

purchase price of \$598,540 also supports Respondent’s original valuation. Respondent’s original \$525,000 appraised value for the subject as of January 1, 2022, is therefore affirmed. The TVM of the subject property as of January 1, 2022, is \$525,000.²

The evidentiary hearing was conducted on December 8, 2022, via WebEx. Complainant appeared *pro se* via phone. Respondent was represented by counsel, Tim Bowe. The appeal was heard and decided by Senior Hearing Officer Benjamin C. Slawson.

FINDINGS OF FACT

1. Subject Property. The subject property is located at 820 Woodmoor Dr., Saint Louis, Missouri. The parcel/locator number is 17L520369.

The subject property consists of a 2,566 square foot brick ranch one story home on 0.3765 acres built in 1966. The home has four bedrooms and two bathrooms. Complainant purchased the property in August 2022 for \$598,540. Complainant testified that he has not made any significant improvements to the property.

2. Respondent’s Valuation. Respondent classified the subject property as residential and determined the TVM on January 1, 2022, was \$525,000.

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

Exhibit	Description	Status
A	13-page PDF, information on Respondent comparable properties with Complainant notes	Admitted without objection

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, Section 14; section 138.430.1, RSMo 2000.

Complainant's opinion of value as of January 1, 2022 is \$396,000. Complainant obtained this amount by using two sales prices of two comparable sales Respondent used for valuation, 722 Wayfield Dr. for \$468,000 and 9409 Stacy for \$433,000. Complainant noted that when compared with the subject 722 Wayfield Dr. is larger, has more bathrooms, is newer, and has a larger garage. For 9409 Stacy Place Ln., Complainant noted that this property has two more bathrooms, two other additional rooms, and is much newer than the subject. Based on these two sales and their differing characteristics, Complainant testified that he talked to different realtors asking their opinions and that is how he came up with \$396,000.

Complainant also testified that in his opinion the comparables used by Respondent were not like his property and therefore should be disregarded or given little weight. 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 argues that the TVM of the subject as of January 1, 2022, was \$550,000. Respondent offered Exhibit 1, an appraisal of the subject property for a valuation date of January 1, 2021, prepared by Adam Luesse. It was admitted without legal objection.

Adam Luesse, an Appraiser Senior for St. Louis County, testified on behalf of Respondent. Mr. Luesse has worked for the County for over four years. Mr. Luesse is a state certified residential appraiser. Mr. Luesse's job responsibilities include valuing residential property for ad valorem tax purposes. As part of those job duties, Mr. Luesse

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. Luesse prepared an appraisal of the subject with a valuation date of January 1, 2021, Respondent's Exhibit 1. Mr. Luesse searched for comparable sales within the subject's market area. Six sale properties that had similar characteristics to the subject were selected for comparison. Mr. Luesse obtained detailed data on each of these and made monetary adjustments for value using market analysis for significant differences between the subject and the comparable sales. These adjusted sale prices were used as the basis to support the appraised value of the subject property. Mr. Luesse ultimately formed an opinion of value of \$550,000 for the subject as of January 1, 2021. Mr. Luesse also testified that he reviewed the Complainant's Exhibit A, and that it did not alter his opinion of value of \$550,000 for the subject.

5. Value. The TVM of the subject property on January 1, 2022, was \$525,000, with an assessed value of \$99,750.

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

To obtain a reduction in assessed valuation based upon an alleged overvaluation, the Complainant must prove the true value in money of the subject property on the subject tax day. *Hermel, Inc., v. State Tax Commission*, 564 S.W.2d 888, 897 (Mo. banc 1978). True value in money is defined as the price that the subject property would bring when offered for sale by one willing but not obligated to sell it and bought by one willing or desirous to purchase but not compelled to do so. *Rinehart v. Bateman*, 363 S.W.3d 357, 365 (Mo.

App. W.D. 2012); *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008); *Greene County v. Hermel, Inc.*, 511 S.W.2d 762, 771 (Mo. 1974). True value in money is defined in terms of value in exchange and not in terms of value in use. *Stephen & Stephen Properties, Inc. v. State Tax Commission*, 499 S.W.2d 798, 801-803 (Mo. 1973). In sum, true value in money is the fair market value of the subject property on the valuation date. *Hermel, Inc.*, 564 S.W.2d at 897.

“True value’ is never an absolute figure, but is merely an estimate of the fair market value on the valuation date.” *Drury Chesterfield, Inc., v. Muehlheausler*, 347 S.W.3d 107, 112 (Mo. App. E.D. 2011), citing *St. Joe Minerals Corp. v. State Tax Comm’n of Mo.*, 854 S.W.2d 526, 529 (Mo. App. E.D. 1993). “Fair market value typically is defined as the price which the property would bring when offered for sale by a willing seller who is not obligated to sell, and purchased by a willing buyer who is not compelled to buy.” *Drury Chesterfield, Inc.*, 347 S.W.3d at 112 (quotation omitted).

The taxpayer's evidence must be both "substantial and persuasive." *Cohen*, 251 S.W.3d at 348. "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"). 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 Respondent’s valuation was erroneous, nor did Complainant produce substantial and persuasive evidence establishing a TVM of \$396,000. 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’s opinion of value of \$396,000 is based on hearsay discussions with realtors who did not testify. Complainant did not offer any other comparable sale data for consideration. 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.

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 market-based 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.

Further, Complainant purchased the property in August 2022 for \$598,540 but testified that Respondent's January 1, 2022, valuation of \$525,000 is inflated. Complainant's testimony is not credible. Evidence of the actual sales price of property is admissible to establish value at the time of an assessment, provided that such evidence involves a voluntary purchase not too remote in time. The actual sale price is a method that may be considered for estimating true value. The actual sales price between a willing seller who is not obligated to sell and a willing buyer who is not compelled to buy, establishes an outer limit on the value of real property. *St. Joe Minerals Corp. v. STC*, 854 S.W.2d 526 (App. E.D. 1993). Complainant's purchase was a little over seven months from the valuation date, and there is no evidence in the record that indicates that it was not a voluntary purchase. Complainant's purchase of the property for \$598,540 in August of 2022 supports Respondent's \$525,000 valuation for the subject as of January 1, 2022.

5. Evidence of Increase in Value

At hearing at the close of evidence, Respondent argued for a TVM of \$550,000 based on the appraisal performed by Mr. Adam Luesse. However, Section 138.060.1 prohibits Respondent from seeking a higher valuation at hearing that his original valuation:

At any hearing before the state tax commission or a court of competent jurisdiction of an appeal of assessment from a first class charter county or a city not within a county, **the assessor shall not advocate nor present evidence advocating a valuation higher than that value finally determined by the assessor** or the value determined by the board of equalization, whichever is higher, for that assessment period.

Emphasis added.

Respondent presented the testimony and appraisal report of appraiser Adam Luesse in an effort to establish that the fair market value of the subject property under appeal, as of January 1, 2021 was \$550,000. However, the assessed value cannot be increased above the assessor's original valuation of \$525,000 in this particular appeal. *See* Section 138.060; *State ex rel. Ashby Road Partners, LLC et al. v. STC and Muehlheausler*, 297 S.W.3d 80, 87-88 (Mo. banc 2009).

However, Mr. Luesse's testimony and appraisal report do persuasively establish that Respondent's original valuation of \$525,000 was correct. Mr. Luesse searched for comparable sales within the subject's market area. Six sale properties that had similar characteristics to the subject were selected for comparison. Mr. Luesse obtained detailed data on each of these and made monetary adjustments for value using market analysis for significant differences between the subject and the comparable sales. These adjusted sale prices were used as the basis to support the appraised value of the subject property. Mr. Luesse ultimately formed an opinion of value of \$550,000 for the subject as of January 1, 2021. Mr. Luesse also testified that he reviewed the Complainant's Exhibit A, and that it did not alter his opinion of value of \$550,000 for the subject.

CONCLUSION AND ORDER

Respondent's original valuation is affirmed. The TVM of the subject property as of January 1, 2022, was \$525,000, with an assessed value of \$99,750.

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