



STATE TAX COMMISSION OF MISSOURI

JOSEPH HUNTER,)
)
 Complainant,)
) Appeal No. 21-18246
 v.) Parcel No. 15K341233
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
)
 Respondent.)

ORDER OF THE COMMISSION DENYING APPLICATION FOR REVIEW

HOLDING

On September 23, 2022, Senior Hearing Officer Eric S. Peterson (Hearing Officer) entered a Decision and Order (Decision) affirming the decision of the Board of Equalization of St. Louis County (BOE). Joseph Hunter (Complainant) subsequently filed an Application for Review of the Decision and Order of the Hearing Officer.

A party subject to a Decision and Order of a hearing officer of the STC may file an application requesting the case be reviewed by the Commission. Section 138.432¹. The Commission may summarily allow or deny the request. Section 138.432. If an application for review is denied, the Decision and Order of the hearing officer shall be deemed to be

¹ All statutory citations are to RSMo. 2000, as amended, unless indicated otherwise.

the final decision of the Commission for the purpose of judicial review. Section 138.432.

Commission's Ruling

The Application for Review is DENIED. The Decision and Order of the Hearing Officer, including the findings of fact and conclusions of law therein, is incorporated by reference, as if set out in full, as the final decision of the Commission.

Judicial review of the Decision and Order may be had in the manner provided in Section 138.432 and Sections 536.100 to 536.140 within 30 days of the mailing date set forth in the Certificate of Service for this Order. The Collector of St. Louis County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes associated with this appeal pending the possible filing of a petition for judicial review, unless said taxes have been disbursed pursuant to a court order under the provisions of section 139.031. If no judicial review is made within 30 days, the Decision and Order is deemed final and the Collector of St. Louis County, as well as the collectors of all affected political subdivisions therein, shall disburse the protested taxes in accord with the Decision and Order.

SO ORDERED January 24, 2023.

STATE TAX COMMISSION OF MISSOURI

Gary Romine, Chairman

Victor Callahan, Commissioner

Debbi McGinnis, Commissioner

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 24, 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



STATE TAX COMMISSION OF MISSOURI

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DECISION AND ORDER

Joseph Hunter (Complainant) appeals from the St. Louis County Board of Equalization's (BOE) decision finding the appraised value of the subject commercial property was \$35,000 as of January 1, 2021. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$20,000 as of January 1, 2021. The BOE decision is affirmed.²

FINDINGS OF FACT

1. The Subject Property. The subject commercial property consists of an approximately 11,438-square-foot lot improved with a single-story building and parking

² 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.

area located at 2142 North and South Road in St. Louis County, Missouri. The building is a vacated convenience store. Complainant uses it for storage.

2. Assessment and Valuation. The BOE determined the appraised value of the subject property as of January 1, 2021, was \$35,000.

3. Complainant's Evidence. Complainant introduced Exhibits A and B. Both exhibits were admitted into evidence.

Exhibit A consists of an August 2, 2022, estimate proposing a roof replacement at a cost of \$46,980.

Exhibit B consists of approximately 20 pages consisting of an estimate for asphalt repairs totaling \$7,925, an estimate for new gutters totaling \$3,542, a roof repair estimate of \$21,824, the July 5, 2022, order reinstating Complainant's appeal, and Complainant's handwritten notes regarding a facsimile allegedly sent to Respondent's office on July 28, 2022. The estimates and the order reinstating Complainant's appeal include Complainant's handwritten notes.

Complainant testified the building was in disrepair as of January 1, 2021, and was not marketable without substantial, expensive repairs. Neither Complainant's exhibits nor his testimony utilized the comparable sales approach, income approach, or cost approach to support his proposed value. Neither Complainant's exhibits nor his testimony provide an estimate of the subject property's land value.

4. Respondent's Evidence. Respondent introduced Exhibits 1 through 3 and the written direct testimony of Albert Lincoln (WDT). Each is summarized below:

Exhibit 1	Appraisal qualification of Albert Lincoln. Lincoln has been a commercial real estate appraiser since 2004, a certified general appraiser since 2014, and has appeared as an expert witness in prior STC appeals.
Exhibit 2	List of comparable ground sales showing four sales of parcels ranging from 0.43 to 4.13 acres with sale prices ranging from \$4.27 to \$9.84 per square foot.
Exhibit 3	BOE decision letter concluding the subject's appraised value as of January 1, 2021, was \$35,000.
WDT	Lincoln testified "[t]he BOE valuation equates to \$3.06/sq ft. for the subject property. This is well within the lower range of ground sales for the area and would include probable demotion costs."

5. Value. The TVM of the subject property as of January 1, 2021, was \$35,000.

CONCLUSIONS OF LAW

1. Assessment and Valuation. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Sections 137.115.1; 137.115.5(1)(c). 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. Additionally, while not necessarily conclusive, a recent, arms-length sale of the subject property may also be relevant to establishing value as of the assessment date. *St. Joe Mins. Corp. v. State Tax Commn*, 854 S.W.2d 526, 529 (Mo. App. E.D. 1993).

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").

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

Complainant did not produce any evidence supporting a comparable sales approach, income approach, or cost approach. There is no evidence of a recent sale of the subject property supporting Complainant's proposed value. Complainant introduced no evidence pertaining to a recognized valuation method.

Complainant's repair estimates do not alter this conclusion. Complainant's exhibits indicate estimated repair costs ranging from approximately \$33,000 to \$58,000. Complainant, however, offered no persuasive estimate of value from which a deduction for deferred maintenance could be made. Complainant's proposed value of \$20,000 is 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).

CONCLUSION AND ORDER

Complainant did not produce substantial and persuasive evidence of overvaluation. The BOE decision is affirmed.

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 September 23, 2022.

Eric S. Peterson
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 September 23, 2022, to: Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Noah Shepard
Legal Coordinator

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