



STATE TAX COMMISSION OF MISSOURI

STEVEN A. MILLER.,) Appeal No. 21-10112 & 21-10113
)
) Parcel/Locator: 20J620496 & 19J320426
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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

Steven A. Miller (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) on each of the subject parcels on the grounds of overvaluation.¹ The assessments made by the BOE are AFFIRMED. Complainant failed to present substantial and persuasive evidence to rebut the presumption of correct assessment by the BOE as to each of the subject properties.

The evidentiary hearing for these appeals was held on October 6, 2022, via Webex. Complainant appeared pro se. Respondent was represented by counsel, Tim Bowe. The

¹ Complainant timely filed a complaint for review of assessment for each of these respective appeals. 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.

appeals were heard and decided by Senior Hearing Officer Benjamin C. Slawson. For efficiency, the appeals have been consolidated in this Decision and Order.

FINDINGS OF FACT

1. Subject Properties. The subject properties are described as follows:

Appeal No.	Parcel No.	Address	Description
21-10112	20J620496	7151 Wise Ave, Richmond Heights, Missouri	The subject is a 1.5 story single family Dutch colonial single family home built in the 1920s on a 4,440 square foot lot. The home has a total of around 1,100 square feet of living space with three bedrooms and one bathroom.
21-10113	19J320426	6434 San Bonita, Saint Louis, Missouri	The subject is a two story two family brick home built in the 1920s that Complainant is renting to tenants. Each unit has two bedrooms and one bathroom and about 1,000 square feet of living space and a detached garage. Complainant is currently receiving about \$1,350 of rent per month per unit.

2. Assessment and Valuation. Respondent and the BOE classified the properties as residential and determined each respective subject property's value as of January 1, 2021 as is set forth in the table, below:

Appeal No.	Parcel No.	Respondent's Appraised Value	BOE Appraised Value
21-10112	20J620496	\$300,800	\$260,000
21-10113	19J320426	\$467,200	\$435,000

3. Complainant's Proposed Values.

Appeal No.	Parcel No.	Complainant's Proposed TVM
21-10112	20J620496	\$210,000
21-10113	19J320426	Between \$380,000 and \$400,000 ²

4. Complainant's Evidence. Complainant submitted the following exhibits for the two appeals, all of which were admitted without objection.

Appeal	Exhibit	Description
21-10112	A	Photographs of subject property showing condition issues; information on 1123 Blendon Place
21-10113	A	Rental records, income information, arguments for appeal
21-10113	B	Valuation estimates for the subject property from apartmentpropertyvaluation.com

² Complainant's Complaint for Review stated \$360,000 but at the hearing Complainant revised his opinion of value (Tr. at 30:19).

Complainant and his wife Sarah Dashner testified for Complainant for both appeals. Neither are licensed appraisers in the State of Missouri.

For Appeal No 21-10112, Ms. Dashner testified that she and Complainant live in the subject property. She and Complainant believe Respondent overvalued the subject due to using comparable sales in his valuation that were improved, renovated, and updated. Complainant testified that his property is more similar to 1123 Blendon Place which is listed on Exhibit A. According to Complainant, that property was sold recently. Complainant and Ms. Dashner testified that they would have to sell their property advertising it in an “as is” condition. Complainant submitted Exhibit A showing fire damage which was not disclosed when he and his wife purchased it. In addition, other condition issues include a deteriorating soffit, rust developing on the garage access door, aging fence, roof damage with interior water damage, and a missing chimney cap. Complainant did not obtain any bids or estimates to repair these issues.

For Appeal No 21-10113, Complainant said that for three years the property had a negative cash flow due to the COVID-19 pandemic. Complainant testified that Respondent’s gross rent multiplier (GRM) does not support his assessment, and therefore the property has been overvalued. Complainant and Ms. Dashner testified that Respondent had agreed to a valuation of \$360,000 for 2019 and 2020, they received a refund, and then four months later received the 2021 assessment which was an upward adjustment in value of over \$100,000. Complainant believes this increase is unfair. Complainant testified that in his opinion the property was worth between \$380,000 and \$400,000 as of January 1, 2021.

Complainant offered Exhibit A which includes a rent history report and income expenses from their income tax return. Complainant and his wife testified that the property needs extensive repairs, especially in the unfinished basement which has water issues. Ms. Dashner also stated that their property and the one next door are unique in that there is only a narrow gangway in between them compared to neighboring homes where that are spaced further apart. Complainant and Ms. Dashner believe this factor greatly reduces value and makes it difficult to attract tenants. Complainant also submitted Exhibit B, a Valuation Estimate for the subject from apartmentpropertyvaluation.com they obtained after inputting various data, including gross potential rent, net operating income, capitalization rate, etc. The estimate generated by this source using a GRM was \$288,000 which Complainant admitted was a little low given the location of their property.

Complainant testified that all the evidence he submitted in both appeals was also submitted to the BOE.

4. Respondent's Evidence. Respondent introduced Exhibit 1 for each respective appeal, a copy of the BOE decision letter dated October 29, 2021 stating the BOE TVM for the respective subject property as of January 1, 2021. The Exhibits were admitted without any legal objection.

5. Value. The TVM of the subject properties on January 1, 2021 were as follows:

Appeal No.	Parcel No.	TVM
21-10112	20J620496	\$260,000
21-10113	19J320426	\$435,000

CONCLUSIONS OF LAW

1. Assessment and Valuation.

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). The TVM is "the fair market value of the property on the valuation date[.]" *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). "True value in money is defined in terms of value in exchange not value in use." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 7 (Mo. App. S.D. 2020) (internal quotation omitted). "Determining the true value in money is an issue of fact for the STC." *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008).

"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).

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 for each respective appeal, nor did Complainant produce substantial and persuasive evidence establishing his proposed opinions of value as to the TVM for any of the subject properties as of January 1, 2021. Neither Complainant’s exhibits nor his and Ms. Dashner’s testimony

utilized the comparable sales approach, income approach, or cost approach to support his proposed values, nor did they offer an appraisal of either of the two properties as evidence of the TVM of those properties as of January 1, 2021.

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 for each property. 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).

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 failed to offer any comparable sales for consideration in either appeal.

For Appeal NO. 21-10112, Complainant took issue with the comparable sales used by Respondent in his assessment. However, Complainant offers no evidence showing 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. Further, Complainant did not offer any alternative comparable sales. Concerning the condition issues with the subject property that

Complainant testified about and which are evidenced in Complainant's Exhibit A, 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. The fact that the BOE lowered Respondent's assessed value of \$300,800 to \$260,000 suggests that the BOE did take condition issues such as these into account.

For Appeal No. 21-10113, Complainant estimates the property was worth between \$280,000 and \$300,000 on January 1, 2021 based on rental income and its condition, but no acceptable approach to value was used to determine an exact value. Complainant did not prove with substantial and persuasive evidence that an income approach to value should be used due to a lack of comparable sales, nor did he develop such an approach using appraisal methodologies. The value of \$288,000 determined from using apartmentpropertyvaluation.com is not credible evidence as to value, especially given, and as Complainant admitted during the hearing, such a valuation does not take into account specific market conditions of the St. Louis County area.

Complainant's opinions of value are speculative and Complainant has not met his burden of proof in either of these appeals.

CONCLUSION AND ORDER

The BOE decisions are affirmed. The TVM of the subject properties as of January 1, 2021, with assessed values, are as follows:

Appeal No.	Parcel No.	TVM	Assessed Value
21-10112	20J620496	\$260,000	\$49,400

21-10113	19J320426	\$435,000	\$82,650
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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 July 14, 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 July 14, 2023, to:

Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Stacy M. Ingle
Legal Assistant