



# STATE TAX COMMISSION OF MISSOURI

RUTH GARDOCKI, ) Appeal No. 21-10183  
)  
) Parcel/Locator: 09D140178  
)  
)  
Complainant(s), )  
)  
v. )  
)  
JAKE ZIMMERMAN, ASSESSOR, )  
ST. LOUIS COUNTY, MISSOURI, )  
Respondent. )

## DECISION AND ORDER

Ruth Gardocki (Complainant) appeals<sup>1</sup> 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 \$30,200. Complainant alleges overvaluation and alleges that the TVM of the subject property on January 1, 2021, was \$0. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE’s decision is affirmed.

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

The evidentiary hearing for this appeal was held on September 28, 2022, via Webex. Complainant appeared pro se. Respondent was represented by counsel, Tim Bowe.

### FINDINGS OF FACT

**1. Subject Property.** The subject property is located at 909 Coal Bank Rd. in St. Louis, Missouri. The parcel/locator number is 09D140178.

The property consists of a small single family home built in 1931 with 1,728 square feet of living space. The house has a total of five rooms, including two bedrooms and one bathroom. As the home is in a dilapidated condition, Complainant does not live in the home nor does Complainant rent it.

**2. Assessment and Valuation.** Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$71,500. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$30,200.

**3. Complainant's Proposed Value.** Complainant's opinion of value for the subject property is \$0.

**4. Complainant's Evidence.**

Complainant offered the following Exhibits<sup>2</sup> which were admitted without objection.

<b>Exhibit</b>	<b>Description</b>
A	Photographs of subject property

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<sup>2</sup> Many of the Exhibits had several subparts.

B	Contractor Bids and Estimates
C	Excel spreadsheet – Total of Bids
D	Photographs of neighborhood and other homes in area
E	Documentation from St. Louis County
F	St. Louis County comparable properties for subject property; comparables found by Complainant
G	Complainant’s description of reasons for liability value
H	Closing narrative describing the depressed surrounding area

Complainant and her husband Patrick Gardocki testified for Complainant. Complainant testified that she and her husband believe the property is worthless and actually poses a liability for them. Complainant and her husband testified extensively regarding the many issues that the property suffers from, including lingering damage from a tornado, fire damage in the kitchen, termite infestation, mold presence, and other issues. Complainant’s Exhibits B and C include contractor estimates to repair some of these conditions.

In addition, Complainant and her husband testified that the proliferation of Section 8 housing in the Spanish Lake area has caused rampant crime around the subject property. They testified that they had been victims of crime in the subject property, having had their house broken into and many of their items stolen. Piles of trash, drug use, and vagrancy also contribute to undesirable living conditions in the area. As a result of a home invasion and the increased crime rate in the neighborhood, they have since moved out of the house

and it now sits abandoned. Complainant's Exhibit F contains comparable sales of land in Black Jack and Florissant that Complainant compiled. Complainant had presented all of this information to the BOE.

Complainant and her husband are not a licensed appraisers in the state of Missouri, nor does they have specialized education, training, and job experience in that specific field of work.

**4. Respondent's Evidence.** Respondent introduced Exhibit 1, a copy of the BOE decision letter dated October 29, 2021, stating the BOE's TVM for the subject property 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 \$30,200.

## **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 her proposed opinion of value as to the TVM for the subject property as of January 1, 2021. Neither Complainant’s exhibits nor her testimony utilized the comparable sales approach, income approach, or cost approach to support her proposed value, nor did she offer an appraisal of any of the property as evidence of the TVM of the subject as of January 1, 2021.

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 Exhibit F purports to show comparable sales of land in Florissant and Black Jack near Spanish Lake to show overvaluation. However, there is no evidence persuasively establishing that such properties were actually sold or at what price. In addition, no adjustments were made to account for the difference in the market conditions at the time of sale, the location, soil grade, or other characteristics of those properties. In other words, this evidence does not support a value of \$0 for the subject property.

While Complainant and her husband persuasively established in their testimony and Exhibits that the subject property is located in an area plagued with crime, Complainant fails to show that the BOE did not take the location into account when lowering

Respondent's appraised value of \$71,500 to \$30,200. Concerning the condition issues with the subject property evidenced in Complainant's Exhibits and which Complainant testified to, Complainant provided no evidence providing a way to quantify the effect of these issues on value or again showing the BOE value does not account for these issues. 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).

Complainant's proposed values are speculative and are not based on an acceptable approach to value. Complainant therefore has not met her burden of proof in this appeal.

### **CONCLUSION AND ORDER**

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021 was \$30,200, with an assessed value of \$5,738.

### **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 April 21, 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 April 21, 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