



STATE TAX COMMISSION OF MISSOURI

DENNIS FEIT,) Appeal No. 21-10208, 21-10215, 21-
) 10235, 21-10236, and 21-10237
)
) Parcel/Locator: 10G120283, 10G140029,
) 10J120508, 11G521553, and 12H411443
 Complainant(s),)
)
 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Dennis Feit¹ (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on each of the parcels cited above on the ground of overvaluation.² 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.

¹ Mr. Feit filed the Complaints for Review at issue. The owners of each of these four properties is SF ACCOUNT LLC (Parcel Id Nos. 10G120283 and 12H411443), S F 8421 RED FIR LLC (Parcel Id. No. 10G140029), SF 7478 CASTRO LLC (Parcel Id. No. 10J120508), and SF 10140 WINKLER LLC (Parcel Id. No. 11G521553).

² 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 these appeals was held on September 23, 2022, via Webex. Complainant appeared through Counsel Frederick Tolle. Respondent was represented by counsel, Tim Bowe. For efficiency, the appeals have been consolidated in this Decision and Order.

FINDINGS OF FACT

1. Subject Properties. The subject properties are described as follows:

Appeal No.	Parcel No.	Address	Description
21-10208	10G120283	10300 Nashua	Complainant acquired the property in December of 2016. The property is a single family home with three bedrooms and one bathroom. The property rented by Complainant for \$1,169 a month. The property is kept up to minimum standards to be able to house tenants.
21-10215	10G140029	1531 Saint Ives	Complainant acquired the property in October of 2017. The property is a 1964 single family home rented by Complainant for \$1,165 a month. The property is kept up to minimum standards to be able to house tenants.

21-10235	10J120508	8406 Bayberry	Complainant acquired the property in September of 2014. The property is a 1955 single family home rented by Complainant for \$1,105 a month. The property is kept up to minimum standards to be able to house tenants.
21-10236	11G521553	10140 Winkler	Complainant acquired the property in February of 2011. The property is a 1991 single family home with three bedrooms and one bathroom rented by Complainant for \$1,120 a month. The property is kept up to minimum standards to be able to house tenants.
21-10237	12H411443	400 S. Clark Ave.	Complainant acquired the property in July of 2015. The property is a 1936 single family home rented by Complainant for \$1,450 a month. The property is kept up to minimum standards to be able to house tenants.

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

Appeal No.	Parcel No.	Respondent's Valuation	BOE Valuation
21-10208	10G120283	\$63,800	\$63,800
21-10215	10G140029	\$76,100	\$49,800
21-10235	10J120508	\$45,100	\$38,000
21-10236	11G521553	\$38,400	\$38,400
21-10237	12H411443	\$112,300	\$66,900

3. Complainant's Proposed Values.

Appeal No.	Parcel No.	Complainant's Proposed TVM³
21-10208	10G120283	\$48,500
21-10215	10G140029	\$43,500
21-10235	10J120508	\$32,000
21-10236	11G521553	\$28,000
21-10237	12H411443	\$33,000

4. Complainant's Evidence. For each of the five appeals, Complainant offered unlabeled exhibits, which were admitted without objection and described as follows:

Appeal No.	Description

³ Complainant testified to these opinions of value at the hearing, which are different than those listed on the respective Complaints for Review for the subject properties.

21-10208	12-page PDF document containing BOE appeal documentation, comparable information obtained by Complainant, information on Respondent comparable properties with Complainant notes
21-10215	10-page PDF document containing BOE appeal documentation, comparable information obtained by Complainant, information on Respondent comparable properties with Complainant notes
21-10235, 21-10236, and 21-10237	43-page PDF document containing BOE appeal documentation, comparable information obtained by Complainant, information on Respondent comparable properties with Complainant notes

Complainant testified as the landlord of each of the subject properties. Complainant testified to the current monthly rental amounts received for each of the subject properties, but noted that as of January 1, 2021, those rents were about 20% less than current rental amounts. Complainant is not a licensed appraiser. However, Complainant testified that he possesses knowledge of the St. Louis real estate market because through various entities he has rented and owned 17 properties and has purchased and sold many properties in the area. In Complainant's opinion, each of the five subject properties at issue were overvalued by Respondent. Complainant testified that he believes overvaluation is shown based on the comparable sales he has submitted. Complainant presented the same information to the BOE. Complainant obtained these comparable sales from a real estate agent. These comparables, to the best of Complainant's knowledge, were all market sales that were placed on the MLS (Multi-Listing Service).

Complainant's Exhibits contain information regarding comparable sales that Complainant obtained for each subject property. These comparable sales are identified and described in Complainant's Exhibits, and the actual sales prices are listed with no market-based adjustments. Using these comparables, Complainant came up with proposed values for each subject property, which are in the range of sale prices of the comparables. Complainant believes his comparable sales are more similar to the subject than those used by Respondent in his assessment. Complainant argued that Respondent's comparables should be rejected due to them being in better condition, having a larger square footage of living space, and having different room compositions (number of bedrooms and bathrooms when compared to the subject properties). Complainant also mentioned that his properties are in a high-crime area and that this fact was not taken into account by Respondent when valuing the properties.

5. Respondent's Evidence. Respondent introduced Exhibit 1 for each respective appeal, a copy of the BOE decision letter dated October 29, 2021, stating the BOE TVM for the respective subject property as of January 1, 2021. The Exhibits were admitted without any legal objection.

5. Value. The TVM of the subject properties on January 1, 2021, were as follows:

Appeal No.	Parcel No.	TVM
21-10208	10G120283	\$63,800
21-10215	10G140029	\$49,800
21-10235	10J120508	\$38,000

21-10236	11G521553	\$38,400
21-10237	12H411443	\$66,900

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 for each respective appeal, nor did Complainant produce substantial and persuasive evidence establishing his proposed opinions of value as to the TVM for any of the subject properties as of January 1, 2021. Neither Complainant’s exhibits nor his testimony utilized the

comparable sales approach, income approach, or cost approach to support his proposed values, nor did he offer an appraisal of any of the five properties as evidence of the TVM of those properties 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 for each property. 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 admitted he was not an appraiser that was qualified to form a professional opinion as to value based on the comparable sale methodology. While Complainant found and presented comparable sales as evidence, actual sales prices of these properties were used and no adjustments were made. In other words, Complainant's evidence does not make adjustments to the sales prices of those comparables to find a proper TVM for each subject. Complainant took issue with the comparable sales used by Respondent in his assessment. However, Complainant offers no evidence showing that Respondent did not

make appropriate market-based adjustments for value considering the differing characteristics between these properties and the subject properties when determining the TVM of the subject as of January 1, 2021.

Therefore, Complainant's proposed values are speculative and Complainant has not met his burden of proof in each of these appeals.

CONCLUSION AND ORDER

The BOE decisions are affirmed. The TVM of the subject properties as of January 1, 2021, with assessed values, are as follows:

Appeal No.	Parcel No.	TVM	Assessed Value
21-10208	10G120283	\$63,800	\$12,122
21-10215	10G140029	\$49,800	\$9,462
21-10235	10J120508	\$38,000	\$7,220
21-10236	11G521553	\$38,400	\$7,296
21-10237	12H411443	\$66,900	\$12,711

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