



STATE TAX COMMISSION OF MISSOURI

GEOFFREY DOUGLASS,)
)
Complainant(s),)
) Appeal No. 21-15875 and 21-15876
v.) Parcel No. 20T420306 and 30Y540091
)
JAKE ZIMMERMAN, ASSESSOR,)
ST. LOUIS COUNTY, MISSOURI,)
)
Respondent.)

DECISION AND ORDER

Geoffrey Douglass (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on each of the parcels cited above on the ground of overvaluation.¹ For appeal no. 21-15875, Complainant proposes a value of \$791,300 as of January 1, 2021. For appeal no. 21-15876, Complainant proposes a value of \$11,200 as of January 1, 2021.

For appeal no. 21-15875, Respondent's admission on the record that the BOE value was incorrect rebuts the presumption of correct assessment by the BOE. The TVM of the subject property on January 1, 2021, was \$847,800. For appeal no. 21-15876, Complainant

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.

failed to present substantial and persuasive evidence. The BOE decision is affirmed. The TVM of the subject property on January 1, 2021 for that property was \$165,300.

The evidentiary hearing was held on May 5, 2022, via Webex. Complainant appeared *pro se*. Respondent was represented by counsel Tim Bowe. The appeal was heard and decided by Senior Hearing Officer Benjamin Slawson.

FINDINGS OF FACT

1. Identification and Description of Subject Properties. The subject residential properties are described as follows:

The subject property for appeal no. 21-15875 is Complainant's residence and is a single family one and a half story home with five bedrooms and six bathrooms. The property's address is 2203 Devonsbrook Drive, Chesterfield, Missouri. The property is located in the Dunhill Farms subdivision and is a typical house for that neighborhood. Complainant purchased the property about ten years ago for around \$500,000. Complainant has not made any significant improvements to the property in the last three years, nor has Complainant listed the property for sale in the last three years. Complainant also has not had the property appraised in the last three years.

The property for appeal no. 21-15876 is located at 5624 Hill View, Pacific, Missouri. It is vacant land which Complainant purchased for \$11,200 from St. Louis County in a tax sale in 2019. Complainant has not listed the property in the last three years, nor has Complainant obtained an appraisal for the property in the last three years.

2. Assessment and Valuation. Respondent and the BOE independently 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
21-15875	20T420306	\$881,600	\$881,600
21-15876	30Y540091	\$165,300	\$165,300

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
21-15875	20T420306	\$791,300
21-15876	30Y540091	\$11,200

For Appeal No. 21-15875, Complainant offered Exhibit A which consists of an Excel spreadsheet listing data on sales in the Dunhill Farms Subdivision ranging from 2018 through 2020. Exhibit A was admitted without objection. For Appeal No. 21-15876, Complainant offered Exhibit A which consists of a one-page topographical map of the subject property in that appeal. Exhibit A was admitted without objection.

Complainant testified that for his personal residence, the subject property in Appeal No. 21-15875, Complainant feels it is overvalued because he believes Respondent's

assessment did not adequately take into account all of the comparable sales in the Dunhill Farms Subdivision. Using St. Louis County's online real estate database, Complainant gathered data on all sales in the Dunhill Farms Subdivision between 2018 and 2020 and compiled it in Exhibit A. For these sales, he took the average sales price on a price per square foot basis (\$191.32) and then multiplied this figure by the square footage of his property (4,136) to obtain a proposed value of \$791,300. Complainant feels his approach is more broad-based than Respondent's valuation. On cross examination, Complainant admitted he did not possess knowledge of the specific details of the sales conditions of these comparable properties, nor did he have knowledge of the specific characteristics of each of these homes. Complainant testified that his knowledge concerning these properties was of a general nature from his service as a trustee of the Dunhill Farms Homeowner's Association.

For Appeal No. 21-15876, Complainant testified that the property is overvalued because it has limited value due to its topography. Citing to Exhibit A, a topographical map, Complainant stated that the elevation of the property near the road is 708 feet and then in the rear of the property it drops to elevation of 524 feet. Due to this steep change in elevation, Complainant argued that construction of any improvements is very difficult. Complainant's proposed value for the property for 2021 is what he purchased it for in 2019, \$11,200. Complainant also argued that 5650 Hill View Dr. Pacific, Missouri, a 4.5 acre unimproved tract adjoining the subject with similar topography, was appraised at \$900 in 2021. Complainant's position is based on this appraised value, the subject should be

appraised at around \$1,800 since it is twice as big. Complainant offered no comparable sales for consideration.

Complainant testified that he is not a licensed appraiser in the State of Missouri, but he does have knowledge of real estate matters working as the Director of Real Estate for Ameren Corporation in St. Louis. Complainant is a trustee of the Dunhill Farms Homeowners Association.

3. Respondent's Evidence. For both appeals, Respondent introduced Exhibit 1, the BOE decision letter dated October 29, 2021, stating the BOE's TVM for each respective subject property. Exhibit 1 for each case was admitted into evidence without objection.

While Respondent did not present any witness concerning valuation, Respondent's counsel noted on the record that Respondent believes Respondent's original valuation and the valuation by the BOE for Appeal No. 21-15875 were incorrect and too high. Counsel for Respondent suggested that the value of that parcel of property as of January 1, 2021 was \$847,800.

4. Value. The TVM of the subject properties as of January 1, 2021 is as follows:

Appeal No.	Parcel No.	Complainant's Opinion of TVM
21-15875	20T420306	\$847,800
21-15876	30Y540091	\$165,300

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. Section 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). "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).

"For purposes of levying property taxes, the value of real property is typically determined using one or more of three generally accepted approaches." *Snider*, 156 S.W.3d at 346. The three generally accepted approaches are the cost approach, the income approach, and the comparable sales approach. *Id.* at 346-48. The STC has wide discretion in selecting the appropriate valuation method but "cannot base its decision on opinion evidence that fails to consider information that should have been considered under a particular valuation approach." *Id.*, at 348.

The comparable sales approach “is most appropriate when there is an active market for the type of property at issue such that sufficient data are available to make a comparative analysis.” *Snider*, 156 S.W.3d at 348. For this reason, the comparable sales approach is typically used to value residential property. “The comparable sales approach uses prices paid for similar properties in arms-length transactions and adjusts those prices to account for differences between the properties.” *Id.* at 347-48 (internal quotation omitted). “Comparable sales consist of evidence of sales reasonably related in time and distance and involve land comparable in character.” *Id.* at 348.

2. Evidence. "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). 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). “It is within the purview of the hearing officer to determine the method of valuation to be adopted in a given case.” *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 9 (Mo. App. S.D. 2020). The hearing officer “may inquire of the owner of the property or of any other party to the appeal regarding any matter or issue relevant to the valuation, subclassification or assessment of the property.” Section 138.430.2. The Hearing Officer’s decision regarding the assessment or valuation of the property may be based solely upon his inquiry and any evidence presented by the parties, or based solely upon evidence presented by the parties. *Id.*

3. Complainant's Burden of Proof. The taxpayer bears the burden of proof and

must show by a preponderance of the evidence that the property was 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").

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

Complainant did not produce substantial and persuasive evidence establishing his proposed values for either subject property. Neither Complainant's exhibits nor his testimony utilized the comparable sales approach, income approach, or cost approach to support his proposed value, nor did he offer an appraisal of the property as evidence of the TVM of the property as of January 1, 2021.

For Appeal No. 21-15875, Complainant listed a number of sales he found in his

neighborhood, averaged those sale prices on a price per square foot basis, and then applied that value to the square footage of his house to reach his proposed value. However, these sales are not persuasive evidence. These sales are not persuasive evidence as no adjustments are made using appraisal methods to account for differences between the subject property and these other properties. Further, Complainant's calculation of an average sale price of the comparables per square foot to determine the fair market value of the subject property is not a generally accepted approach to value property.

However, while not required to present evidence during the hearing given the burden of proof, Respondent through his counsel, admitted that the BOE value assigned for Appeal No. 21-15875 was incorrect. Respondent's admission on the record that the BOE value was incorrect rebuts the presumption of correct assessment by the BOE. Unsworn, conclusionary statements by counsel, without supporting proof, do not constitute substantial evidence, except where facts asserted are conceded to be true by the adversary party. *State ex rel. Dixon v. Darnold*, 939 S.W.2d 66, 69 (Mo. App. 1997). Because Complainant's entire appeal is based on a claim of overvaluation by the BOE, it is determined that Complainant does not dispute that the BOE's valuation is incorrect.

Unless an appeal is voluntarily dismissed, the undersigned hearing officer, after affording the parties reasonable opportunity for fair hearing, is bound by the General Assembly's directive to review the assessment to determine "the correct valuation to be placed on such property" and to "correct any assessment or valuation which is shown to be unlawful, unfair, improper, arbitrary or capricious." Section 138.430.1. The hearing officer is not bound by any single formula, rule or method in determining true value in

money, but is free to consider all pertinent facts and estimates and give them such weight as reasonably they may be deemed entitled. The relative weight to be accorded any relevant factor in a particular case is for the Hearing Officer to decide. *St. Louis County v. Security Bonhomme, Inc.*, 558 S.W.2d 655, 659 (Mo. banc 1977); *St. Louis County v. STC*, 515 S.W.2d 446, 450 (Mo. 1974); *Chicago, Burlington & Quincy Railroad Company v. STC*, 436 S.W.2d 650 (Mo. 1968). Respondent conceded that the BOE's valuation is \$33,800 too high and stated a value of \$847,800. Neither Complainant nor Respondent offered any evidence supporting this figure. However, the value is reasonable when examining Complainant's evidence. The TVM of \$847,800 represents a value within the range of sale values listed by Complainant in Exhibit A (\$640,000 to \$1,012,500). In the interest of fairness to both parties who advocated a TVM lower than that of the BOE and given the evidence in the record, the TVM of the subject property as of January 1, 2021, was \$847,800.

For appeal no. 21-15876, Complainant testified as to the various topographical issues of the unimproved lot which he argued make it less desirable and valuable. Complainant did not provide evidence of the specific monetary impact that the topographical features have on the TVM of the subject property as of January 1, 2021. In other words, there is no documentation or testimony rebutting the presumption that the BOE examined these conditions and figured them into its valuation at \$165,300.

Complainant proposes \$11,200, the value that he purchased the property for from Respondent at a tax sale in 2019. The Hearing Officer is not persuaded that the tax sale

purchase was an arms-length transaction or that it represents the TVM of the subject property on January 1, 2021. Complainant also mentioned Respondent's appraised value of a neighboring vacant piece of property that he argued was similar to the subject property. The observation that the appraised value of a neighboring property seems to be arbitrarily much lower does not rely on any generally accepted approach to show overvaluation. The comparable sales approach is the usual method used to determine the TVM of residential real property. "The comparable sales approach uses prices paid for similar properties in arms-length transactions and adjusts those prices to account for differences between the properties." *Snider*, 156 S.W.3d at 347-48 (internal quotation omitted). Complainant did not offer any comparable sales in the subject property's area. Finally, Complainant did not offer testimony of an appraiser, nor an appraisal of the property as evidence of the TVM of the property as of January 1, 2021.

Complainant's valuation is based on improper elements and therefore is speculative. While a property owner's opinion of value is generally admissible, the opinion "is without probative value where it is shown to have been based upon improper elements or an improper foundation." *Shelby Cty. R-IV Sch. Dist. v. Herman*, 392 S.W.2d 609, 613 (Mo. 1965); see also *Cohen v. Bushmeyer*, 251 S.W.3d 345, 349 (Mo. App. W.D. 2008) (noting a property owner's opinion of value loses probative value when it rests on an improper foundation).

CONCLUSION AND ORDER

The BOE decision for appeal no. 21-15875 is set aside. The TVM of the subject property in that appeal was \$847,800 as of January 1, 2021. The BOE decision for appeal

no. 21-15876 is affirmed. The TVM of the subject property as of January 1, 2021, was \$165,300.

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.

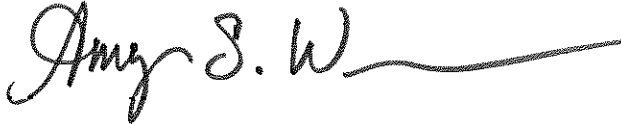
SO ORDERED December 16, 2022.



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 16, 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 flourish.

Amy S. Westermann
Chief Counsel