



# STATE TAX COMMISSION OF MISSOURI

ABDOLREZA OSOULI, )  
 )  
 Complainant, )  
 ) Appeal Nos. 21-10242 and 21-10243  
 )  
 v. )  
 ) Parcel Nos. 13L121304 and 14L421047  
 )  
 )  
 JAKE ZIMMERMAN, ASSESSOR, )  
 ST. LOUIS COUNTY, MISSOURI, )  
 )  
 Respondent. )

## DECISION AND ORDER

Abdolreza Osouli (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on the two parcels cited above on the ground of overvaluation.<sup>1</sup> The assessments made by the BOE are AFFIRMED. Complainant failed to present substantial and persuasive evidence to rebut the presumption of correct assessment by the BOE as to each of the subject properties.

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<sup>1</sup> 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.

The evidentiary hearing for both of these appeals was held on June 15, 2022, via Webex. Complainant appeared pro se. Respondent was represented by counsel, Tim Bowe. The appeals were heard and decided by Senior Hearing Officer Benjamin C. Slawson. For efficiency, the appeals have been consolidated in this Decision and Order.

### FINDINGS OF FACT

**1. Identification and Description of Subject Properties.** The two subject properties are residential properties in St. Louis County. The properties are further identified and described as follows:

Appeal No.	Parcel No.	Address	Description
21-10242	13L121304	3434 and 3436 St. Mark Ln., St. Ann, Missouri	One-story duplex with one bedroom and one bathroom in each unit with about 1,000 square feet of living space. Complainant purchased the property in 2018 for \$82,000.
21-10243	14L421047	3130 and 3132 Sherman Dr., St. Ann, Missouri	Duplex with two bedrooms and one bath in each unit. Complainant purchased the property in 2018 for \$92,000.

**2. Assessment and Valuation.** Respondent and the BOE determined that each respective subject property's value as of January 1, 2021, as set forth in the table, below:

<b>Appeal No.</b>	<b>Parcel No.</b>	<b>Respondent's Valuation</b>	<b>BOE Valuation</b>
21-10242	13L121304	\$96,900	\$92,000
21-10243	14L421047	\$102,900	\$102,900

**3. Complainant's Evidence.** Complainant opined that the TVM of each of the subject properties as of January 1, 2021, is as follows:

<b>Appeal No.</b>	<b>Parcel No.</b>	<b>Complainant's Opinion of TVM</b>
21-10242	13L121304	\$82,000
21-10243	14L421047	\$92,000

For Appeal No. 21-10242, Complainant submitted the following exhibits, which were all admitted without objection:

<b>Exhibit</b>	<b>Description</b>
A	SRB Properties, LLC property manager vacancy letter and July 14, 2021, bill, October 27, 2021, condemnation letter from the City of St. Ann
B	SRB Contracting repair invoices from December 13, 2021, December 30, 2021, and December 31, 2021

For Appeal No. 21-10243, Complainant submitted the following exhibits which were all admitted without objection:

<b>Exhibit</b>	<b>Description</b>
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A	Rent statements from Complainant's property manager SRB Properties, LLC for 2021
B	SRB Contracting repair invoices from December 30, 2021 and December 31, 2021
C	Photographs of subject property

Complainant testified that the subject property in Appeal No. 21-10242, located at 3434 and 3436 Saint Mark Ln., Saint Ann, Missouri, is a duplex that he purchased in 2018 for \$82,000. Complainant was renting the units in the property for about \$500 to \$550 per month until October 2021. At that time, according to Complainant and a letter in Complainant's Exhibit A, it was condemned by the City of St. Ann due to the presence of mold. Complainant is unaware when the mold problem began because the tenant did not notify him or his property manager of its presence. Complainant testified that every year his property manager does a check of his rental properties but that the manager did not alert him to any problems about the condition of the property as of January 1, 2021. Complainant has not been in this property since he purchased it in late 2018.

Complainant stated that he believes the Saint Mark Ln. property is worth no more than he paid for it in 2018 due to the fact that the subject property is generating much less income than expected. Therefore, he argued that the subject property was overvalued if Respondent used an income approach to appraise it for assessment.

Complainant also testified that the property was overvalued because it suffers from several condition issues and is currently condemned by the City of St. Ann. Complainant offered Exhibit A containing a letter from the City of St. Ann condemning the property on October 27, 2021, due to mold damage making the property uninhabitable. Photographs in Exhibit A show the deteriorated condition of the subject. Repairs have been ongoing, but Complainant still has not been able to rent it as of the date of the hearing. Exhibit B and one bill in Exhibit A show the expenses that Complainant has incurred in 2021 in making repairs and removing trees on the subject property, a total amount of about \$10,000.

Complainant testified that the subject property in Appeal No. 21-10243, located at 3130 and 3132 Sherman Dr., St. Ann, Missouri, is a duplex that he purchased in 2018 for \$92,000. As with the other property, Complainant stated that he believes the subject property is worth no more than he paid for it in 2018 due to the fact that the subject property is generating much less income than expected. Therefore, he argued that the subject property was overvalued if Respondent used an income approach.

Complainant is currently renting one of the units for about \$630 a month. The other unit was vacant for a while because Complainant had to file for eviction of the previous tenant due to nonpayment of rent. Complainant was charging \$675 a month in rent for this unit, but received no rent for the last half of 2021. Exhibit A was offered to show the rent delinquencies for this unit. Exhibit B shows the maintenance, repairs, and disposal services that have had to be done on the property due to its dilapidated condition, totaling \$3,000. The photographs in Exhibit C show the state of the unit when the tenant moved out in late

2021, with trash and other tangible personal property abandoned by the tenant strewn about the unit.

Complainant did not offer any comparable sales at the hearing. Complainant submitted some of these arguments to the BOE, but did not have all of the documentation submitted as Exhibits at the State Tax Commission hearing. Complainant testified that he is not a licensed appraiser in the state of Missouri.

**4. Respondent's Evidence.** Respondent introduced Exhibit 1 for both respective appeals, consisting of the October 29, 2021, BOE decision letter for each respective subject property. Copies of Exhibit 1 for each respective appeal were admitted without objection.

**5. Value.** The TVM of each respective subject property as of January 1, 2021, is as follows:

<b>Appeal No.</b>	<b>Parcel No.</b>	<b>TVM</b>
21-10242	13L121304	\$92,000
21-10243	14L421047	\$102,900

## **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. Sections 137.115.1; 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). The TVM "is a function of [the property's] highest and best use[.]" *Snider*, 156 S.W.3d at 346. "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).

The TVM of a property is typically determined by the sales comparison approach, the income approach, or the cost approach. *Snider v. Casino Aztar/Aztar Missouri Gaming Corp.*, 156 S.W.3d at 346-48.

**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). "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).

**3. Complainant's Burden of Proof.** The taxpayer bears the burden of proof and must show by a preponderance of the evidence the property is 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").

Property owners are competent to testify to the reasonable fair market value of their property. *Cohen*, 251 S.W.3d at 348. However, if owner's testimony is based on "improper elements or an improper foundation[.]" it is not substantial and persuasive evidence rebutting the presumptively correct BOE value. *Id.* at 349.

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

Complainant did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value for either of these appeals. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value, nor did he offer an appraisal of any of the subject properties as evidence of the TVM of each property as of January 1, 2021.

Complainant argues that Respondent overvalued both properties using an income approach. First, this is not a fact that has been proven with substantial and persuasive evidence. Second, while Complainant did offer some evidence of rent information in his



exhibits and testimony, no income approach appraisal of the two properties was submitted by Complainant.

Complainant's Exhibit A for Appeal No. 21-10242 purported to show with an October 27, 2021 condemnation letter from the City of St. Ann that the duplex had been condemned as uninhabitable because of mold. The exhibit constitutes hearsay evidence given that the letter was introduced to prove the truth of the matters asserted therein while the individuals who composed the condemnation letter was not present to testify and could not be cross examined concerning the contents of the exhibit. "Normally, hearsay evidence cannot be considered competent and substantial evidence to support an administrative agency's decision." *Housing Authority of the City of St. Charles, Mo. v. Board of Adjustment of the City of St. Charles, Mo.*, 941 S.W.2d 725, 727 (Mo. App. E.D. 1997), citing *Hacienda Enterprises No. 2, Inc. v. Smarr*, 841 S.W.2d 807, 811 (Mo. App. E.D. 1992).

However, hearsay evidence admitted without objection may be utilized as substantial and competent evidence to support the finding of an agency if it has probative value. Section 536.070(8); *Housing Authority*, 941 S.W.2d at 727 (emphasis added). Even though Respondent did not object to this hearsay evidence, Exhibit A for Appeal No. 21-10242 still cannot be utilized as substantial and competent evidence to support Complainant's opinion of value because the exhibit was were not probative in that it did not tend to prove the TVM of the subject property in that appeal as of January 1, 2021. Further, and as is established in the record, any such condemnation or uninhabitable condition, if true, occurred after the relevant valuation date of January 1, 2021. Similarly,

concerning the condition issues with the subject properties that Complainant testified about and which are evidenced in Complainant’s exhibits for each appeal, Complainant provided no evidence providing a way to quantify the dollar amount effect of these issues on value as of the valuation date or showing the BOE values do not account for these issues.

Complainant did not offer any comparable sales, nor did Complainant offer testimony of an appraiser, nor an appraisal of the property as evidence of the TVM of the properties as of January 1, 2021. In other words, Complainant has not shown with substantial and persuasive evidence that the presumptively correct values assigned by the BOE are incorrect. The lack of evidence relating to a recognized valuation method renders Complainant's proposed values for each of the subject properties speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Complainant did not produce substantial and persuasive evidence showing the BOE overvalued the subject properties and "the value that should have been placed on [these properties]." *Tibbs*, 599 S.W.3d at 7.

**CONCLUSION AND ORDER**

Complainant did not produce substantial and persuasive evidence of overvaluation in any of these appeals. The BOE decisions are affirmed. The TVM and assessed values of each respective subject property as of January 1, 2021, are as follows:

<b>Appeal No.</b>	<b>Parcel No.</b>	<b>TVM</b>	<b>Assessed Value</b>
21-10242	13L121304	\$92,000	\$17,480
21-10243	14L421047	\$102,900	\$19,551

### **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 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