



STATE TAX COMMISSION OF MISSOURI

STEVE JAY ROSEN,) Appeal No. 21-15856, 21-15857, 21-
) 15858, and 21-15860
)
) Parcel/Locator: 06J530898, 11H310381,
) 12H630729, and 11H320492
 Complainant(s),)
)
 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Steve Jay Rosen¹ (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. Rosen filed the Complaints for Review at issue. The owners of each of these four properties is Home Match Solutions-H LLC (Parcel Id No. 06J530898), Home Match Solutions B LLC (Parcel Id. No. 11H310381), Home Match Solutions G LLC (Parcel Id. No. 12H630729), and Home Match Solutions H LLC (Parcel Id. No. 11H320492).

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
21-15856	06J530898	2767 Dividend Park	1978 single family home with three bedrooms and two bathrooms and 1178 square feet of living space. Complainant purchased the property in 2013. The property was previously brought up to minimum living standards for the affordable housing program. No updates have been made to the property other than regular maintenance. Complainant is renting the house for \$875 a month.
21-15857	11H310381	34 Bayview	1954 single family home with three bedrooms, one bathroom, and 960 square feet of living space. Complainant purchased the property in 2009. The

			property was previously brought up to minimum living standards for the affordable housing program. No updates have been made to the property other than regular maintenance. Complainant is renting the house for \$875 a month.
21-15858	12H630729	1117 Highmont	1954 single family home with three bedrooms, one a half bathrooms and 1,176 square feet of living space. Complainant purchased the property in 2011. The property was previously brought up to minimum living standards for the affordable housing program. No updates have been made to the property other than regular maintenance. Complainant is renting the house for \$820 a month.
21-15860	11H320492	103 Florwood	1957 single family home with three bedrooms, one bathroom and 1,014 square feet of living space. Complainant purchased the property in 2012. The property was previously brought up to

			minimum living standards for the affordable housing program. No updates have been made to the property other than regular maintenance. Complainant is renting the house for \$850 a month.
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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
21-15856	06J530898	\$119,600	\$98,700
21-15857	11H310381	\$77,400	\$64,000
21-15858	12H630729	\$85,000	\$70,200
21-15860	11H320492	\$82,500	\$68,100

3. Complainant's Proposed Values.

Appeal No.	Parcel No.	Complainant's Proposed TVM
21-15856	06J530898	\$81,950
21-15857	11H310381	\$50,600
21-15858	12H630729	\$50,600
21-15860	11H320492	\$55,000

4. Complainant's Evidence. Complainant testified for all four appeals. Complainant is the sole member of each of the LLCs which own the subject properties. Complainant submitted a 17-page document for all four appeals. It was admitted without objection. The Exhibit contains pictures of the subject properties showing each property's condition as well as info regarding comparable sales that Complainant obtained for each subject property. These comparable sales are identified and described in Complainant's Exhibit, including details about these properties from the MLS listings.

Complainant testified that in his opinion the comparable sales he found are close in distance to the subject properties and show that Respondent overvalued the properties in question. To the best of his knowledge, Complainant testified that all of these sales he found are arms-length market sales as he obtained them from Multi-Listing Service (MLS) data. Complainant testified that the comparables he submitted support his proposed opinion of value for each subject property. Complainant offered different comparable sales for 34 Bayview and 1117 Highmont, but because in his opinion the properties are very similar he came up the same proposed value for both of them, \$50,600.

Complainant admitted on cross-examination that he did not have direct knowledge of the specific motivations of the buyers and sellers for the comparable sales he found, nor does he have specific knowledge of the conditions of the sales themselves. 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 of work. Complainant testified that he has general knowledge of real estate valuation from his experience as a licensed real estate agent and landlord.

4. 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
21-15856	06J530898	\$98,700
21-15857	11H310381	\$64,000
21-15858	12H630729	\$70,200
21-15860	11H320492	\$68,100

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 four 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 qualified to form a professional opinion as to value based on the comparable sales approach. 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.

Upon cross examination, Respondent questioned Complainant regarding the many differing characteristics between some of the comparables and the subject properties. For example, it was established through the Exhibit and Complainant's testimony that some of these sales were sold "as is" and had no inspections, some properties were suffering from mold damage, or many of the properties varied in key respects when compared to the subject properties. However, no market-based adjustments were made to account for these differences or to obtain a proper TVM of the subject. 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
21-15856	06J530898	\$98,700	\$18,753
21-15857	11H310381	\$64,000	\$12,160

21-15858	12H630729	\$70,200	\$13,338
21-15860	11H320492	\$68,100	\$12,939

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