



STATE TAX COMMISSION OF MISSOURI

ROY JACOB,) Appeal No. 21-15836
) Parcel/Locator: 18O210101
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 Complainant(s),)
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 v.)
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 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Roy Jacob (Complainant) appeals 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 \$683,500. Complainant claims the property is overvalued and proposes a value of \$617,691. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.¹

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

The evidentiary hearing was conducted on June 22, 2022, via WebEx. Complainant appeared *pro se*. 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 300 Ladue Oaks Dr., St. Louis, Missouri. The parcel/locator number is 18O210101.

The subject property consists of a two-story colonial-style single-family home on 0.954 acres. The house was constructed in 1973, has a brick exterior, and features a partially finished basement, attached garage, and a central furnace. The 4,696 square-foot home has four bedrooms and four and half bathrooms. Complainant purchased the subject property in 2016 for \$535,000. In the last three years, Complainant has renovated two bathrooms, replaced the windows, added a sprinkler system for the yard, and demolished the in-ground swimming pool.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$730,100. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$683,500.

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

Exhibit	Description
A	Photograph of subject property – pool removed

B	HomeGuide Inground Pool Installation & Maintenance Costs
C	Photograph of subject property – rec room
D	Photograph of subject property - basement
E	Photograph of subject property - bathroom
F	Photograph of subject property - furnace

Complainant’s opinion of value for the subject property as of January 1, 2021, is \$617,691, a three percent increase of Respondent’s prior appraised value in 2019 of \$599,700. Complainant testified that the recent removal of the in-ground pool resulted in the property losing about \$140,000 of value. Complainant bases this on Exhibit B, a flyer from HomeGuide estimating in-ground pool prices based on size and materials. Complainant mentioned that he paid \$16,000 in demolition costs to remove the pool.

Complainant asserted that his property is also overvalued by Respondent due to Respondent not taking into account the dilapidated and outdated condition of certain parts of the house. Complainant introduced Exhibits C, D, E, and F to show evidence of falling ceiling tiles in the rec room, bathroom cabinetry and fixtures broken and outdated, outdated furnace, and water filtration and damage in the basement. Complainant testified that he is not a licensed appraiser.

4. Respondent’s Evidence. Respondent introduced Exhibit 1, a copy of the Board Decision Letter dated October 29, 2021. It was admitted without objection.

5. Value. The TVM of the subject property on January 1, 2021, was \$683,500.

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 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 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 and has not met his burden of proof. Complainant testified his home is overvalued due to the in-ground pool being removed and the dilapidated condition of the subject property, noting that many of the features of the house are in disrepair. Complainant's Exhibits A through F and testimony regarding the pool removal and condition of the property do not provide a true and accurate method for finding the TVM of the subject property.

Concerning the condition issues with the subject property that Complainant testified about and which are evidenced in Exhibits A through F, Complainant provided no evidence providing a way to quantify a monetary figure on how these issues effect value or showing the BOE value does not account for these issues. The fact that the BOE lowered Respondent's assessed value of \$730,100 to \$683,500 suggests that the BOE did take condition issues such as these into account.

Similarly, while Complainant submitted Exhibit B from HomeGuide which provides a general rough estimate of the value of an in-ground pool, Complainant did not submit any evidence that proves that the removal of the pool affected subject property's value as of January 1, 2021. Complainant testified that the pool was removed in 2019. Complainant offered no substantial and persuasive evidence to rebut the presumption that the BOE correctly determined the TVM of the subject taking into account that the in-ground pool had been removed.

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 subsequent alleged TVM of \$617,691 does not come from an appraisal utilizing the sales comparison approach. No comparable sales were offered by Complainant. Complainant testified that his proposed value was simply a value he could accept, a three percent increase from the prior appraised value of \$599,700. 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). Therefore, Complainant did not offer substantial and persuasive evidence that the BOE's valuation is erroneous.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property on January 1, 2021, was \$683,500, with an assessed value of \$129,865.

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 March 10, 2023.
STATE TAX COMMISSION OF MISSOURI

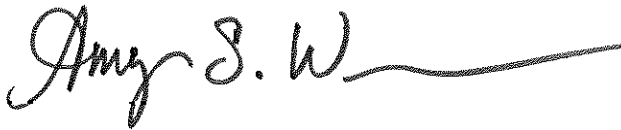


Benjamin C. Slawson
Senior Hearing Officer
State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on March 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