



# STATE TAX COMMISSION OF MISSOURI

MATTHEW KRAPF ZELLER, ) Appeal No. 21-10238  
 ) Parcel/Locator: 22K310826  
 )  
 )  
 )  
 )  
 Complainant(s), )  
 )  
 )  
 v. )  
 )  
 )  
 JAKE ZIMMERMAN, ASSESSOR, )  
 ST. LOUIS COUNTY, MISSOURI, )  
 Respondent. )

## DECISION AND ORDER

Matthew Krapf Zeller (Complainant) appeals 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 \$400,000. Complainant claims the property is overvalued and proposes a value of \$350,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.<sup>1</sup>

---

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

Complainant appeared *pro se*. Respondent was represented by counsel, Tim Bowe. The evidentiary hearing was conducted on June 9, 2022, via WebEx.

## **FINDINGS OF FACT**

**1. Subject Property.** The subject property is located at 505 Oakwood Ave., in St. Louis, Missouri. The parcel/locator number is 22K310826.

The subject property consists of a half-acre lot and a residential single-family historic home constructed in the early 1900s. The 2,700 square-foot home has four bedrooms and two bathrooms. Complainant and his wife purchased the subject property in 2016 for \$400,000 with the intention of renovating it. Complainant testified that it was sold “as is.” Complainant mentioned that it was appraised at \$425,000 when he purchased it. Complainant has been in the process of remodeling the property, including gutting the kitchen and the first floor bathroom. In 2018, Complainant replaced the roof. Complainant is a licensed plumber and redid some of the plumbing in the house. Complainant refinanced the house in 2019.

**2. Respondent and BOE.** Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$472,300. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$400,000.

**3. Complainant's Evidence.** Complainant’s opinion of value for the subject property as of January 1, 2021, is \$350,000. Complainant asserted that because of the current condition of the home, Respondent overvalued it in his assessment. Complainant noted that a house down the street from the subject with similar issues, 628 Oakwood Ave.,

was listed for sale for \$350,000. Complainant obtained his proposed value from this listing. Complainant stated that the house sold but that he did not know what price it sold for. Complainant submitted Exhibits A through O which are interior and exterior photographs of the subject property. They were admitted without objection. Complainant testified that he and his wife are in the process of restoring the home to make it look like it would in the 1920s, including installing all original and custom-made Shaker cabinetry, windows, hexagonal tile, etc.

Because these unique upgrades take time to complete, Complainant stated that the house is currently a work in progress. In other words, many of its features are in disrepair or are functional but not finished. For example, the kitchen, while functional, has no cabinets affixed to the walls because Complainant has not found a carpenter to custom-build what he and his wife want to install. Because the old electrical system is outdated, many things have had to be rewired. A lot of finish work needs to be done throughout the house. Some rooms are unlivable due to having no drywall or adequate insulation. There also exists fire damage to certain parts of the house, including but not limited to the pocket doors. Other than the renovation in the first floor bathroom, no other rooms have been modified and renovated to Complainant’s desired specifications.

**4. Respondent's Evidence.** Respondent submitted the following exhibits which were admitted without objection:

<b>Exhibit</b>	<b>Description</b>	<b>Status</b>
1	Board Decision Letter dated October 29, 2021	Admitted
2	2016 MLS Listing for the subject	Admitted
3	Property details for subject property including mortgage history	Admitted

Sharon Kuelker, who has been employed by Respondent as a residential appraiser senior since 2007 and as a residential appraiser since 2002, testified in support of the BOE's value of \$400,000. Her job duties include appraising residential real property for Respondent for ad valorem tax purposes and State Tax Commission appeals. Ms. Kuelker testified that Exhibit 2 is a 2016 multi-listing service listing for the subject property providing details regarding the characteristics of the property. She testified that Exhibit 3 is a property detail information sheet from MARIS (Mid America Regional Info Systems), which is used by Respondent to discover sale history and mortgage history for a property.

According to Exhibit 3, in 2019 there was a refinancing for the subject property for \$384,926 by Nationstar Mtg LLC and in 2021 for \$400,641 by Mr. Cooper, another mortgage company. Ms. Kuelker testified that lenders typically get appraisals when refinancing properties. Based on her experience, refinancing values are a good indicator of value because it shows what a lender thinks the lender could sell the property for if a default occurs on a loan. Based on Complainant's mortgage history as displayed on Exhibit 3, Ms. Kuelker said that the BOE value of \$400,000 as of January 1, 2021, is reasonable. In her judgment, and based on her professional experience, Ms. Kuelker testified that she believes the subject property could sell at that price even considering the ongoing renovations and condition of the property.

**5. Value.** The TVM of the subject property on January 1, 2021, was \$400,000, with an assessed value of \$76,000.

## **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 that the house is currently a work in progress due to ongoing renovations and that many of its features are in disrepair or are functional but not finished. Complainant's picture Exhibits A through O and testimony regarding the condition of the property do 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 of \$350,000 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). Complainant testified that he came up with his proposed value due to the listing of 628 Oakwood Ave, a property Complainant claims is similar in condition. While Complainant stated that this property sold, the sale price is not in evidence. In addition, without analyzing this sale using accepted appraisal methods, for example making appropriate market adjustments to determine value of the subject, Complainant's proposed value is based on improper elements. Therefore, Complainant did not offer substantial and persuasive evidence that the BOE's valuation is erroneous.

Respondent, although not required to, presented Ms. Kuelker's testimony in support of the BOE's valuation. Ms. Kuelker's professional 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. Based on her judgment and training as an appraiser, Ms. Kuelker testified that she believed the subject property would sell for



\$400,000 despite needing a lot of work done to finish and further renovate the house. Ms. Kuelker's testimony is credible, especially given that Complainant purchased the property for \$400,000 in 2016, a few years earlier from the applicable valuation date and before Complainant had repaired the roof and made other renovations.

### **CONCLUSION AND ORDER**

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021, was \$400,000, with an assessed value of \$76,000.

### **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 County, 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 January 13, 2023.  
STATE TAX COMMISSION OF MISSOURI

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 January 13, 2023, 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