

DECISION AND ORDER

Lijun Wang and Xiaolong Qiu (Complainants) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on each of the parcels cited above on the grounds of overvaluation and discrimination.³ The assessments made by the BOE are **AFFIRMED**. Complainants failed to present substantial and persuasive evidence to rebut the presumption of correct assessment by the BOE as to each of the subject properties.

The evidentiary hearing for these appeals was held on April 27, 2022, via Webex. Complainants appeared pro se. Respondent was represented by counsel, Tim Bowe. The appeals were heard and decided by Senior Hearing Officer Benjamin C. Slawson.

FINDINGS OF FACT

1. Identification and Description of Subject Properties. The subject residential properties are identified as follows:

Appeal No.	Complainant	Parcel ID	Address
21-10041	Wang	17J611650	6901 Raymond Ave.
21-10045	Wang	13K330022	3678 Chaney Ct.
21-10046	Wang	16K330311	7855 Birchmont Dr.
21-10047	Wang	17J520415	1125 Watts Ave.
21-10048	Wang	17J521670	1200 Watts Ave.
21-10049	Wang	17J520383	7040 Plymouth Ave.

21-10050	Wang	14K430772	3541 Gordon Ave.
21-10051	Wang	16L420873	1456 Werremeyer Pl.
21-10052	Wang	16J140012	7340 Milan Ave.
21-10053	Wang	13K220495	8661 North Ave.
21-10055	Wang	16K211533	8242 Appleton Dr.
21-10056	Wang	17J610406	6915 Plymouth Ave.
21-10040	Qiu	16K120952	8369 Archer Ave.
21-10042	Qiu	13K311135	3663 Chaney Ct.
21-10043	Qiu	17K641272	1268 North and South Rd.
21-10044	Qiu	17J611298	6929 Melrose Ave.
21-10054	Qiu	15K610513	2336 Gilrose Ave.
21-10057	Qiu	17J541052	1436 Partridge Ave.
21-10058	Qiu	16K120893	8357 Archer Ave.

The subject properties are all single family homes purchased by Complainants to rent to various tenants. Complainant Wang provided the monthly rents for most of the subject properties during her testimony.

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

Appeal No.	Complainant	Parcel No.	Respondent's Valuation	BOE Valuation
21-10041	Wang	17J611650	\$87,500	\$87,500

21-10045	Wang	13K330022	\$90,000	\$90,000
21-10046	Wang	16K330311	\$97,900	\$97,900
21-10047	Wang	17J520415	\$123,900	\$123,900
21-10048	Wang	17J521670	\$83,200	\$83,200
21-10049	Wang	17J520383	\$85,400	\$85,400
21-10050	Wang	14K430772	\$95,200	\$84,000
21-10051	Wang	16L420873	\$100,100	\$100,100
21-10052	Wang	16J140012	\$130,700	\$130,700
21-10053	Wang	13K220495	\$93,600	\$93,600
21-10055	Wang	16K211533	\$68,000	\$68,000
21-10056	Wang	17J610406	\$80,800	\$80,800
21-10040	Qiu	16K120952	\$78,900	\$78,900
21-10042	Qiu	13K311135	\$98,700	\$98,700
21-10043	Qiu	17K641272	\$75,300	\$75,300
21-10044	Qiu	17J611298	\$78,700	\$78,700
21-10054	Qiu	15K610513	\$70,700	\$70,700
21-10057	Qiu	17J541052	\$123,600	\$123,600
21-10058	Qiu	16K120893	\$65,900	\$65,900

3. Complainants' Evidence. Complainants opined that the TVM of each of the subject properties as of January 1, 2021, is as follows:

Appeal No.	Complainant	Complainant's Proposed Value
21-10041	Wang	\$60,000
21-10045	Wang	\$70,000
21-10046	Wang	\$67,000
21-10047	Wang	\$95,000
21-10048	Wang	\$50,000
21-10049	Wang	\$48,000
21-10050	Wang	\$70,000
21-10051	Wang	\$80,000
21-10052	Wang	\$100,000
21-10053	Wang	\$60,000
21-10055	Wang	\$60,000
21-10056	Wang	\$60,000
21-10040	Qiu	\$60,000
21-10042	Qiu	\$70,000
21-10043	Qiu	\$50,000
21-10044	Qiu	\$60,000
21-10054	Qiu	\$45,000
21-10057	Qiu	\$100,000
21-10058	Qiu	\$49,000

Complainant Wang testified for Complainants in all appeals. Complainant is an owner of all the subject properties. Complainant Wang is not a licensed appraiser, nor did she establish that she has any specialized training or experience in making market-based adjustments to a comparable sale's sale price to determine the TVM of a subject property. Complainant Wang testified she does possess knowledge of the real estate market in St. Louis County as a purchaser of real estate and as a landlord. To support their opinions of value for each subject property, Complainants offered either one or two exhibits for each respective appeal (marked as Exhibits A and B for identification by the Senior Hearing Officer). Exhibits A and B for each respective appeal consisted of emails from Ms. Wang which contained all or some of the following: photographs of the subject property showing condition issues, notes supporting Complainants' claim of overvaluation, information and pictures regarding comparable sales Complainants found, and Complainants' notes on comparative assessment by Respondent of neighboring properties. All of Complainants' Exhibits were admitted without objection.

Complainant Wang testified that all of the subject properties are being rented to tenants. None of the properties have been listed for sale in the last three years, nor have Complainants made any improvements to the properties in the last three years. When asked by the Senior Hearing Officer, Complainant Wang gave a general description of the property and then testified as to the amount of increase in assessment between the 2019 and 2021 cycle. Complainants' arguments for overvaluation for all of these appeals were very similar. Complainant testified that each of the properties is overvalued by Respondent due to the fact that the properties are older and that no updates or improvements have been

made. Also, as Ms. Wang testified, many of the properties are suffering from condition issues or outdated interiors. Complainants additionally argued that neighboring sales of houses in better condition sold for less than the TVM found by Respondent. Information about Complainants' comparables was taken from Zillow.com. When comparable sales were identified by Complainants, only characteristics such as the number of bedrooms and bathrooms, square footage, and sale date and price were provided.

At hearing, Complainants also alleged that Respondent assessed most of these properties at a 15% or higher increase from prior assessment without notice and a physical inspection, a violation of Section 137.115.10. Respondent objected to this testimony due to lack of notice, stating that he had no notice that this argument would be raised and had no chance to prepare. The objection was taken with the case, and the record was left open until April 29, 2022, for Respondent to file a rebuttal exhibit.

The objection is hereby overruled given that Respondent was able cross examine Ms. Wang at hearing and was allowed to offer Respondent's Exhibit 2 for each appeal. Respondent's Exhibit 2 for each property is a rebuttal exhibit and as discussed below is dispositive in showing that notice was indeed provided to Complainants for all the subject properties, and that an inspection did occur for all properties where the assessment did increase by over 15%.

Complainants did not present any evidence of an intentional plan of discrimination by St. Louis County. This claim was simply based on Complainants' observation that the assessed values set by Respondent for some similar houses in the subject properties' neighborhood were much lower than the subject properties.

4. Respondent's Evidence. Respondent introduced Exhibit 1 for each respective appeal, consisting of the October 29, 2021, BOE decision letter for each respective subject property. Exhibit 1 for each respective appeal was admitted without objection. Respondent also submitted Exhibit 2 for each respective appeal and subject property, a rebuttal exhibit consisting of a 2021 Copy of Previous Inspection Notice, 2021 Change of Assessment Notice, and a Projected 2021 Tax Liability Notice.

5. Value. The TVM of each respective subject property as of January 1, 2021, is as follows:

Appeal No.	Complainant	Parcel No.	TVM
21-10041	Wang	17J611650	\$87,500
21-10045	Wang	13K330022	\$90,000
21-10046	Wang	16K330311	\$97,900
21-10047	Wang	17J520415	\$123,900
21-10048	Wang	17J521670	\$83,200
21-10049	Wang	17J520383	\$85,400
21-10050	Wang	14K430772	\$84,000
21-10051	Wang	16L420873	\$100,100
21-10052	Wang	16J140012	\$130,700
21-10053	Wang	13K220495	\$93,600
21-10055	Wang	16K211533	\$68,000
21-10056	Wang	17J610406	\$80,800

21-10040	Qiu	16K120952	\$78,900
21-10042	Qiu	13K311135	\$98,700
21-10043	Qiu	17K641272	\$75,300
21-10044	Qiu	17J611298	\$78,700
21-10054	Qiu	15K610513	\$70,700
21-10057	Qiu	17J541052	\$123,600
21-10058	Qiu	16K120893	\$65,900

CONCLUSIONS OF LAW

1. Assessment, Valuation, and Discrimination. 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.

To obtain a reduction in assessed value based upon discrimination, a complaining taxpayer must (1) prove the true value, also known as the fair market value (FMV), of the subject property as of the taxing date, and (2) show an intentional plan of discrimination by the assessor resulting in an assessment at a greater percentage of value than other property within the same class and the same taxing district, or, in the absence of such an intentional plan, show that the level of assessment is so grossly excessive as to be inconsistent with an honest exercise of judgment. *Zimmerman v. Mid–America Financial Corp.*, 481 S.W.3d 564, 571 (Mo. App. E.D. 2015), quoting *Savage v. State Tax Comm’n of Missouri*, 722 S.W.2d 72, 78 (Mo. banc 1986). Evidence of value and assessments of a

few properties does not prove discrimination. Substantial evidence must show that all other property in the same class, generally, is actually undervalued. *State ex rel. Plantz v. State Tax Commission*, 384 S.W.2d 565, 568 (Mo. 1964). The difference in the assessment ratio of the subject property the average assessment ratio in the subject county must be shown to be grossly excessive. *Savage*, 722 S.W.2d at 79. No other methodology is sufficient to establish discrimination. *Cupples-Hesse*, supra.

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). "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).

3. Complainants' Burden of Proof. The taxpayer bears the burden of proof and must show by a preponderance of the evidence the property is 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").

Property owners are competent to testify to the reasonable fair market value of their property. *Cohen*, 251 S.W.3d at 348. However, if owner's testimony is based on "improper elements or an improper foundation[.]" it is not substantial and persuasive evidence rebutting the presumptively correct BOE value. *Id.* at 349.

4. Complainants Did Not Produce Substantial and Persuasive Evidence of Overvaluation.

Complainants did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value in each of these appeals. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value.

Neither Complainants' exhibits nor Complainant Wang's testimony utilized the comparable sales approach, income approach, or cost approach to support their proposed values for these properties. First, the observation that the appraised value increased from one reassessment cycle to the next does not rely on any generally accepted approach to show overvaluation. Second, while Complainants offered some comparable sale data for consideration, these comparable sales were not analyzed using accepted appraisal methods. For example, Complainants did not offer evidence making appropriate market adjustments to determine value of the subject. Additionally, specific characteristics of these comparison properties, and detailed characteristics of the subject properties themselves,

were not provided to allow for a comparable sales approach to value to be performed. Finally, Complainants 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.

Concerning the outdated ages of some the homes and various condition issues with the subject properties that Complainant Wang testified to and which are summarized in some of the evidence in Exhibit A for each appeal, Complainants provided no evidence providing a way to quantify the dollar amount effects of any of these issues or characteristics on value to establish a TVM.

The lack of evidence relating to a recognized valuation method renders Complainants' proposed values speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Complainants did not produce substantial and persuasive evidence showing the BOE overvalued any subject property and "the value that should have been placed on the property." *Tibbs*, 599 S.W.3d at 7.

5. Complainants Did Not Prove Discrimination.

Complainants did not prove discrimination for any subject property. Missouri courts have consistently held that (1) a taxpayer alleging discrimination must show the true value in money of his or her property as a necessary part of her discrimination claim; and (2) the proper method of determining discrimination is to compare the actual level of assessment of the subject property as determined by the assessor to the common level of assessment for the subject property's subclass. *Mid-America Financial Corp.*, 481 S.W.3d at 574, citing *Savage*, 722 S.W.2d at 72.

Regarding the first point, as discussed above, Complainants did not present substantial and persuasive evidence rebutting the presumption of correctness of the BOE's value and establishing that their proposed value was the TVM of the property. Therefore, Complainants failed to establish a market value which would point to discrimination.

Regarding the second point, Complainants presented no evidence of specific additional properties for comparison with the subject property in order to establish an intentional plan of discrimination by St. Louis County. Complainants' Exhibit A for each appeal contains information taken from Zillow.com regarding comparable sales that Complainants believe are better comparables to use for valuation of the subject, but this information contains no specific data for these properties showing actual assessed values versus the subject. There was no evidence presented that a statistically significant number of other residential properties within St. Louis County are being assessed at a lower ratio of market value than the subject property. In other words, Complainants presented no evidence of several properties which sold for prices in excess of their appraised value. Complainant Wang testified that the subject properties in general were appraised higher than other properties based on her observations, but again presented no persuasive evidence in support of her testimony. Complainant Wang admitted on cross examination that Complainants did not possess any evidence of intentional discrimination by Respondent. Because the Complainants failed to establish the TVM of each subject property and failed to establish that each subject property is being assessed at a higher percentage of market value than a statistically significant number of other properties in St. Louis County, the claim of discrimination fails.

6. Section 137.115.

At hearing, Complainants argued that Respondent did not make a proper inspections of their properties under Section 137.115.10. In pertinent part, Section 137.115.10 provides “[b]efore the assessor may increase the assessed valuation ... by more than fifteen percent ... the assessor shall conduct a physical inspection of such property.” (Emphasis added). In other words, the statute expressly conditions a valuation increase of more than 15 percent (“[b]efore the assessor may increase the assessed valuation ... by more than 15 percent”) on a mandatory physical inspection (“shall conduct a physical inspection”). Because a physical inspection is a condition precedent to a valuation increase in excess of 15 percent, an assessor is precluded from increasing an assessment by more than 15 percent without conducting the statutorily required physical inspection. It follows that the failure to conduct a sufficient physical inspection negates any increased valuation to the extent it exceeds 15 percent.⁴

The necessary elements of a Section 137.115.10 physical inspection are set forth in Section 137.115.11 and Section 137.115.12. In pertinent part, Section 137.115.11 requires the assessor to provide the property owner with “clear written notice” of the right to an inspection. The inspection “shall include, but not be limited to, an on-site personal

⁴ This conclusion is confirmed by considering the converse: if the failure to conduct a physical inspection does not negate a valuation increase in excess of fifteen percent, then the condition precedent to increasing the assessment by more than 15 percent – “[b]efore the assessor may increase the assessed valuation” – is rendered superfluous. *See Bateman v. Rinehart*, 391 S.W.3d 441, 446 (Mo. banc 2013) (courts “must presume every word, sentence or clause in a statute has effect, and the legislature did not insert superfluous language.”)

observation and review of all exterior portions of the land.” Section 137.115.12. “Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute a physical inspection as required by this section.” *Id.*

From the testimony of Complainant Wang and verified by Respondent’s Exhibits 2, the assessments of the subject properties were all increased by over 15% by Respondent except for Appeal No. 21-10055 (Parcel ID No. 16K211533, 8242 Appleton Dr.). For all properties other than 8242 Appleton Dr. where no inspection was required, Respondent made the proper inspection. The evidence submitted in this case does not show that Respondent violated Section 137.115.10 before increasing his assessment. Respondent’s Exhibits 2 contain copies of Previous Physical Inspection Notices for each parcel which provide clear notice that an appraiser performed a visual inspection of the particular subject property to the extent possible from the property line, and/or the walkway leading to the front door. Due to COVID-19, these were “no contact” inspections. The notice also provides the property owner an option to request a more detailed inspection if so desired.

Respondent has proven that the requirements of Section 137.115 have been met and that a physical inspection was performed.

CONCLUSION AND ORDER

Complainants did not produce substantial and persuasive evidence of overvaluation or discrimination in any of these appeals. The BOE decisions are affirmed. The TVM and assessed values of each respective subject property as of January 1, 2021, are as follows:

Appeal No.	Complainant	Parcel No.	TVM	Assessed Value

21-10041	Wang	17J611650	\$87,500	\$16,625
21-10045	Wang	13K330022	\$90,000	\$17,100
21-10046	Wang	16K330311	\$97,900	\$18,601
21-10047	Wang	17J520415	\$123,900	\$23,541
21-10048	Wang	17J521670	\$83,200	\$15,808
21-10049	Wang	17J520383	\$85,400	\$16,226
21-10050	Wang	14K430772	\$84,000	\$15,960
21-10051	Wang	16L420873	\$100,100	\$19,019
21-10052	Wang	16J140012	\$130,700	\$24,833
21-10053	Wang	13K220495	\$93,600	\$17,784
21-10055	Wang	16K211533	\$68,000	\$12,920
21-10056	Wang	17J610406	\$80,800	\$15,352
21-10040	Qiu	16K120952	\$78,900	\$14,991
21-10042	Qiu	13K311135	\$98,700	\$18,753
21-10043	Qiu	17K641272	\$75,300	\$14,307
21-10044	Qiu	17J611298	\$78,700	\$14,953
21-10054	Qiu	15K610513	\$70,700	\$13,433
21-10057	Qiu	17J541052	\$123,600	\$23,484
21-10058	Qiu	16K120893	\$65,900	\$12,521

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 March 24, 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 March 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

Appendix A

Appeal No.	Complainant	Parcel ID
21-10041	Wang	17J611650
21-10045	Wang	13K330022
21-10046	Wang	16K330311
21-10047	Wang	17J520415
21-10048	Wang	17J521670
21-10049	Wang	17J520383
21-10050	Wang	14K430772
21-10051	Wang	16L420873
21-10052	Wang	16J140012
21-10053	Wang	13K220495
21-10055	Wang	16K211533
21-10056	Wang	17J610406

21-10040	Qiu	16K120952
21-10042	Qiu	13K311135
21-10043	Qiu	17K641272
21-10044	Qiu	17J611298
21-10054	Qiu	15K610513
21-10057	Qiu	17J541052
21-10058	Qiu	16K120893