



# STATE TAX COMMISSION OF MISSOURI

CONNIE HAGEDORN, )  
 )  
 Complainant(s), )  
 ) Appeal No. 21-18219  
 v. ) Parcel No. 29P421157  
 )  
 JAKE ZIMMERMAN, ASSESSOR, )  
 ST. LOUIS COUNTY, MISSOURI, )  
 )  
 Respondent. )

## DECISION AND ORDER

Connie Hagedorn (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 \$230,000. Complainant alleges overvaluation and proposes that the TVM of the subject as of that date was \$199,000.<sup>1</sup> The BOE decision is affirmed. The TVM of the subject property on January 1, 2021, was \$230,000.

The evidentiary hearing was held on July 20, 2022, via Webex. Complainant, appeared *pro se* via telephone. Respondent was represented by counsel Tim Bowe. The

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<sup>1</sup> 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.

appeal was heard and decided by Senior Hearing Officer Benjamin Slawson.

## **FINDINGS OF FACT**

**1. The Subject Property.** The subject residential real property is located at 11006 Hawkins Meadow Court, Fenton, Missouri. The subject property consists of a single family home that was built in 2000 on a lot just shy of half an acre. The atrium ranch has around 1,878 square feet of living space and includes three bedrooms and two bathrooms. Complainant purchased the property in 2005 for \$320,000. Complainant has not attempted to sell the house in the last five years.

**2. Assessment and Valuation.** Respondent determined the TVM of the subject property as of January 1, 2021, was \$319,700. The BOE independently determined the TVM of the subject property as of January 1, 2021, was \$230,000.

**3. Complainant's Evidence.** Complainant introduced Exhibit A, a 113 page document containing several items, including BOE appeal documents, handwritten notes concerning condition issues, pictures of the subject property, and proposals and bids from various contractors. Exhibit A was admitted without objection.

Complainant's opinion of value for the subject property is \$199,000. Complainant said that this was her guess at what it's worth given the major structural issues with the house. Complainant testified that the subject property is plagued with 14 major condition issues that devalue the subject property. These are listed in the Table of Contents in Exhibit A. Some of these major issues include that the house is settling and moving causing damage to many areas of the home, the foundation is plagued with structural issues requiring 40 piers to be installed to help support the house and interior flooring, many areas

of the house need to be repainted and touched up, multiple nail pops, stress cracks and drywall seams in the ceiling, the drain tile in basement poorly installed, several doors need to be replaced, the driveway needs to be repaired due to street creep, and that the property has poor clay backfilled “plastic” soil. Other issues were described by Complainant in her testimony and notes in Exhibit A. Complainant asserted some of these issues cannot be fixed like the street creep, soil, roof trusses, sub flooring, piers, and failing floor joists. Complainant obtained some bids and proposals to repair some of the other issues, which she included in Exhibit A.

Complainant is a former realtor but is not a licensed appraiser in the State of Missouri, nor does Complainant have experience making market-based valuation adjustments to comparable sales to determine the TVM of a subject property.

**4. Respondent's Evidence.** Respondent introduced one exhibit that was admitted into evidence without objection. The exhibit is described as follows:

<b>Exhibit</b>	<b>Description</b>
1	The BOE decision letter dated October 29, 2021 stating the BOE TVM as \$230,000

**5. Value.** The TVM of the subject property as of January 1, 2021, was \$230,000.

### **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 \$199,000 opinion of value and claim of overvaluation. Complainant did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value of \$230,000. 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 as to the various condition issues of the subject property, but did not provide evidence of the specific monetary impact that such conditions have on the TVM of the subject property as of January 1, 2021. While Complainant did offer estimates to repair and update some of the features in the house, Complainant did not provide evidence of the specific monetary impact that the deck has 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 \$230,000. The fact that the BOE reduced Respondent's value of \$319,700 by almost \$100,000 shows that the BOE in fact did figure these issues into its valuation.

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. While Complainant asserts that no other property is comparable given the major structural defects in the house, market-based adjustments could be made to comparable sale values to determine value of the subject to account for condition differences. 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 \$199,000 as of January 1, 2021. Complainant admitted this was simply her guess at fair market value. Thus, 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 is set affirmed. The TVM of the subject property as of January 1, 2021, was \$230,000, with an assessed value of \$43,700.

#### **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.

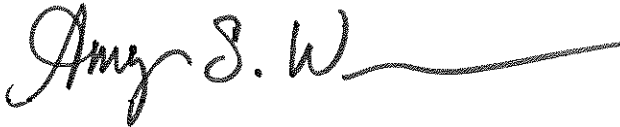




Benjamin C. Slawson  
Senior Hearing Officer  
State Tax Commission

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