W.3d 298, 305 (Mo. banc 2010) (noting the burden of persuasion is the "party's duty to convince the fact-finder to view the facts in a way that favors that party").

Property owners are competent to testify to the reasonable fair market value of their property. *Cohen*, 251 S.W.3d at 348. However, if owner's testimony is based on "improper elements or an improper foundation[.]" it is not substantial and persuasive evidence rebutting the presumptively correct BOE value. *Id.* at 349.

4. Complainant Did Not Produce Substantial and Persuasive Evidence of Overvaluation.

Complainant did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value for any of these three appeals. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value, nor did he offer an appraisal of any of the subject properties as evidence of the TVM of each property as of January 1, 2021.

Complainant offered information 18756 Haystack Ln. for consideration, but this property is not a comparable sale; there is no evidence that it was sold. Complainant submitted information about Respondent's valuation of two other parcels that he owns which are adjacent to his main property where his house is located. However, these properties are also not comparable sales that can be used for valuation. In addition, Complainant's method of averaging appraised valuation amounts on a price per acre basis to determine value is not an approach to value that is used in Missouri to determine the TVM of a subject property. Complainant did not alternatively offer testimony of an

appraiser, nor an appraisal of the property as evidence of the TVM of the property as of January 1, 2021. All of the evidence submitted at the hearing Complainant submitted before the BOE. For two of the properties at issue, the BOE independently found a TVM considerably lower than that of Respondent, suggesting that additional considerations were made by the BOE. In other words, Complainant has not shown with substantial and persuasive evidence that the presumptively correct values assigned by the BOE are incorrect.

The lack of evidence relating to a recognized valuation method renders Complainant's proposed values for each of the subject properties speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Complainant did not produce substantial and persuasive evidence showing the BOE overvalued the subject properties and "the value that should have been placed on [these properties]." *Tibbs*, 599 S.W.3d at 7.

CONCLUSION AND ORDER

Complainant did not produce substantial and persuasive evidence of overvaluation in any of these appeals. The BOE decisions are affirmed. The TVM and assessed values of each respective subject property as of January 1, 2021 are as follows:

Appeal No.	Parcel No.	TVM	Assessed Value
21-15850	22X420072	\$26,000	\$4,940
21-15851	22X410172	\$40,600	\$7,714
21-18244	22X140101	\$35,000	\$6,650

Application for Review

A party may file an application for review of this decision within 30 days of the mailing date set forth in the certificate of service for this decision. The application "shall contain specific detailed grounds upon which it is claimed the decision is erroneous." Section 138.432. The application must be in writing, and may be mailed to the State Tax Commission of Missouri, P.O. Box 146, Jefferson City, MO 65102-0146, or emailed to Legal@stc.mo.gov. A copy of the application must be sent to each person listed below in the certificate of service. *Failure to state specific facts or law upon which the application for review is based will result in summary denial.* Section 138.432.

Disputed Taxes

The Collector of St. Louis County, and the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of an application for review, unless the disputed taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

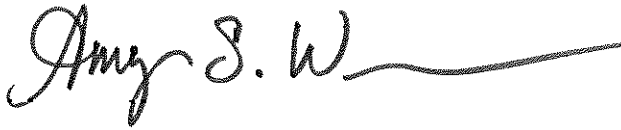
SO ORDERED December 2, 2022.



Benjamin C. Slawson
Senior Hearing Officer
State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on December 2, 2022, to: Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

A handwritten signature in black ink that reads "Amy S. W." followed by a long, horizontal, wavy line extending to the right.

Amy S. Westermann
Chief Counsel