



STATE TAX COMMISSION OF MISSOURI

MARK NACHREINER,) Appeal No. 21-41500
) Parcel/Locator: 19-8-34-1-002-008.000
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 Complainant(s),)
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 v.)
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 MELISSA MAUPIN, ASSESSOR,)
 AUDRAIN COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Mark Nachreiner (Complainant) appeals the Audrain County Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2021, was \$198,970. Complainant claims the property is overvalued and proposes a value of \$153,680. 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, Travis Elliott. The evidentiary hearing was conducted on December 12, 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 1222 Omar Street, in Mexico, Missouri. The parcel/locator number is 19-8-34-1-002-008.000.

The subject property consists of a 15,000 square-foot lot with a single family home ranch style home constructed in 2020. Complainant had purchased the lot in 2006 for \$9,500. Complainant testified that the estimated total cost of the improvement was bid at around \$143,000. The house has nine total rooms including three bedrooms and two and half bathrooms. The home includes a detached garage. There is a dispute as to the gross living area of the home. Complainants testified that the heated living space square footage of the home is 1,808 square feet and that this figure is what should be used. Respondent produced a Property Record Card stating that the gross living area is 1,963 square feet. Respondent's appraiser witness used a gross living are of 2,046 to value the home based on his external measurements of the home and other information.²

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$202,420. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$198,970.

² Respondent's appraiser states the following in his report noting the difference:

"Calculations by the appraiser, utilizing the provided building sketch and interior room dimensions, indicate there to be 2,046 square feet, a difference of 83 square feet. However, the county records identify a garage space of 740 SF, while the appraisers' calculations suggest a garage space of 701 SF. Without access to the garage, the appraiser could not verify the interior dimensions of the south wall of the living area." Respondent's Exhibit 7, p. 31.

3. Complainant's Evidence. Complainant and his wife Evelyn Nachreiner testified for Complainant. On Complainant's Complaint for Review, Complainant proposed a value of \$190,391. At hearing testified that his revised opinion of value for the property as of January 1, 2021 was \$153,680. Mrs. Nachreiner testified that they calculated this value by using \$85 per square foot multiplied by calculated square footage of living area (1,808) and adding \$10,000 for the land value.³

Complainant offered the following Exhibits as evidence:

| Exhibit | Description | Respondent's Objections/Status |
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| A | Questions posed by Complainant | Form/Lack of Foundation. Sustained and not admitted |
| B | Three pages. Vacant lot tax receipts from 2006 and 2020; photograph of subject property with notes by Complainant using information from Audrain County Assessor's Records | No objection to page three which was admitted. Pages one and two were withdrawn. |

³ This math actually results in a calculated opinion of value of \$163,680, not \$153,680.

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| C | Diagram of floor plan of subject property ⁴ | Hearsay/Lack of foundation. Sustained and not admitted. |
| D | Notice of Change in Value, Notes on Comparable Properties, BOE Decision, Corrected BOE Decision, 2021 Payment Receipt | Not admitted. |
| E | Four pages. Complainant notes (price per square foot comparison) on other properties and photographs of other properties | Hearsay/Lack of foundation. Admitted subject to objections. |
| F | Complainant notes on site/location comparison and pictures of neighborhood | Relevance. Admitted subject to the objection. |
| G | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |

⁴ During the hearing Complainant attempted to call a witness, Jared Derenzy, to testify as to the interior measurements of home. Respondent objected to this as prejudicial due to the fact that her appraiser was not allowed interior entry into the home because of the Nachreiners' Covid-19 concerns and based on the STC's September 19, 2022, Order Overruling Respondent's Motion to Dismiss and Rescheduling Hearing. The objections were sustained pursuant to that Order and the witness was not allowed to testify.

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| H | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| I | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| J | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| K | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| L | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| M | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |
| N | Complainant notes on site/location comparison and pictures of neighborhood | Relevance and lack of foundation. Admitted subject to the objection. |

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| | Complainant notes on Respondent's comparable properties | |
| O | Taxes, site values, lot sizes, square footage, etc. for Omar street (our block) | Relevance and lack of foundation. Admitted subject to the objection. |
| P | 2021 Taxes Paid – “Our” Block | Relevance and lack of foundation. Admitted subject to the objection. |
| Q | 2021 Taxes Paid – South Block | Relevance and lack of foundation. Admitted subject to the objection. |
| R | Letter from Jared Derenzy of La Crosse Lumber Company concerning interior measurement | Hearsay/Lack of foundation. Sustained and not admitted. |
| S | Comparative information for 1222 Omar compiled by Complainant | Respondent objected to Complainant stating that the Exhibit contained County figures. Admitted subject to objection. |
| T | Comparative information for 1441 Westwood compiled by Complainant | Respondent objected to Complainant stating that the Exhibit contained County figures. Admitted subject to objection. |

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| Z | Complainant's Notes on Respondent's Comparables | Admitted |
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Complainant and Mrs. Nachreiner testified that they believe the subject property is overvalued based on examining Respondent's assessment of other homes in their area based on a price per square foot basis. Complainant's Exhibits contain their observations and notes concerning these other properties and how they perceive they were assessed compared with how Respondent assessed the subject. The Nachreiners also argued during their testimony that the assessed land value of the subject is not consistent with the assessment of land values of other homes in their area, and they highlighted the neighborhood conditions in the subject property's area that they believe negatively affect value. Neither Complainant nor Mrs. Nachreiner are licensed appraisers in the State of Missouri.

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

| Exhibit | Description | Status |
|----------------|--|---------------|
| 1 | 2019 Building Permit from City of Mexico for subject property | Admitted |
| 2 | Nachreiner BOE Packet | Admitted |
| 3 | Nachreiner Sales Comparables | |
| 4 | Property Card Worksheet from Assessor's website | Admitted |

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| 5 | Copy of Assessor's internal Property Record | Admitted |
| 6 | Complainant's Complaint for Review with the STC | Admitted |
| 7 | Appraisal of Garrett Roland | Admitted |

Respondent testified for Respondent. Respondent has been the assessor of Audrain County for over 13 years. Respondent testified as to the foundation for the Exhibits offered. She also noted that the BOE's reduction in value from her assessment of the subject property was due to her office incorrectly originally assessing the area attributed to the attached garage compared to the base area of the home. Respondent also testified that her assessment of homes in the County are based on market value, not price per square foot. She testified that price per square foot information of the subject is provided to the BOE simply for their informational purposes. Respondent testified that the Nachreiners did not provide her with "as built" blueprints of the subject property. Respondent also testified that the amount of tax paid by a property owner in Audrain County is due to particular tax levies set by taxing entities and is not determined directly by her office.

Garrett R. Roland, a state certified general real estate appraiser, also testified for Respondent. Mr. Roland testified he prepared Exhibit 7. Mr. Roland performed a fee simple valuation of the subject with a valuation date of January 1, 2021. Mr. Roland testified he conducted an exterior inspection of the subject as part of the appraisal. Mr. Roland noted that he would have liked to perform an interior inspection as well for measurement purposes, but was not allowed access into the home by the Nachreiners. Mr. Roland

performed both a cost approach and sales comparison approach for the property. The cost approach lead to a TVM of \$240,000 and the sales comparison approach to a TVM of \$220,000. Mr. Roland testified that he gave more weight to the sales comparison approach and used it in his final value because the data was more reliable and construction prices were inflated at that time due to the Covid-19 pandemic.

For the sales comparison approach, Mr. Roland chose four comparable sales and made market-based adjustments to those properties to account for the similarities and differences between the subject property and the comparables. Mr. Roland used comparables in the Mexico School District that sold around the time of the valuation date and were similar to the subject property in size, location, age, and type. Using these comparables and performing adjustments as per Uniform Standards of Professional Appraisal Practice (USPAP) guidelines, Mr. Roland determined a TVM of \$220,000 for the subject as of January 1, 2021.

5. Value. The TVM of the subject property on January 1, 2021, was \$198,970, with an assessed value of \$37,804.

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 did not establish that the BOE valuation was erroneous. Complainant testified his home is overvalued when the assessment of neighboring properties are compared on a price per square foot basis. Although reasonable to assume that two similar properties should be valued similarly for tax purposes, comparative assessment is not the method used to find a TVM for a property. 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 alleged TVM does not come from an appraisal utilizing the sales comparison approach. While a property owner's opinion of value is generally admissible, the opinion "is without 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 testimony and exhibits regarding comparative assessment valuation are based on improper elements and therefore are not substantial and persuasive evidence that the BOE's valuation is erroneous. Further, Complainant testified as to conditions in their location which negatively affect the value of their home, but offered no evidence quantifying adverse value due to such conditions. Last, while Complainant did identify comparable sales to the BOE that he believes are better to determine value (listed in Respondent's Exhibit 2), no evidence of an appraiser was offered to account for any needed market-based adjustments that would need to be made to sale prices to determine value of the subject.

Respondent, although not required to, presented persuasive evidence in support of the BOE's valuation. Exhibit 7 and Mr. Roland's testimony that he selected three comparable sales and adjusted the sales prices based on similarities and differences to the subject property persuasively support the TVM of \$198,970 determined by the BOE. Mr. Roland's opinion of value as of January 1, 2021, was \$220,000. However, his opinion was not used to advocate an increase in the assessed value of the subject property but was used to support Respondent's argument that the BOE's valuation should be affirmed. Exhibit 7 is persuasive evidence for sustaining the value assigned by the BOE.

CONCLUSION AND ORDER

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2022, was \$198,970, with an assessed value of \$37,804.

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 Audrain 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.

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