



STATE TAX COMMISSION OF MISSOURI

CHESTER MITCHELL JR.,) Appeal No. 21-18009 through 21-18019¹
)
) Parcel/Locator: Appendix A
)
)
) Complainant,
)
)
) v.
)
)
) JAKE ZIMMERMAN, ASSESSOR,
)
) ST. LOUIS COUNTY, MISSOURI,
) Respondent.)

DECISION AND ORDER

Chester Mitchell Jr. (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) concerning the respective subject properties on the ground of overvaluation.² Complainant failed to present substantial and persuasive

¹ This Decision and Order is amended Nunc Pro Tunc pursuant to the parties' Joint Memorandum to Clerk for Nunc Pro Tunc Entry to correct clerical errors regarding some TVMs as shown on the BOE's decisions filed in the appeals' records and thereafter relied upon by the Senior Hearing Officer as reflected in the Decision and Order. The STC amends the Decision and Order by adopting the corrections presented by the parties in their Joint Memorandum and notes that to not correct the errors would prejudice Complainant. In all other aspects, this Decision and Order and its issue date as stated in the Certificate of Service remains unchanged.

² Complainant timely filed a complaint for review of assessment for each of these respective appeals. The State Tax Commission (STC) has authority to hear and decide Complainant's appeals. Mo. Const. art. X, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

evidence to rebut the presumption of correct assessment by the BOE as to each of the subject properties. The assessments made by the BOE are therefore AFFIRMED.

The evidentiary hearing for all of these appeals was held on October 13, 2022, via Webex. Complainant was represented at hearing by counsel Thomas Gilliam Jr. Respondent was represented by counsel, Tim Bowe. For efficiency, the appeals have been consolidated in this Decision and Order.

FINDINGS OF FACT

1. Subject Properties. The subject properties are identified and described as follows:

Appeal No.	Parcel No.	Address
21-18009	14H530371	7606 Santa Monica
21-18010	15G441525	7020 Stratford
21-18011	17J310371	6832 Bartmer
21-18012	17J340356	6745 Crest Ave.
21-18013	12L310242	4322 Heath
21-18014	12L310761	9812 Tanbark
21-18015	11H340559	216 N. Schlueter
21-18016	11F230043	2414 Castle Dr.
21-18017	12F440151	2220 Collett
21-18018	13F430782	2404 Sharidge
21-18019	12E120380	833 Lebon

The subject properties are all single family homes that offered as rentals by Complainant.

2. Assessment and Valuation. Respondent and the BOE determined that each respective subject property’s value as of January 1, 2021 was as follows:

Appeal No.	Parcel No.	Respondent’s Valuation	BOE Valuation
21-18009	14H530371	\$45,000	\$45,000
21-18010	15G441525	\$46,100	\$46,100
21-18011	17J310371	\$100,900	\$100,900
21-18012	17J340356	\$160,000	\$160,000
21-18013	12L310242	\$71,000	\$71,000
21-18014	12L310761	\$71,000	\$71,000
21-18015	11H340559	\$55,000	\$55,000
21-18016	11F230043	\$65,400	\$65,400
21-18017	12F440151	\$50,300	\$50,300
21-18018	13F430782	\$45,100	\$45,100
21-18019	12E120380	\$61,600	\$61,600

3. Complainant’s Proposed Values. Complainant’s opinions of TVM for the respective subject properties are as follows:

Appeal No.	Parcel No.	Complainant’s Proposed TVM
21-18009	14H530371	\$21,000
21-18010	15G441525	\$35,000
21-18011	17J310371	\$58,000
21-18012	17J340356	\$110,000
21-18013	12L310242	\$55,000
21-18014	12L310761	\$56,000

21-18015	11H340559	\$46,000
21-18016	11F230043	\$42,000
21-18017	12F440151	\$39,000
21-18018	13F430782	\$28,000
21-18019	12E120380	\$48,500

4. Complainant's Evidence. Complainant submitted the following exhibit as evidence for each of the appeals which were all admitted without objection. The exhibit is listed and described as follows:

Exhibit	Appeal No.	Description
A	21-18009 through 21-18019	Information on each subject property, comparable sales for consideration with information, and Complainant's proposed TVM

Complainant testified for Complainant in all eleven appeals. Complainant owns all eleven subject properties. Most of the properties Complainant has owned for over twenty years. Complainant testified that all of the subject properties are rental properties. Complainant has been in the real estate business for over 35 years and has worked as a realtor, broker, and landlord. Complainant has bought and sold several properties over the years and also has experience in managing properties for others. Complainant is not a licensed appraiser in the State of Missouri.

Complainant testified that Respondent overvalued the subject properties based on his own comparative analysis, considering other comparable sales in the subject's neighborhood or nearby. Complainant also asserted that Respondent did not take into account the subpar condition that each property is in compared to other comparable properties. Complainant performed a comparative analysis for each subject property. He first obtained the data from the St. Louis County real estate database.

Using various search parameters, he found other comparable sales independent of the sales Respondent used for assessment. The only property that Complainant could not find sales during the assessment period was 6745 Crest Ave. Using these other comparables and his experience and extensive detailed knowledge of the subject properties themselves, Complainant obtained an opinion of fair market value for each subject property as of January 1, 2021. Complainant also testified as to his personal knowledge of the condition of each property as well as any unique characteristics or problems with the property.

Complainant submitted Exhibit A compiled by himself that contains information about the characteristics of each subject property and the comparables he obtained for analysis for each subject property. Also included in Exhibit A is Complainant's opinion of value. Actual sales prices of the comparables are listed, with no adjustments made.

Complainant testified that for each of his properties, he presented to the BOE all the same information that was submitted at the hearing before the State Tax Commission. Complainant testified that the BOE rejected his proposed comparables because they were not in the multi-listing service (MLS) database.

4. Respondent's Evidence. Respondent introduced Exhibit 1 for each respective appeal, a copy of the BOE decision letter dated October 29, 2021, stating the BOE's TVM for the respective subject property as of January 1, 2021. The Exhibits were admitted without any legal objection.

5. Value. The TVM of the subject properties on January 1, 2021 were as follows:

Appeal No.	Parcel No.	TVM
21-18009	14H530371	\$45,000
21-18010	15G441525	\$46,100
21-18011	17J310371	\$100,900
21-18012	17J340356	\$160,000
21-18013	12L310242	\$71,000
21-18014	12L310761	\$71,000
21-18015	11H340559	\$55,000
21-18016	11F230043	\$65,400
21-18017	12F440151	\$50,300
21-18018	13F430782	\$45,100
21-18019	12E120380	\$61,600

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 for each respective appeal, nor did Complainant produce substantial and persuasive evidence establishing his proposed opinions of value as the TVM for any of the subject properties as of January 1, 2021. Neither Complainant's exhibit nor Complainant's testimony utilized the comparable sales approach, income approach, or cost approach to support his proposed values, nor did Complainant offer appraisals of any of the eleven subject properties as evidence of the TVM of those properties as of January 1, 2021.

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 he has

proposed for each property. 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 testified that while he has a plethora of experience in the field of real estate as a realtor, broker, landlord, and property manager, that he was not an appraiser qualified to form a professional opinion as to value based on the comparable sales approach.

While Complainant found and presented comparable sales as evidence, it appears that actual sales prices of these properties were used and no adjustments were made. In other words, no market-based adjustments were made to account for these differences or to obtain a proper TVM of the subject. Complainant also testified that the BOE rejected his comparables because they were not on the MLS. From this testimony, it is likely that the comparable sales found by Complainant were not arms-length open market sales. While Complainant testified as to opinion regarding the condition of each subject property and what he believes its value to be based on other sales and neighborhood conditions, no acceptable appraisal methodology was used to obtain a proper TVM for each subject.

Therefore, Complainant’s proposed values are speculative and Complainant has not met his burden of proof in each of these appeals.

Concerning the condition issues with the subject properties that Complainant testified about for each appeal, Complainant provided no evidence providing a way to quantify a monetary value impact on those issues or showing the BOE value does not account for these issues in its valuations. The fact that the BOE lowered Respondent’s assessed values in a three of these appeals suggests that the BOE did take these condition issues into account.

CONCLUSION AND ORDER

The BOE decisions are affirmed. The TVM of the subject properties as of January 1, 2021, with assessed values, are as follows:

Appeal No.	Parcel No.	TVM	Assessed Value
21-18009	14H530371	\$45,000	\$8,550
21-18010	15G441525	\$46,100	\$8,759
21-18011	17J310371	\$100,900	\$19,171
21-18012	17J340356	\$160,000	\$30,400
21-18013	12L310242	\$71,000	\$13,490
21-18014	12L310761	\$71,000	\$13,490
21-18015	11H340559	\$55,000	\$10,450
21-18016	11F230043	\$65,400	\$12,426
21-18017	12F440151	\$50,300	\$9,557

21-18018	13F430782	\$45,100	\$8,569
21-18019	12E120380	\$61,600	\$11,704

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

Appendix A

Appeal No.	Parcel No.
21-18009	14H530371
21-18010	15G441525
21-18011	17J310371
21-18012	17J340356
21-18013	12L310242
21-18014	12L310761
21-18015	11H340559
21-18016	11F230043

21-18017	12F440151
21-18018	13F430782
21-18019	12E120380