



STATE TAX COMMISSION OF MISSOURI

BRIAN ROGER THOMAS,)
)
Complainant,)
) Appeal No. 21-16695
v.) Parcel No. 22V620744
)
JAKE ZIMMERMAN, ASSESSOR,)
ST. LOUIS COUNTY, MISSOURI,)
)
Respondent.)

DECISION AND ORDER

Brian Roger Thomas (Complainant) appeals the St. Louis County Board of Equalization's (BOE) decision valuing the subject residential property at \$430,000 as of January 1, 2021. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$415,000 as of January 1, 2021. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021 is \$430,000.¹

The evidentiary hearing was held on June 9, 2022, via Webex. Complainant appeared *pro se*. Respondent Jake Zimmerman, Assessor, St. Louis County, Missouri, was

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.

represented by counsel, Tim Bowe. The case was heard and decided by Senior Hearing Officer Benjamin C. Slawson.

FINDINGS OF FACT

1. The Subject Property. The subject residential property consists of a 1.64 acre lot improved with single-family 1.5 story home located at 1956 Woodmoor Ridge Dr., Parcel ID number 22V620744.

The house was built in 2000 has 3,099 square feet of total living area and includes four bedrooms and five bathrooms. Complainant purchased the property in 2002. Complainant has not made any significant improvements to the property in the last three years. Complainant has had the property appraised a couple times over the years when he refinanced the mortgage.

2. Assessment and Valuation. Respondent determined the subject property's TVM was \$499,800 as of January 1, 2021. The BOE independently determined that the subject's TVM as of January 1, 2021 was \$430,000.

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

Exhibit	Description
A	Complaint for Review
B	Notice of Decision
C	Excel Spreadsheet – Home Assessment Appeal – Comparable Analysis
D	Comparable information - 16754 Clayton Rd.
E	Comparable information - 669 Shadowridge
F	Comparable information - 1907 Durango Pass Ct.
G	Comparable information - 16721 Clayton Rd.
H	Comparable information - 400 Thunderhead Canyon

Complainant testified his opinion of value for the subject property is \$415,000. Complainant argued his property was overvalued for a couple of reasons. First, unlike the lots of the comparable properties used by Respondent for assessment, only 0.1 acres of the subject property's 1.55 acre lot is actually usable. The vast majority of the land of the subject is on a steep embankment down which the water for the subdivision drains to the creek bed below.

Second, Complainant testified that the comparables used by Respondent represent an inflated home value for the subject. Complainant found five additional comparable properties which he analyzed in Exhibit C. Complainant obtained information on these five comparables from a realtor. The information is represented in Complainant's Exhibits D through H. The average sales price of these comparables is \$405,580. Based on this additional comparable sale data, Complainant proposes a 3.75% increase in prior appraised value for the subject as opposed to the 7% increase found by the BOE. Using a price per square foot of \$133.91, Complainant obtained a calculated opinion of value of \$415,000.

Complainant testified that he is not a licensed appraiser in the State of Missouri, nor does he have professional training in making market-based adjustments to comparable sales to determine the TVM of a subject property. Complainant presented all of this evidence to the BOE at that hearing.

4. Respondent's Evidence. Respondent introduced Exhibit 1, consisting of the October 29, 2021, BOE decision letter for the subject property. Exhibit 1 shows the BOE valued the subject property at \$430,000.

5. Value. The TVM of the subject property as of January 1, 2021, was \$430,000.

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. Sections 137.115.1; 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). The TVM "is a function of [the property's] highest and best use[.]" *Snider*, 156 S.W.3d at 346. "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. 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. Complainant’s 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. Complainant Did Not Produce Substantial and Persuasive Evidence of Overvaluation.

Complainant did not produce substantial and persuasive evidence to support his \$415,000 opinion of value. Complainant introduced no evidence pertaining to a recognized valuation method. Complainant did not produce any evidence supporting a comparable sales approach, income approach, or cost approach.

The comparable sales approach is typically used to value residential properties improved with a single-family home. "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 comparable sale data for consideration. However, Complainant's method of comparing properties on a price per square foot basis is not an acceptable appraisal method to determine fair market value of a subject. Further, Complainant's comparable sales were not analyzed using accepted appraisal methods, for example making appropriate market adjustments to determine value of the subject. Finally,

Complainant 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. Therefore, Complainant did not produce substantial and persuasive evidence showing that the subject property was overvalued based on comparable sales data.

Complainant took issue with Respondent's mass assessment methodology used to assess the subject property, arguing that the comparable sales either had updated features, were in much better condition than the subject, or had a larger lot size. However, the comparable sales used by Respondent were not identified by either party, and there is no exhibit in evidence providing a listing of such sales or the characteristics of these properties. Additionally, Complainant offered no evidence showing that Respondent did not make appropriate market-based adjustments for value considering the differing characteristics between these properties and the subject when determining the TVM of the subject as of January 1, 2021.

Complainant did not produce substantial and persuasive evidence showing that the BOE's value was incorrect. Further, Complainant's testimony does not provide the necessary foundation and elements to support his overvaluation claim. Complainant admitted he is neither a certified appraiser, nor does he have experience in appraising properties to determine the TVM of a subject property. Because the STC "cannot base its decision on opinion evidence that fails to consider information that should have been considered" under a recognized approach to value, *Snider*, 156 S.W.3d at 348, the BOE decision is affirmed.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021 is \$430,000, with an assessed value of \$81,700.

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 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 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