



STATE TAX COMMISSION OF MISSOURI

EDGAR G. SANDOVAL)
)
 Complainant(s),)
) Appeal No. 22-20004
 v.)
)
 MICHAEL DAUPHIN, ASSESSOR,)
 ST. LOUIS, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Edgar G. Sandoval (Complainant) appealed¹ valuation of the subject residential property determined by Michael Dauphin, Assessor, St. Louis, Missouri (Respondent). Complainant formally appealed on the basis of overvaluation. An evidentiary hearing was held via Webex on September 6, 2023. Complainant appeared *pro se*. Respondent appeared by counsel Nicholas Morrow.

Findings of Fact

1. Subject Property. Complainant purchased the subject property in August, 2021 for \$550,000. The property is located at 5130 Washington Place, St. Louis, Missouri 63108, parcel ID 5051-9-310.000. It had been listed for sale on the open market. He did

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.

not inspect the property before purchasing it. He believes that he probably overpaid for the property. The property consists of a 10,850 square foot lot improved by a 2.5 story brick, single-family home built in 1900 and having 4,741 square feet of living area. The house contains 12 rooms, 7 bedrooms, and 3.5 baths. The home is equipped with central heating and cooling and a 3 car detached garage. The houses surrounding the subject are of similar age and quality.

2. Respondent and BOE. Following a hearing on August 17, 2022, the St. Louis Board of Equalization (BOE) affirmed Respondent’s original assessment at \$97,960, implying a true value in money (TVM) of \$515,579 as of January 1, 2021. In his Complaint for Review of Assessment, Complainant proposed a value of \$143,500.

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

Exhibit	Description	Status
Not marked	Tax Assessment – Appeal (Edgar Sandoval 5130 Washington PL) Appeal #22-20004	Admitted
Not marked	Tax Assessment – Appeal (Edgar Sandoval 5130 Washington PL) Appeal #22-20004 DATA FILE	Admitted
A	Addendum to City’s Exhibit	Admitted – leave to submit after the hearing granted

Complainant is an economist by training and by occupation. In his exhibits, Complainant stated that “[t]his appeal-complaint was filed on the basis of **unequal taxation** to ‘comparable properties’ in my street.” (emphasis in the original) Complainant did not indicate discrimination as grounds for his appeal. Consequently, Respondent was not put on notice that Complainant may have a claim for discrimination, nor has this agency

evaluated Complainant's evidence on the basis of discrimination. However, Complainant's evidence has been evaluated for the purpose of determining whether Respondent overvalued the property. None of Complainant's proposed exhibits were excluded from evidence.

Complainant studied data pertaining to other properties and reached several conclusions. He concluded that "the taxation trends on properties on the same street that the city has been using is a deeply flawed model", that the taxation model "markedly favors some properties over others in the exact same area" (especially properties having more recent sales histories), and that the model "does not seem to reflect 'areas' or 'overall market trends' equally."

Complainant noted that with respect to homes on Complainant's street, from 2019 to 2022, "the city's increases in property taxes (values) were primarily around 1%. In two cases the hikes were higher at 8%. The increase on my property's tax was close to 40% (37%)."

Complainant objected to Respondent's use of properties located on Westminster Place for comparison purposes. According to Complainant, properties located on Westminster Place, in general, are more desirable and sell for more money than properties located on Washington Place. Complainant cited the following properties and appraised values for comparison purposes:

Address	Value
5164 Washington Pl	\$143,500
5148 Washington Pl	\$148,656
5109 Washington Pl	\$215,480
5057 Washington Pl	\$177,142

5210 Washington Pl	\$260,032
5037 Washington Pl	\$200,753
5043 Washington Pl	\$ 89,007

Complainant noted further that 5116 Washington Place sold for \$450,000 in 2020.

Complainant believes that the property at 5164 Washington Place is the property most appropriate for comparison purposes. Like the subject property, it was built in 1900, is a 3 story brick home, and contains the same number of bedrooms and bathrooms. It and the subject property were designed by the same architect. The property tax on 5164 Washington Place in 2021 was \$2,476.29 (compared to the subject property's new tax of \$8,822.82) even though 5164 Washington Place is more than 2,000 square feet larger than the subject property.

Complainant testified that the subject property had been unoccupied for two years when he bought it and that it was a "fixer-upper" in that it needed and still needs a lot of work. He included within his exhibits a letter from the City of St. Louis Department of Public Safety dated June 9, 2022 stating, in part, that "[s]aid premises [located at 5130 Washington Place] are CONDEMNED FOR OCCUPANCY as the inspection revealed that you are in violation of one or more ordinances of the City of Saint Louis as more specifically stated on the attached." (Emphasis in the original) An inspection report by R. Heyl & Associates, LLC noted 54 repair items. Among the repair items were damaged soffit and wood fascia, tuck-pointing, leaning/sagging wood porch, impermissible wiring/lighting in the detached garage, pest control, cracked rafters in the attic, rust and corrosion in the main electric panel, plumbing deficiencies, moisture control in the basement, and probable mold in the house. The external garage requires extensive repairs.

Complainant’s proposed value in his Complaint for Review of Assessment notwithstanding, Complainant proposed a value at the hearing in the “400k-425k range.” He also asks that the City fix the current valuation inequalities which he believes to exist currently.

Respondent submitted the following exhibits:

Exhibit	Description	Status
1	22-20004 Respondent’s Appraisal Report	Admitted
1-A	STC 22-20004 Appraisal replacement pages with pg 9	Admitted
2	22-20004, Property Inspection Report	Admitted
3	22-20004, KCB Masonry bid and water backup picture	Admitted
4	22-20004, Plumbing bid from 2023	Admitted

4. Respondent’s Evidence. Antikan Mason has worked for the City of St. Louis as a Real Property Appraiser since 2014. After conducting an exterior inspection of the property, he prepared Respondent’s Appraisal Report. (Exs. 1 and 1-A)

Mr. Mason used the following properties and sales prices for comparison purposes:

Address	Sale Date	Adjusted sale price
5130 Washington Pl	08/23/2021	\$550,000 (subject property)
5116 Washington Pl	09/3/2020	\$480,360
5296 Westminster Pl	12/28/2020	\$582,250
5221 Westminster Pl	06/12/2020	\$592,650

Using the sales comparison approach to valuation, Mr. Mason made adjustments for condition, rooms/bedrooms, living area, heating/cooling, garage/carport, porches, fireplaces, pool, and front feet. He considers all of the properties to be in average condition except for 5116 Washington Place, which he considers to be in good condition. According to Mr. Mason, the indicated value of the subject property as of January 1, 2021 using the sales comparison approach is \$485,500.

5. Value. The TVM of the subject property on January 1, 2021 was \$485,500, with an assessed value of \$92,245.

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. Hearing Officer as Finder of Fact. 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 cited comparable sales but the comparable sales were not adjusted for differences and do not provide a true and accurate method for finding the TVM of the subject 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 opinion of the subject property's TVM is not based upon 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). Complainants' testimony and exhibits regarding valuation are based on improper elements and therefore are not substantial and persuasive evidence that the BOE's valuation is erroneous.

Complainant presented evidence that the property requires a number of repairs. The physical condition of property is a proper basis for adjustment using the sales comparison approach, but Complainant did not submit any evidence by which the physical condition of the subject property might be compared to the physical condition of comparable properties.²

Respondent presented persuasive evidence as to the subject property's TVM. Mr. Mason selected three comparable sales and adjusted the sales prices based on similarities and differences to the subject property. Mr. Mason's opinion of value, \$485,500, is supported by the adjusted sales prices of recent comparable property sales near the subject

² For comparison purposes, the condition of properties is typically categorized as poor, fair, average, good, or excellent.

property and is reasonably close to Complainant's own valuation opinion of \$400,000 to \$425,000. Respondent's evidence substantially and persuasively rebuts the BOE's determination as to valuation.

CONCLUSION AND ORDER

The BOE decision is set aside. The TVM of the subject property as of January 1, 2021 was \$485,500, with an assessed value of \$92,245.

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, 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 September 22, 2023.
STATE TAX COMMISSION OF MISSOURI

Gregory Allsberry
Senior Hearing Officer

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on September 22, 2023, to:

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

Stacy M. Ingle
Legal Assistant