



STATE TAX COMMISSION OF MISSOURI

FORUM REAL ESTATE LC,) Appeal No. 21-15994
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) Parcel/Locator: 19J320240
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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

Forum Real Estate, LC (Complainant) appeals¹ 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 \$400,000. Complainant claims the property is overvalued and proposes a value of \$350,000. Complainant did produce substantial and persuasive evidence establishing overvaluation, but not that the TVM was 350,000. The BOE's decision is set aside. The TVM of the subject property as of January 1, 2021 was \$395,000.

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.

Complainant appeared through counsel Ronald James Miller. Respondent was represented by counsel Tim Bowe. The evidentiary hearing was conducted on January 19, 2023, via WebEx. The appeal was heard and decided by Senior Hearing Officer Benjamin C. Slawson.

FINDINGS OF FACT

1. Subject Property. The subject property is located at 6455 Alamo Ave. in St. Louis, Missouri. The parcel/locator number is 19J320240.

The subject property is a two story, four family, brick improvement built in 1920 with a gross living area of 2,362 square feet of living space. The subject is located in the Hi Point neighborhood of Saint Louis. Each of the four units contains a bedroom and bathroom.

2. Respondent and BOE. Respondent classified the subject property as residential and determined the TVM on January 1, 2021, was \$502,400. The BOE classified the subject property as residential and independently determined the TVM on January 1, 2021, was \$400,000.

3. Complainant's Evidence. Complainant offered the following Exhibits:

Exhibit	Description
A	Appraisal of the subject by Tom Hubbard of Hubbard Appraisals
B	Board Decision Letter of October 29, 2021

Complainant offered Exhibit A, an appraisal report of Tom Hubbard for the subject property. Complainant did not call Mr. Hubbard nor anyone else as a witness at the

hearing. Exhibit A was admitted without objection.² Mr. Hubbard performed an appraisal of the subject with a valuation date of December 31, 2020. Using the sales comparison approach of three similar rental properties and making appropriate market based adjustments, Mr. Hubbard determined a TVM of \$385,000. Under the income approach, Mr. Hubbard employed a total gross monthly rent of \$3,060 and a gross rent multiplier (GRM) of 140 based on a number of sales in the neighborhood. Using these figures, Mr. Hubbard determined a value of \$428,400 based on the income approach. Mr. Hubbard noted in his report that the cost approach was not appropriate in determining the TVM and that the sales comparison approach “has the most weight with the income approach being considered.” (Exhibit A, p. 3) Mr. Hubbard’s final estimate of value for the subject in “as is” condition is \$395,000. (Exhibit A, p. 4) In the report, he notes that this appraisal amount is “based on a complete visual inspection of the interior and exterior areas of the subject property, defined scope of work, statement of assumptions and limiting conditions, and appraiser’s certification.” (Exhibit A, p. 4) In other words, and is indicated on pp. 4-5 of the report, the amount takes into consideration the property’s condition at the end of 2020.

Id.

At the evidentiary hearing, Complainant’s counsel summarized Complainant’s argument for a lower value. Complainant argues that the property’s below average condition and needed repairs warrant the lower value of \$350,000. Complainant’s counsel

² Where no objection is made, an administrative agency may consider hearsay evidence. *Clark v. FAB Bearings Corp.*, 134 S.W.3d 730, 736 (Mo. App., D.S. 2004) (citing *Dorman v. State Bd. of Regis’n for the Healing Arts*, 62 S.W.3d 446 (Mo. App., W.D. 2001)). See also Section 536.070(8).

also noted that the appraisal report had not been submitted to the BOE, and that the BOE therefore did not consider the appraisal in determining its value of \$400,000.

4. Respondent's Evidence. Respondent submitted Exhibit A, a copy of the October 29, 2021 Board Decision letter for the subject property. Exhibit 1 was admitted without objection.

Respondent stipulated on the record that Respondent agrees with Complainant's appraiser Mr. Hubbard's valuation of \$395,000 for the subject as the TVM as of January 1, 2021.

5. Value. The TVM of the subject property on January 1, 2021, was \$395,000, with an assessed value of \$75,050.

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 Prove Overvaluation, but Did Not Prove a TVM of \$350,000

Complainant proved overvaluation with substantial and persuasive evidence, but did not prove that its appraiser’s valuation should be reduced to \$350,000. The comparable sales approach is the method used to determine the TVM of the subject 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 appraiser Mr. Hubbard utilized the sales comparison approach and concluded that the TVM of the subject as of December 31, 2020 was \$395,000. (Exhibit A) Although Mr. Hubbard did not testify, the Senior Hearing Officer found his report to be credible based on his stated credentials in his report and the appraisal methodology he used. Hubbard’s appraisal report credibly established a TVM for January 1, 2021 given that three sales of similar properties were examined and appropriate adjustments were made to those sale prices to reflect a TVM for the subject one day before the valuation date. While Complainant argues for a lower value than that found by its appraiser, Complainant offers no additional evidence to establish why it’s appraiser’s conclusions as to final value are incorrect, especially given that Mr. Hubbard stated that he factored in the current condition of the subject in determining his value of \$395,000. (Exhibit A, pp. 4-5) Respondent stipulated on the record that he agreed with a valuation of \$395,000 for the subject as of January 1, 2021.

Complainant's proposed value of \$350,000 is not based on credible evidence. 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).

CONCLUSION AND ORDER

The BOE decision is set aside. The TVM of the subject property as of January 1, 2021, was \$395,000, with an assessed value of \$75,050.

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.

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