



# STATE TAX COMMISSION OF MISSOURI

SOULE JOINT SPOUSAL TRUST, ) Appeal No. 21-15937  
) Parcel/Locator: 19J131424  
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Complainant(s), )  
)  
v. )  
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JAKE ZIMMERMAN, ASSESSOR, )  
ST. LOUIS COUNTY, MISSOURI, )  
Respondent. )

## DECISION AND ORDER

Soule Joint Spousal Trust (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 \$245,300. Complainant claims the property is overvalued and proposes a value of \$200,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.<sup>1</sup>

Complainant appeared through counsel Gary Soule. Respondent was represented by counsel, Tim Bowe. The evidentiary hearing was conducted on July 13, 2022, via

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<sup>1</sup> 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.

WebEx. In addition to exhibits, Complainant and Respondent timely submitted post-hearing briefs, which are incorporated into the record.

## **FINDINGS OF FACT**

**1. Subject Property.** The subject property is located at 7507 Buckingham Dr., Unit 3E, Saint Louis, Missouri. The parcel/locator number is 19J131424.

The subject property consists of condo with 1,696 square feet of living space. The condo has three bedrooms and two full bathrooms. The condo is located in a building that was constructed in 1928 as an apartment complex. Mr. Soule testified that in 1978 the building was renovated and the apartments were converted into condominium units. The subject property does not have a washer and dryer in the unit. The flooring in the unit is hardwood which was refinished about 15 years ago. Other than that, no major improvements have been made to the property since it was purchased by Complainant in 1986.

**2. Respondent and BOE.** Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$260,900. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$245,300.

**3. Complainant's Evidence.** Complainant submitted the following exhibits:

<b>Exhibit</b>	<b>Description</b>	<b>Status</b>
A	BOE Decision Letter for the subject property dated October 29, 2021	Admitted
B	Photographs of subject property	Admitted
C	Estimates for kitchen and bath by RSI Kitchen & Bath	Admitted
D	Estimates for walls and ceiling by Woemmel Lathing & Plastering and Dettman/Claus Painting Co.	Admitted

E	Total Cost to Cure Interior of Unit (\$85,561)	Admitted
F	Photographs of common areas of building	Admitted
G	Estimates for common areas by Kennedy Painting and Old World Roofing	Admitted
H	Total Cost to Cure Common Areas Per Unit (\$40,994.39)	Admitted
I	Special Assessments to Cure Water Damage and Maintain Common Areas of Building	Admitted

Complainant's opinion of value for the subject property as of January 1, 2021, as stated on its Complaint for Review is \$196,700, which was Respondent's valuation of the property in 2019. Gary Soule testified on behalf of Complainant. Mr. Soule testified at hearing that Complainant's opinion of value is \$200,000. Mr. Soule testified that Complainant believes that the BOE further overvalued the property at \$245,300 because it did not take into account the deteriorated condition of the condo unit itself, nor the general degrading condition of the whole condo building in which it is located. Mr. Soule also stated that Respondent's comparable properties used for assessment are in much better condition than the subject.

Complainant submitted Exhibit B to show the condition of the property, evidencing water damage in several rooms of the condo. Complainant also testified that the condo is in need of major updates, and that no improvements had been made since it was purchased in 1986. Complainant offered Exhibit C which are estimates by a contractor, RSI Kitchen & Bath, to update the kitchen and bathrooms. Complainant also submitted estimates from Woemmel Lathing & Plastering and Dettman/Claus Painting Co. (Exhibit D) as evidence for the cost to repair the interior walls and ceiling from water damage. Complainant offered photographs of the common areas of the condo building (Exhibit F) and estimates by

contractors to update the common areas (Exhibits G). Complainant testified that no one from Respondent's office viewed the interior of the subject property or the common condo building. Therefore, Complainant argues Respondent's valuation is problematic as it does not consider the detailed condition issues that the subject property suffers from.

Mr. Soule is not a licensed appraiser, nor does he possess specific knowledge or training in making market-based adjustments to comparable properties to determine the TVM of a subject property. Complainant did not offer any comparable sales for consideration.

**4. Respondent's Evidence.** Respondent introduced Exhibit 1, a copy of the BOE decision letter dated October 29, 2021, stating the BOE TVM as of January 1, 2021. The Exhibit was admitted without any legal objection.

**5. Value.** The TVM of the subject property on January 1, 2021, was \$245,300, with an assessed value of \$46,607.

## **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, nor did Complainant produce substantial and persuasive evidence establishing a TVM of \$200,000. Neither Complainant's exhibits nor Mr. Soule's testimony utilized the comparable sales approach, income approach, or cost approach to support Complainant's proposed value, nor did Complainant offer an appraisal of the property as evidence of the TVM of the property as of January 1, 2021.

Complainant took issue with the comparable sales used by Respondent in his assessment of Complainant's property, stating that those properties were not in a similar condition as the subject. However, details regarding the comparable properties used by Respondent to value the subject are not in evidence. Also, Complainant offered no substantial and persuasive evidence showing that Respondent did not make appropriate market-based adjustments of value considering the differing characteristics between these properties and the subject when determining the TVM of the subject as of January 1, 2021.

Mr. Soule testified at length concerning the condition issues of the subject property and those of the condo building as a whole. Mr. Soule's testimony and Complainant's exhibits provide photographic evidence and estimates for remodeling the condo and

persuasively establish that it could benefit from updating and repairing certain features. However, Complainant did not provide evidence of the specific monetary impact that these issues have on the TVM of the subject property as of January 1, 2021. In other words, there is no documentation or testimony in the record rebutting the presumption that the BOE examined these issues and figured it into its valuation at \$245,300, a reduction from Respondent's valuation at \$260,900.

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 Complainant has proposed, \$200,000. 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 residential real property in Missouri. "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). Mr. Soule admitted he was not an appraiser in Missouri. Complainant offered no comparable sales for consideration, nor did Complainant offer any evidence establishing the TVM using the comparable sales approach. Therefore, Complainant's opinion of value is speculative and not persuasive.



## **CONCLUSION AND ORDER**

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021, was \$245,300 with an assessed value of \$46,607.

### **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 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 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