



STATE TAX COMMISSION OF MISSOURI

GEORGE ISLAMI) Appeal No. 22-20001
) Parcel/Locator: 51649180000
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 Complainant(s),)
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 v.)
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)
 MICHAEL DAUPHIN, ASSESSOR,)
 ST. LOUIS CITY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

George Islami (Complainant) appeals the St. Louis City Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2022, was \$140,820, assessed value \$26,760. Complainant claims the property is overvalued and proposes a value of \$126,200. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.¹

Complainant appeared *pro se*. Respondent was represented by counsel, Nick Morrow. The evidentiary hearing was conducted on December 14, 2022, via WebEx.

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, Section 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

FINDINGS OF FACT

1. Subject Property. The subject property is located at 5210 Sutherland Ave., in St. Louis, Missouri. The parcel/locator number is 51649180000.

The subject property consists of a 3,750 square-foot lot and a 99 year old residential two-family home. The subject property includes a 2,424 square-foot two story brick exterior with four bedrooms, two baths, a detached garage, and unfinished basement. Complainant purchased the subject property in 2007.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2022, was \$140,820, with an assessed value of \$26,760. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2022, was \$140,820, with an assessed value of \$26,760.

3. Complainant's Evidence. Complainant testified the TVM of the subject property on January 1, 2022, was \$126,200. Complainant submitted Exhibit A, a letter of explanation of the condition of the subject property. Complainant testified he has not listed the subject property for sale within the past three years and has made no improvements in the past two years. Complainant testified he has had no appraisal completed for the subject property. Complainant testified he purchased the property in 2007 for \$172,500, which, at the time of purchase, was recently renovated. Complainant testified he lived in the property until 2016, and since, he has rented the property to various tenants. Complainant testified the home is outdated, there is a sinkhole on the property, it has foundation issues, and, although Zillow (website) indicates the property is updated, he has completed no updates on the property.

Complainant testified that he was in disagreement with the Appraisal submitted by Respondent. A summary of Complainant's Evidence includes:

Exhibit	Description	Status
A	Complainant's Letter	Admitted

4. Respondent's Evidence. Respondent submitted Exhibit 1 and the testimony of St. Louis City staff real property appraiser 1, James Holzer. Mr. Holzer testified he prepared Exhibit 1. Exhibit 1 utilizes the sales comparison approach to find the TVM on January 1, 2021, of the subject property is \$193,000. Mr. Holzer chose three comparable sales and made market-based adjustments to those properties to account for the similarities and differences between the subject property and the comparables. Mr. Holzer testified he conducted an on-site interior and exterior inspection of the property in September 2022. The comparables are similar to the subject property in size, location, age, and type. Mr. Holzer testified that the subject property was part of several built by the same architect within the local area and the chosen comparables were like a mirror-image of the subject property. Mr. Holzer testified he adjusted the subject property's TVM for condition and also for garage size.

5. Value. The TVM of the subject property on January 1, 2022, was \$140,820, with an assessed value of \$26,760.

CONCLUSIONS OF LAW

1. Assessment and Valuation

Pursuant to Article X, Sections 4(a) and 4(b), Mo. Const. of 1945 real property and tangible personal property is assessed at its value or such percentage of its value as may be

fixed by law for each class and for each subclass. Article X, Sections 4(a) and 4(b), Mo. Const. of 1945. 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). "True value in money is the fair market value of the property on the valuation date, and is a function of its highest and best use, which is the use of the property which will produce the greatest return in the reasonably near future." *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). Determining the TVM is a factual issue for the STC. *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008). The "proper methods of valuation and assessment of property are delegated to the Commission." *Savage v. State Tax Comm'n*, 722 S.W.2d 72, 75 (Mo. banc 1986).

"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; *see also St. Louis Cty. v. Sec. Bonhomme, Inc.*, 558 S.W.2d 655, 659 (Mo. banc 1977).

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

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). The finder of fact in an administrative hearing determines the credibility and weight of expert testimony. *Hornbeck v. Spectra Painting, Inc.*, 370 S.W.3d 624, 632 (Mo. banc 2012). "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 BOE's valuation is presumptively correct. *Rinehart v. Laclede Gas Co.*, 607 S.W.3d 220, 227 (Mo. App. W.D. 2020). To prove overvaluation, a taxpayer must rebut the BOE's presumptively correct valuation and prove the "value that should have been placed on the property." *Snider*, 156 S.W.3d at 346. The taxpayer's evidence must be both

"substantial and persuasive." *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*, 722 S.W.2d at 77 (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"). A taxpayer does not meet his burden if evidence on any essential element of his case leaves the STC "in the nebulous twilight of speculation, conjecture and surmise." *See, Rossman v. G.G.C. Corp. of Missouri*, 596 S.W.2d 469, 471 (Mo. App. 1980).

4. Complainant Did Not Prove Overvaluation.

Complainant did not establish that the BOE valuation was erroneous. Complainant testified his home is overvalued due to the condition of the subject property, including outdated interior finishes, foundation issues, and a sinkhole on the property. Complainant testified he has completed no improvements to his property to justify the increase in value. Complainant testified Respondent had various errors in Respondent's appraisal (Exhibit 1), which resulted in overvaluation. Complainant's Exhibit A and testimony regarding the condition of the property does not provide a true and accurate method for finding the TVM of the subject property. The comparable sales approach is the method used to determine the TVM of the subject 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's subsequent alleged TVM does not come from an appraisal utilizing the sales comparison approach. 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). Complainants' testimony and Exhibit regarding valuation, while admissible, are based on improper elements and therefore are not substantial and persuasive evidence that the BOE's valuation is erroneous.

Respondent, although not required to, presented persuasive evidence in support of the BOE's valuation. Exhibit 1 and Mr. Holzer's testimony that he selected three comparable sales and adjusted the sales prices based on similarities and differences to the subject property persuasively support the TVM of \$140,820 determined by the BOE. Mr. Holzer's opinion of value was \$193,000. His opinion was not used to advocate an increase in the assessed value of the subject property but was used to support Respondent's argument that the BOE's valuation should be affirmed. Exhibit 1 is admissible as evidence for sustaining the value assigned by the BOE.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2022, was \$140,820, with an assessed value of \$26,760.

Application for Review

A party may file with the Commission 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, 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 City, as well as 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 said taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED December 30, 2022.
STATE TAX COMMISSION OF MISSOURI

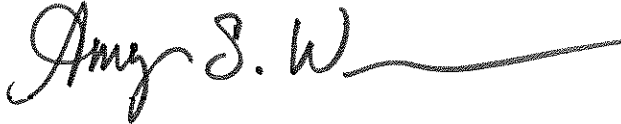


Erica M. Gage
Senior Hearing Officer
State Tax Commission

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 30, 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 flourish.

Amy S. Westermann
Chief Counsel