



STATE TAX COMMISSION OF MISSOURI

JESSICA HUNN,)
)
 Complainant(s),)
) Appeal No. 21-15940
 v.) Parcel No. 21J240293
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
)
 Respondent.)

DECISION AND ORDER

Jessica Hunn (Complainant) appealed the St. Louis County Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2021, was \$474,000. Complainant alleges overvaluation and proposes that the TVM of the subject as of that date was \$386,000.¹ The BOE decision is affirmed. The TVM of the subject property on January 1, 2021, was \$474,000.

The evidentiary hearing was held on July 13, 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.

¹ Complainant timely filed a complaint for review of assessment. 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.

FINDINGS OF FACT

1. **The Subject Property.** The subject residential real property is located at 7313 Myrtle Ave., St. Louis, MO. The subject property consists of a single-family three story frame home on a lot that is about 7,200 square feet. The square footage of the home is roughly 2,600 square feet and includes nine rooms, including four bedrooms and three and a half bathrooms. The house also features a two-car detached garage. Complainant purchased the property in 2017 for about \$160,000. The house is an historic home in Maplewood. Complainant completed a full renovation of the home which was completed in 2019. Complainant put in about \$200,000 into the house during this renovation.

2. **Assessment and Valuation.** Respondent determined the TVM of the subject property as of January 1, 2021, was \$491,100. The BOE independently determined the TVM of the subject property as of January 1, 2021, was \$ \$474,000.

3. **Complainant's Evidence.** Complainant submitted Exhibit A, a 20-page document consisting of a summary of Complainant's arguments supporting her claim of overvaluation, pictures of the subject property, information regarding Respondent's comparable sales used for his assessment and also characteristics of additional comparables found by Complainant. Exhibit A was admitted without objection.

Complainant testified that \$375,000, the proposed amount submitted on her Complaint for Review, was the value Respondent assessed the house at for 2020, a 47% increase from 2019. Complainant testified that in 2019 she completed a major renovation of the whole house. While Complainant in her Complaint for Review Complainant indicated a proposed value of \$375,000, Complainant testified at hearing that her opinion

of value for the subject property as of January 1, 2021 is \$386,000. She arrived at this number by first determining a base average value using a square footage analysis taken from the average sale prices of her comparables. This sum is \$327,460. She then took this value and added what she believed to be a fair adjustment for the unique renovated condition of her home, arriving at \$386,000.

Despite Complainant's completed renovations, Complainant argued that there are still major condition issues with the home which affect its market value. Complainant asserted that other than a small four foot fence that was completed on the west property border, no substantial change in the property condition had been made after the renovation. Therefore, she feels that another increase of 31% from 2020 to 2021 and a total increase in two years of 78% is unreasonable and unfair.

The main condition issues mentioned by Complainant are described and evidenced with pictures in Exhibit A: (1) exterior stone foundation has peeling paint and needs to be tuckpointed; (2) roof in poor condition; (3) chimney needs tuckpointing and needs a cap because of a bat infestation; (4) water damage and ongoing water issues in basement; (5) and the existence of driveway surface erosion. Complainant estimated the total cost of these repairs to be \$93,000.

Complainant's property is next to a low income rental property which she asserted is an eyesore and is in poor condition. The subject property shares a driveway with this rental unit. Complainant testified that the neighboring low income rental property devalues her property due to cars blocking access to the subject property's garage. Complainant noted that she believes Respondent has incorrectly and unfairly assigned the condition of

the subject property as “excellent.” Complainant also argued that the comparables used by Respondent to assess her home are very different than the subject and thus cannot be used to determine value. Not only do they not have a neighboring rental property, but they were sold in 2019, their assessed values are a different price per square foot, and they are not rated as being in “excellent” condition.

Complainant found two additional comparables which she lists and characterizes on page nine of Exhibit A. Complainant argued that 7417 Flora was recently renovated like the subject, but only had an assessment increase of 3.8% from 2020 to 2021. She also noted 7366 Elm has a larger square footage than the subject, but only had a 12% increase from 2020 to 2021. She believes these other comparable sales show that her property has been unfairly assessed a much higher increased rate.

Complainant presented all these issues to the BOE including her documentary support, Exhibit A. Complainant is not a licensed appraiser in the State of Missouri.

4. Respondent's Evidence. Respondent introduced Exhibit 1, a copy of the BOE decision letter dated October 29, 2021 stating the BOE TVM as of January 1, 2021. The Exhibit was admitted without any legal objection.

5. Value. The TVM of the subject property as of January 1, 2021, was \$ \$474,000.

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. 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 to support Complainant's \$386,000 opinion of value and claim of overvaluation. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value, nor did Complainant offer a recent appraisal of the subject property as evidence of the TVM of the property as of January 1, 2021.

Complainant testified concerning the condition issues of the subject property, which are listed in Exhibit A and are also evidenced with the pictures in that exhibit. However, while Complainant estimated repairs to cost \$93,000, Complainant did not provide evidence of the specific monetary impact that these issues or surrounding neighborhood conditions (such as the rental property) 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 this issue and figured it into its valuation at \$474,000, a decrease from Respondent's original appraised value of \$491,100.

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 took issue with the comparable sales used by Respondent in his assessment. However, Complainant offers no evidence showing that Respondent did not make appropriate market-based adjustments for value considering the differing characteristics between these properties and the subject when determining the TVM of the subject as of January 1, 2021. Thus, Complainant’s valuation is based on improper elements and therefore is speculative.

Similarly, Complainant’s method of comparing and averaging properties on a price per square foot basis is also not an acceptable appraisal method to determine fair market value of a subject. Further, Complainant’s two comparable sales were not analyzed using accepted appraisal methods, for example making appropriate market adjustments to determine value of the subject. 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.

Even if Complainant had rebutted the presumption of correct valuation by the BOE, Complainant has not proven that the TVM of the subject property is \$386,000 as of January 1, 2021. 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 is set affirmed. The TVM of the subject property as of January 1, 2021, was \$474,000, with an assessed value of \$90,060.


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.

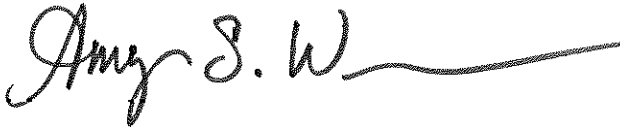
SO ORDERED December 2, 2022.



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.



Amy S. Westermann
Chief Counsel