



STATE TAX COMMISSION OF MISSOURI

RUTH GARDOCKI,) Appeal No. 21-10184
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) Parcel/Locator: 08D110884
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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

Ruth Gardocki (Complainant) appealed¹ 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 \$15,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.

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 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.

1. Subject Property. The subject property is located at 11931 Larimore, St. Louis, Missouri. The parcel/locator number is 08D110884.

The subject property consists of a small commercial building of 900 square feet in Spanish Lake. The building is located on a narrow lot and was constructed in 1956. One tenant was operating a daycare at the location but had to shut down operations due to a double homicide occurring in the building next door. The rent varied due to the Covid-19 pandemic, and the tenant is currently in arrears on rent.

2. Assessment and Valuation. Respondent classified the subject property as commercial and determined the TVM on January 1, 2019, was \$28,600. The BOE classified the subject property as commercial and independently determined the TVM on January 1, 2019, was \$15,000.

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

4. Complainant's Evidence.

Complainant offered the following Exhibits² which were admitted without objection.

Exhibit	Description
A	Decline of Spanish Lake
B	Spanish Lake Retail Study
C	Photographs of vandalism at subject property

² Many of the Exhibits had several subparts.

D	Bids for Repair
E	Total of All Repair Bids
F	St. Louis County BOE Value
G	Copy of County yearly values
H	Crime statistics
I	Local closed business
J	Spanish Lake Crime Breakdown
K	Spanish Lake Grade D
L	Spanish Lake “Spotcrime”
M	Spanish Lake Townhomes - Evictions
N	St. Louis County Council comment 06/14/2022 - Fraud
O	Forgery at Florissant license office
P	St. Louis City & County corruption
Q	St. Louis County employee indicted for pandemic relief kickback
R	St. Louis County Corruption
S	Polling worker refused to let people vote
T	Family Court corruption
U	31 Judges Recuse themselves

Complainant and her husband Patrick Gardocki testified for Complainant. Complainant testified that the property is worthless. Complainant and her husband testified as to rampant crime in the area, especially after Section 8 Housing was constructed in the neighborhood. The building is located near a grade school. Complainant testified that degenerate children often throw trash around the subject property and on the building's flat roof. The children also spray graffiti on the building. Drug use and other societal problems also pervade the area around the subject. Mr. Gardocki also testified to the condition issues with the property, particularly the roof which has leaked considerably and caused water damage internally. Complainant offered several Exhibits from various sources evidencing the crime in Spanish Lake area. Complainant had presented all of these issues to the BOE.

Complainant and her husband are not licensed appraisers in the state of Missouri, nor do 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 \$15,000.

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. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(c). "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.

The income approach "is most appropriate in valuing investment-type properties and is reliable when rental income, operating expenses and capitalization rates can reasonably be estimated from existing market conditions." *Snider*, 156 S.W.3d at 347. "The income approach determines value by estimating the present worth of what an owner will likely receive in the future as income from the property." *Id.* "The income approach is based on an evaluation of what a willing buyer would pay to realize the income stream that could be obtained from the property when devoted to its highest and best use." *Id.* (internal quotation omitted). "When applying the income approach to valuing business property for tax purposes, it is not proper to consider income derived from the business and personal property; only income derived from the land and improvements should be considered." *Id.*

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 of the subject property as of January 1, 2021. While the exhibits offered and Complainant's testimony conclusively establish that the area around the subject property is plagued by crime, neither Complainant's exhibits nor her and her husband's testimony utilized the comparable sales approach, income approach, or cost approach to support her proposed value of \$0. Last, Complainant did not offer an appraisal of the subject as evidence of the TVM of the property as of January 1, 2021.

Complainant's proposed value is speculative and is not based on an acceptable approach to value. Complainant therefore has not met her burden of proof. Therefore, the BOE decision is affirmed.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021 was \$15,000, with an assessed value of \$4,800.

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