



STATE TAX COMMISSION OF MISSOURI

DENNIS FEIT,)	Appeal No. 21-10207
)	Parcel/Locator: 18N540157
)	
)	
Complainant(s),)	
)	
v.)	
)	
JAKE ZIMMERMAN, ASSESSOR,)	
ST. LOUIS COUNTY, MISSOURI,)	
Respondent.)	

DECISION AND ORDER

Dennis Feit (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 \$1,202,000. Complainant claims the property is overvalued and proposes a value of \$947,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.¹

The evidentiary hearing was conducted on May 25, 2022, via WebEx. Complainant appeared *pro se* via phone. Respondent was represented by counsel, Tim Bowe.

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 18 W. Windrush Creek Road, Saint Louis, Missouri. The parcel/locator number is 18N540157.

The subject property consists of a 4,371 square-foot single-family two-story home in Creve Coeur that has four bedrooms, three full bathrooms, and two half bathrooms and sits on a half-acre lot. Complainant purchased the property in 2002, and the house was built that year. The home features an attached garage. Mr. Feit testified that the house does not feature a swimming pool. Mr. Zahner, Appraiser for Respondent, testified that it does have a pool. Mr. Zahner said he knows this based on aerial photographs of the property and St. Louis County records. Complainant testified that he has not made any significant improvements to the property in the last three years. Complainant has not had the property appraised in the last three years.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$1,528,200. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$1,202,000.

3. Complainant's Evidence. Complainant submitted the following exhibit:

Exhibit	Description	Status
A	22-page PDF document containing BOE appeal documentation, comparable information obtained by Complainant, information on Respondent comparable properties with Complainant notes	Admitted without objection

B	Zillow.com square footage listings for comparable properties used by Mr. Zahner	Admitted without objection ²
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Complainant testified that he believes Respondent overvalued the subject property. Complainant’s opinion of value for the subject property as of January 1, 2021, is \$947,000. Complainant obtained this value from the first comparable sale he lists in Exhibit A, particularly the July 15, 2020 sale of 10935 Janridge Lane, Ladue, Missouri. Complainant testified that the subject property and 10935 Janridge Lane are very similar. Complainant obtained his proposed comparable sales from a real estate agent, Kate Thompson of The Roush Thompson Gitt Team.

Complainant is not a licensed appraiser in the state of Missouri, nor does he have specialized education, training, and job experience in that specific field.

4. Respondent’s Evidence. Respondent introduced Exhibit 1, a copy of the BOE decision letter dated October 29, 2021, stating the BOE TVM as of January 1, 2021. The Exhibit was admitted without any legal objection. Respondent’s Exhibit 2 is an appraisal of the subject property and was admitted without legal objection.

Steven Zahner, a Senior Residential Appraiser for St. Louis County with over 40 years of professional experience, testified on behalf of Respondent. Mr. Zahner has worked for the County for the last four and a half years. Mr. Zahner’s job responsibilities include valuing residential property for ad valorem tax purposes. As part of those job duties, Mr.

² The record was left open after the hearing and Exhibit B was submitted May 31, 2022, by email with comments by Complainant. Respondent did object to the commentary but not to Exhibit B.

Zahner also prepares appraisals for Respondent. He testified that in general this process includes examining a subject property, analyzing various characteristics of that property, and finding sales of comparable properties to make adjustments to determine the TVM of the subject. Mr. Zahner prepared an appraisal of the subject with a valuation date of January 1, 2021, Respondent's Exhibit 2.

Mr. Zahner testified that he used four comparable sales which compared with the subject were all less than 0.4 miles away, within 12 years in age of construction, less than 5% in size difference, all four bedroom houses, and three out of four had swimming pools. The major differences from the subject were in lot size for which he made market-based adjustments. Using these three sales and making adjustments, Mr. Zahner obtained an opinion of value of \$1,250,000 for the subject as of January 1, 2021. Mr. Zahner also testified that he reviewed the proposed comparables of Complainant. Save for 11209 Tri Lane Dr., which he used in his appraisal, Mr. Zahner testified that Complainant's other proposed comparable properties differed greatly in age or other characteristics.

5. Value. The TVM of the subject property on January 1, 2021, was \$1,202,000, with an assessed value of \$228,380.

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 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, nor did Complainant produce substantial and persuasive evidence establishing a TVM of \$947,000. Neither Complainant's exhibits nor his testimony utilized the comparable sales approach, income approach, or cost approach to support his proposed value, nor did he offer an appraisal of the property as evidence of the TVM of the property as of January 1, 2021.

Complainant did offer comparable sale data for consideration. However, Complainant's comparable sales were not analyzed using accepted appraisal methods, for example, making appropriate market adjustments to determine value of the subject. Complainant also 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 the amount he has

proposed, \$947,000. While a property owner's opinion of value is generally admissible, the opinion lacks "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). 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 evidence does not make adjustments to comparable properties to find a proper TVM for the subject. Further, Complainant admitted he was not an appraiser that was qualified to form a professional opinion as to value based on the comparable sale methodology.

While Respondent was not required to put on evidence given the burden of proof was on Complainant, Respondent offered the testimony and appraisal of Steven Zahner, a licensed appraiser in Missouri. Using competent appraisal methods, Mr. Zahner credibly testified to an opinion of value of \$1,250,000 which supports the \$1,202,000 valuation made by the BOE.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021, was \$1,202,000, with an assessed value of \$228,380.

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 February 24, 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 February 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