



STATE TAX COMMISSION OF MISSOURI

THOMAS EUGENE VANCE,)
)
 Complainant(s),)
) Appeal No. 21-16685
 v.) Parcel No. 25K630905
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
)
 Respondent.)

DECISION AND ORDER

Thomas Eugene Vance (Complainant) appealed 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 \$144,500. Complainant alleges overvaluation and proposes that the TVM of the subject as of that date was \$90,000.¹ Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE decision is affirmed. The TVM of the subject property on January 1, 2021, was \$144,500.

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, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

The evidentiary hearing was held on two separate days, July 14, 2022,² and August 24, 2022, via Webex. Complainant, appeared *pro se* via telephone. Respondent was represented by counsel Tim Bowe. The appeal was heard and decided by Senior Hearing Officer Benjamin Slawson.

FINDINGS OF FACT

1. The Subject Property. The subject residential real property is located at 7218 Shellburne Dr., St. Louis, Missouri. The subject property consists of a single family ranch-style home built in the 1950s with three small bedrooms, one bathroom, a semi-finished basement, a kitchen, and a living room with an adjoining dining room. Complainant testified that he purchased the property in 2015 for \$73,000. Complainant testified that the property was appraised at \$87,000 seven years ago for insurance purposes. Complainant purchased the property around that time. Complainant has not made any significant improvements to the property in the last three years.

2. Assessment and Valuation. Respondent determined the TVM of the subject property as of January 1, 2021, was \$144,500. The BOE independently also determined the TVM of the subject property as of January 1, 2021, was \$144,500.

3. Complainant's Evidence. Complainant introduced the following Exhibits, which were all admitted without objection.

² During the course of the hearing on July 14, 2022, Respondent noted that the property may be owned by a trust and not Complainant. A continuance was ordered to verify whether or not Complainant was the property owner and could represent himself *pro se*. It was later confirmed before the second day of the hearing that Complainant is indeed the owner of the subject property as of the valuation date, January 1, 2021.

Exhibit	Description
A	Complainant letter outlining grounds for appeal, Photographs of the subject property, other appeal documents
B	2015 Appraisal by M&O Appraisal Service, Inc., Complaint for Review, Photographs of the subject property, other appeal documents
C	2015 St. Louis County Housing Inspection Report for the subject property

Complainant’s opinion of value for the subject property is \$90,000. Complainant’s main argument for overvaluation is that a comparable sale he found, 7210 Shellburne Dr., is a property that has a house in better condition and has more amenities than the subject yet it sold on April 19, 2022, for \$99,000. Complainant submitted Exhibits A and B which both contain pictures of the subject property and also pictures of 7210 Shellburne. Complainant’s Exhibit A also contained St. Louis County’s Real Estate Information page for that property as of July 5, 2022. Complainant noted that 7210 Shellburne is two doors down from the subject and has a better roof, driveway, carport, and deck. Complainant also cannot believe how subject property, appraised at \$87,000 from the insurance appraisal in 2015 (Exhibit B), can be increased so much by Respondent in seven years. Complainant also argued that certain features of the home are outdated and need to be upgraded such as the kitchen, roof, and HVAC system.

Complainant is not a licensed appraiser in the State of Missouri, nor does he have experience making market-based valuation adjustments to comparable sales to determine the TVM of a subject property.

4. Respondent's Evidence. Respondent introduced two exhibits that were admitted into evidence without objection. The exhibits are described as follows:

Exhibit	Description
1	The BOE decision letter dated October 29, 2021, stating the BOE TVM as \$144,500.
2	St. Louis County's Real Estate Information page for 7210 Shellburne of August 23, 2022

5. Value. The TVM of the subject property as of January 1, 2021, was \$144,500.

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. Section 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). "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).

"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. The STC has wide discretion in selecting the appropriate valuation method but "cannot base its decision on opinion evidence that fails to consider information that should have been considered under a particular valuation approach." *Id.*, at 348.

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. "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). 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). “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 his 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 taxpayer bears the burden of proof and must show by a preponderance of the evidence that the property was 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 substantial and persuasive evidence to support Complainant's \$90,000 opinion of value and claim of overvaluation. Complainant did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value of \$144,500. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value, nor did Complainant offer a recent appraisal of the subject property as evidence of the TVM of the property as of January 1, 2021.

The comparable sales approach is the usual method used to determine the TVM of residential real 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 did offer one comparable sale in the subject property's area, the sale of 7210 Shellburne Dr. on April 19, 2022, for \$99,000. However, this sale is not persuasive evidence as no market-based adjustments were made to the sales price to account for differences between the subject property and this other property. Complainant admitted he is not a licensed appraiser in the State of Missouri, nor does he have experience making market-based valuation adjustments to comparable sales to determine the TVM of a subject property. Additionally, Complainant was not aware if the sale in April of 2022 was an arms-length sale or a sale to an investor. Respondent's Exhibit 2 shows that

following the April 19, 2022, sale this property was sold again on May 27, 2022, for \$155,000, a strong indication that the original purchase was most likely by an investor who renovated and fixed up the property and then resold it.

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 \$90,000 as of January 1, 2021. Complainant's valuation is based on improper elements and therefore is speculative. While a property owner's opinion of value is generally admissible, the opinion "is without 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).

CONCLUSION AND ORDER

The BOE decision is set affirmed. The TVM of the subject property as of January 1, 2021, was \$144,500, with an assessed value of \$27,455.

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 February 10, 2023.

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 10, 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