



STATE TAX COMMISSION OF MISSOURI

STACI C. ADAMS,) Appeal No. 21-32553
Complainant(s),) Parcel/locator No(s): A932000276
)
v.)
)
SCOTT SHIPMAN, ASSESSOR,)
ST. CHARLES COUNTY, MISSOURI,)
Respondent.)

DECISION AND ORDER

Staci C. Adams (Complainant) appeals the St. Charles County Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2021, was \$173,969.¹ Complainant alleges overvaluation and alleges that the TVM of the subject property on January 1, 2021, was \$159,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.

The evidentiary hearing was held on August 2, 2022, via Webex. Complainant appeared pro se. Respondent was represented by counsel Michael Mueth. The appeal was heard and decided by Senior Officer Benjamin C. Slawson.

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 10 Autumn Mist Ct, O'Fallon, Missouri, 63366, and its parcel number is A932000276.

The property consists of a split foyer single family home with 1,016 square feet of living space sitting on 0.16 acres. The home was built in 1993 and has two bedrooms and two bathrooms. Complainant purchased the property in 2004. Complainant has not made any significant improvements to the property in the last three years.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$173,969. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$173,969.

3. Complainant's Evidence. Complainant did not submit any exhibits.

Complainant's opinion of value is \$159,000 which Complainant testified was the TVM assigned to the property by Respondent in the previous assessment cycle in 2019.

Complainant testified that she feels her home is overvalued due to Respondent using comparable sales that were not similar to those used in the previous assessment cycle. Complainant stated that some of the comparables used in the 2021 assessment were more than a mile away from her home. Complainant did not specifically list or identify any of these comparables. Complainant also testified that she believes the comparables used by Respondent's appraiser at hearing, listed in Respondent's Exhibit 1, were not similar to the subject as only two were within a mile of her home and many had different floor plans or number of rooms. Last, Complainant testified that she did not feel the BOE accounted

properly for the aging features of her home, many of which such as the carpet in the bedrooms are original and have not been updated. During her testimony, Complainant also cited Section 137.750 and asserted that Respondent did not follow the protocol in that statute when assessing her home.

Complainant testified that she is not a licensed appraiser in the state of Missouri.

4. Respondent's Evidence. Respondent introduced Exhibit 1, the appraisal report of Thomas P. Babb. Complainant did not object. Exhibit 1 was admitted into evidence.

Exhibit 1 is an appraisal report prepared by Thomas Babb, a Supervisor of Residential Appraisal in Respondent's Office. Mr. Babb has worked there for 25 years and holds and maintains a General Certification in Real Estate Appraisal with the State of Missouri. Mr. Babb's job duties include conducting appraisals for Respondent for the purposes of obtaining a TVM for ad valorem tax assessment. Mr. Babb prepared an appraisal of the property for the valuation date of January 1, 2021.

As part of his appraisal, Mr. Babb visited the property and performed an exterior inspection of the home. Mr. Babb utilized the sales comparison approach to estimate the January 1, 2021, market value of the subject property. He examined five similar comparable properties with sales prices ranging between \$176,550 and \$185,400. Mr. Babb testified that all five properties were similar to the subject, but the first two comparable sales were in subject property's subdivision and were the best indicators of value. After making market-based adjustments Mr. Babb concluded the TVM of the subject as of the valuation date was \$177,000.

5. Value. The TVM of the subject property on January 1, 2021, was \$173,969,

with an assessed value of \$34,054.

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 his 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's testimony and other evidence alleges the subject property's value is \$159,000. Complainant's argument in support of this value is that, unlike the 2019 assessment, Respondent in the 2021 assessment did not use similar comparables to value her home. However, the comparables Respondent used for valuation are not in evidence, nor has Complainant offered any evidence proving 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 offer any comparable sale data for consideration. Last, while Complainant argued that her home is outdated and in need of some maintenance, Complainant provided no evidence providing a way to quantify the dollar amount effect of these issues on value or showing the BOE value does not account for these issues.

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 \$159,000 as of January 1, 2021. Complainant did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value. The lack of evidence relating to a recognized valuation method renders Complainant's proposed value speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Complainant did not produce substantial and persuasive evidence showing the BOE overvalued the subject property and "the value that should have been placed on the property." *Tibbs*, 599 S.W.3d at 7.

Although not required given Complainant's burden to prove value, Respondent presented testimony of Mr. Thomas Babb which persuasively supports the BOE's valuation of the subject property. Utilizing the sales comparison approach to estimate the market value of the subject, Mr. Babb examined five sales of comparable properties which occurred in 2019, 2020, and January of 2021. The comparable properties are similar to the subject property with respect to location, age, and living space square footage. Where the comparable properties differ from the subject property, Mr. Babb made market-based

adjustments based on proper appraisal methodology. Mr. Babb asserted that Comparables 1 and 2 were the most similar to the subject property in terms of location as they were in the subject's subdivision. Based on the comparison of these five properties with the subject and after making adjustments to their sales prices, Mr. Babb obtained a TVM of \$177,000 for the subject property as of January 1, 2021. Respondent produced persuasive and substantial evidence to affirm the BOE valuation of the subject.

5. Section 137.750

Complainant's allegation of the assessor's noncompliance with Section 137.750 is misplaced. That statute concerns state reimbursements to counties for costs and expenses of the assessor of each county for implementing assessment maintenance plans. *See* Section 137.750. Thus, it is inapplicable to the determination of value of the subject at issue here.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2021, was \$173,969, with an assessed value of \$33,054.

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. Charles 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 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