



STATE TAX COMMISSION OF MISSOURI

DAVID ADDISON,) Appeal No. 21-18465
) Parcel/Locator: 22K120407
)
)
)
)
 Complainant(s),)
)
 v.)
)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST. LOUIS COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

David Addison (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 \$1,075,000. Complainant claims the property is overvalued and proposes a value of \$950,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.¹

Complainant appeared *pro se*. Respondent was represented by counsel, Tim Bowe. The evidentiary hearing was conducted on August 25, 2022, via WebEx.

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

FINDINGS OF FACT

1. Subject Property. The subject property is located at 236 Oakwood Ave., Webster Groves, Missouri. The parcel/locator number is 22K120407.

The subject property consists of a single-family English Tudor style home built in 1904 and remodeled in 2016. The house has over 4,000 square feet and includes six bedrooms and four bathrooms.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$1,122,500. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$1,075,000.

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

Exhibit	Description	Status
A	Complaint for Review and Complainant's arguments for appeal	Admitted

Complainant testified on behalf of Complainant. Complainant's opinion of value for the subject property as of January 1, 2021, is \$950,000. Complainant arrived at this proposed value by doing his own comparable sales analysis using data obtained from the St. Louis County online real estate database. Complainant found five recent comparable sales and calculated a price per square foot for each sale, ranging from \$171 to \$231 per square foot. Complainant asserted that Respondent's CDU rating (Condition, Desirability, and Utility) for the subject is Excellent when it should only be "Good" based on his comparison of other older homes in the area similar to the subject. Complainant mentioned

as well that a fire caused damage to a portion of his home and extensive restoration had to be performed. Because many of the original antique features were irreplaceable, Complainant argued that house lost a considerable amount of value. Last Complainant asserted that Respondent's increased percentage of assessment of the subject's improvement value from 2019 to 2021 was at a higher rate than other properties. Complainant stated that while the subject was increased at 77%, other similar properties in the same subdivision only saw an increase of 31%.

Complainant is not a licensed appraiser in the state of Missouri, nor does he have specialized education, training, and job experience in that specific field of work.

4. Respondent's Evidence. Respondent introduced the following Exhibits:

Exhibit	Description	Status
1	October 29, 2021 Board Decision Letter	Admitted
2	St. Louis County Real Estate Information for subject property (2022)	Admitted

5. Value. The TVM of the subject property on January 1, 2021, was \$1,075,000, with an assessed value of \$204,250.

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 \$950,000. Neither Complainant's exhibit nor his testimony utilized the comparable sales approach, income approach, or cost approach to support his proposed value, nor did he offer an appraisal of the property as evidence of the TVM of the property as of January 1, 2021.

Complainant testified his home is overvalued when recent sales of neighboring properties are compared on a price per square foot basis. However, comparing recently sold properties on a simple price per square foot basis is not an acceptable method used to find a TVM for a property. The comparable sales approach is the method used to determine the TVM of residential real 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 evidence does not make adjustments to comparable properties to find a proper TVM for the subject. Further, Complainant admitted he was not an appraiser that was qualified to form a professional opinion as to value based on the comparable sale methodology.

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, \$950,000. 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).

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property on January 1, 2021, was \$1,075,000, with an assessed value of \$204,250.

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