



STATE TAX COMMISSION OF MISSOURI

DEEDLE, LLC,) Appeal No. 21-15883 through 21-15891
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) Parcel/Locator: Appendix A
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) Complainant,)
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)
) v.)
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)
) JAKE ZIMMERMAN, ASSESSOR,)
) ST. LOUIS COUNTY, MISSOURI,)
) Respondent.)

DECISION AND ORDER

Deedle, LLC (Complainant) appealed assessments made by the Board of Equalization of St. Louis County (BOE) alleging overvaluation for nine respective subject properties.¹ 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 assessments made by the BOE are therefore AFFIRMED.

The evidentiary hearing for all of these appeals was held on November 17, 2022, via Webex. Complainant was represented at hearing by counsel James Guest. Respondent

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 appeals. Mo. Const. art. X, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

was represented by counsel, Tim Bowe. For efficiency, the appeals have been consolidated in this Decision and Order.

FINDINGS OF FACT

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

Appeal No.	Parcel No.	Address
21-15883	19J133536	7519 Oxford Dr. 1A
21-15884	19J133547	7519 Oxford Dr. 1B
21-15885	19J133558	7519 Oxford Dr. 1C
21-15886	19J133569	7519 Oxford Dr. 2A
21-15887	19J133570	7519 Oxford Dr. 2B
21-15888	19J133581	7519 Oxford Dr. 2C
21-15889	19J133592	7519 Oxford Dr. 3A
21-15890	19J133602	7519 Oxford Dr. 3B
21-15891	19J133613	7519 Oxford Dr. 3C

The nine subject properties are all part of the same three story apartment-style condominium building located in Clayton, Missouri. Complainant is renting the subject properties to tenants.

2. Assessment and Valuation. Respondent and the BOE determined that each respective subject property’s value as of January 1, 2021 was as follows:

Appeal No.	Parcel No.	Respondent’s Valuation	BOE Valuation
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21-15883	19J133536	\$222,300	\$193,200
21-15884	19J133547	\$168,200	\$162,000
21-15885	19J133558	\$229,200	\$199,500
21-15886	19J133569	\$222,300	\$193,200
21-15887	19J133570	\$168,200	\$162,000
21-15888	19J133581	\$229,200	\$199,500
21-15889	19J133592	\$222,300	\$193,200
21-15890	19J133602	\$168,200	\$162,000
21-15891	19J133613	\$229,200	\$199,500

3. Complainant's Proposed Values. Complainant's opinions of TVM for the respective subject properties based on the appraisals of Leah Jensen are as follows:

Appeal No.	Parcel No.	Complainant's Proposed TVM
21-15883	19J133536	\$135,000
21-15884	19J133547	\$135,000
21-15885	19J133558	\$134,000
21-15886	19J133569	\$135,000
21-15887	19J133570	\$135,000
21-15888	19J133581	\$134,000
21-15889	19J133592	\$135,000
21-15890	19J133602	\$135,000

21-15891	19J133613	\$134,000
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4. Complainant's Evidence. Complainant submitted an appraisal report of Leah Jensen for each of the nine appeals. Complainant submitted two additional documents which were not labeled. The first (file name "2022-10-28 15-40") is a five-page document with the first page entitled "Oxford Condominium Tax Appeal." The exhibit includes a summary of Complainant's arguments for overvaluation for the nine appeals and the first page of 2021 lease agreements between Complainant and its tenants for three of the properties under appeal. The second document (file name "2022-10-28 16-06") is a one-page document containing handwritten notes concerning the value based on income for Appeal No. 21-15889.

Newt Gorman testified on behalf of Complainant for all nine appeals. Mr. Gorman is a licensed real estate broker in Missouri but is not a licensed appraiser. Mr. Gorman was contacted by a representative of Complainant to look into Respondent's 2021 assessment for the subject properties.

Mr. Gorman testified that he visited and visually inspected the subjects at the request of Complainant. He observed that the properties were not renovated or in great condition like owner-occupied properties typically are. Mr. Gorman stated that in his estimation the properties were simply maintained just enough to be habitable to rent them to tenants. Complainant testified that in his opinion Respondent overvalued the subject properties based on a cursory comparative analysis he performed based on his own knowledge of the subject's neighborhood and surrounding area.

As to the comparables used by Respondent, Mr. Gorman asserted that Respondent did not take into account the subpar condition that each property is in compared to other comparable properties. Mr. Gorman stated that many of Respondent's comparables had updated kitchens or renovated bathrooms. Mr. Gorman also examined the rental income generated from the subjects, some of which is identified in Complainant's exhibits. He concluded that based on those rents he did not believe Respondent's assessments are supported. After performing his review, Mr. Gorman testified that he contacted and hired Complainant's appraiser Leah Jensen who then performed appraisals at his request. Mr. Gorman did not recall whether or not he told Ms. Jensen whether the purpose of the appraisals was for tax appeal purposes. He testified that her findings of value confirmed his opinion that the properties had been overvalued. He testified that he agreed with her conclusions.

Ms. Leah Jensen also testified for Complainant. Ms. Jensen is a real estate agent and licensed appraiser in Missouri. Ms. Jensen testified that she has been a residential appraiser for 26 years and typically performs between 400 and 700 appraisals per year. After being contacted by Mr. Gorman, Ms. Jensen began doing research regarding the subject properties, the neighborhood and surrounding area, and any potential comparable sales. Ms. Jensen testified that she performed interior and exterior inspections of the subject properties to observe the condition of the properties. Ms. Jensen also noted that whether or not a property has been renovated or updated would affect the appraised value of the properties.

Ms. Jensen completed an appraisal for each subject property using the comparable sales approach. She noted in her appraisal reports that “[t]he Income Approach to value was not used due to the lack of available rental data in this area. Typically in this location residential dwellings are not purchased for investment properties.”²

For each property, Ms. Jensen found four comparable sales close in proximity and type to the subjects and then made market based value adjustments for square footage differences between them and the subject. Using this method, she obtained an opinion of fair market value for each subject property as of November 22, 2021. She testified that she was unaware that the appraisals were to be used for tax appeal purposes. She noted that if she had known that, she would have performed a retro appraisal with a valuation date on the assessment date as opposed to market value appraisals. She testified neither Mr. Gorman nor anyone else suggested values or influenced her conclusions as to value in any way.

On cross examination, Ms. Jensen testified that she did not make market based adjustments to the comparables for bedroom count. She testified that typically she either makes adjustments for room count or square footage but to do both would be in her opinion “double dipping.” She testified that in these appraisals she only made square footage adjustments which she has found to be a better indicator of value than bedroom count. Ms. Jensen did not find a significant difference of value for comparables located in alternative school districts because at the time she did not determine which school district a property

²21-15883 Deedle Inc Appraisal, p. 5.

was located in to be a significant factor affecting value. Ms. Jensen also did not make market based adjustments to comparables for the style of the property. For example, the subject in Appeal No. 21-15883 (Parcel Id: 19J133536) is a garden style multi-family property and Ms. Jensen made no adjustment for the style of comparable No. 4, a townhouse multi-family property. 21-15883 Deedle Inc Appraisal, p. 6. Ms. Jensen testified that in her opinion no adjustment needs to be made between styles of condominium units because style is largely based on buyer preference which varies widely and cannot be quantified.

Ms. Jensen testified that she reviewed Respondent's appraisals completed by Mr. Zahner. In her opinion, she believed the higher values in Mr. Zahner's appraisals for the properties were due to him not making appropriate adjustments for interior conditions, and that the comparables he used had renovated features and updates which were not present in the subject properties.

5. Respondent's Evidence. Respondent introduced the Written Direct Testimony (WDT) of Steve Zahner. Respondent also offered Exhibit 1 for each respective appeal which is comprised of a copy of the BOE decision letter dated October 29, 2021 stating the BOE's TVM for the respective subject property as of January 1, 2021. Respondent also introduced Exhibit 2 for each respective appeal which is comprised of Mr. Zahner's appraisal report for each respective property. The Exhibits were admitted without any legal objection.

Steven Zahner, a Senior Residential Appraiser for the St. Louis County Assessor's Office with over 40 years of total appraisal experience, testified on behalf of

Respondent. Mr. Zahner possesses a B.S. in Finance in with an emphasis in real estate. Mr. Zahner has also been a certified appraiser in Missouri for over thirty years. As of the date of the hearing, Mr. Zahner had worked for St. Louis County for a little under five years. Mr. Zahner’s job responsibilities include valuing residential property for ad valorem tax purposes and preparing appraisal reports for Respondent.

Mr. Zahner performed an appraisal for each of the nine subject properties (Exhibit 2 for each appeal) for the purposes of these appeals. Noting that the cost approach and income approach were not reliable methods of ascertaining value for residential real estate in this particular market³, Mr. Zahner like Ms. Jensen used the comparative sales approach. He used four open market comparable sales around the time of the valuation date for each appraisal which he believed were most similar to the subjects. Mr. Zahner testified that the comparable properties were similar to the subjects in location, size, style and bedroom count. Mr. Zahner made market based adjustments for room count, condition, and gross living area when appropriate. In his research on the subject properties, Mr. Zahner relied on the property descriptions found in Ms. Jensen’s appraisals. He testified that he only observed the exterior of each of the subject properties but he consulted the Multi-Listing Service (MLS) to examine pictures of the interiors of the properties to verify condition. Based an analysis of the adjusted comparable sales, Mr. Zahner determined an opinion value for each subject property as of January 1, 2021 as follows:

Appeal No.	Parcel No.	Zahner Opinion of Value
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³ Exhibit 2, p. 4.

21-15883	19J133536	\$198,000
21-15884	19J133547	\$190,000
21-15885	19J133558	\$200,000
21-15886	19J133569	\$198,000
21-15887	19J133570	\$190,000
21-15888	19J133581	\$200,000
21-15889	19J133592	\$198,000
21-15890	19J133602	\$190,000
21-15891	19J133613	\$200,000

Mr. Zahner also testified that reviewed Ms. Jensen's appraisals for the subject properties. He noted that he in large part did not agree with the comparables she used. He testified that he found several comparables that were closer in geographic area and were more similar in size to the subjects as opposed to the ones found by Ms. Jensen. He did note that they did vary however in condition and whether they had been renovated or remodeled. Mr. Zahner also opined that Ms. Jensen's comparables were problematic as some of them were located in different school districts or were located on high traffic streets both of which he believes have a significant negative effect value. Mr. Zahner testified that in his estimation it is easier to accurately make downward value adjustments for condition (as he did) versus attempting to quantify neighborhood and school district differences. For example, Mr. Zahner's 4th comparable sale that he used in all of his appraisals had significant upgrades compared with the respective subjects. However, he

noted that the comparable property was located in the same building as the nine subjects. After making a \$50,000 downward adjustment for condition and \$10,000 downward adjustment for an extra bathroom, he concluded that the comparable was a very good indicator of value for each subject.

On the record, Respondent advocated affirming the BOE’s determinations of value for each parcel and did not advocate for a higher value or the appraised opinions of value of Mr. Zahner.

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

Appeal No.	Parcel No.	TVM
21-15883	19J133536	\$193,200
21-15884	19J133547	\$162,000
21-15885	19J133558	\$199,500
21-15886	19J133569	\$193,200
21-15887	19J133570	\$162,000
21-15888	19J133581	\$199,500
21-15889	19J133592	\$193,200
21-15890	19J133602	\$162,000
21-15891	19J133613	\$199,500

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 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 produce substantial and persuasive evidence establishing that the BOE's valuation was erroneous and that Complainant's opinions of value, the appraisal opinions of Ms. Jensen, were the TVMs of the subject property as of January 1, 2021.

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. "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.

Both parties’ appraiser witnesses testified that due to availability of comparable sales near the time of valuation that the sales comparison approach was most appropriate method in determining value for the subject properties. Both appraisers obtained opinions of value for the subjects using the sales comparison approach. However, Ms. Jensen’s appraisals of the subjects were less persuasive than those of Mr. Zahner. More important, the conclusions drawn by Ms. Jensen did not rebut the presumption of values determined by the BOE for each of the subject parcels.

First, Ms. Jensen appraised the properties as of November 22, 2021 and not the relevant tax valuation date of January 1, 2021. Second, while Ms. Jensen prepared a detailed appraisal report for each parcel and provided supporting testimony, the SHO did not find the comparables she selected and the quantitative adjustments made to those comparables to be persuasive.

Ms. Jensen’s testimony that the style of a condo or apartment unit is not relevant because of unique buyer preference was not found to be credible. It follows that a garden style comparable properties would be more comparable with the subject than other styles such as a townhouse. While the subjects were all garden style condo units, Ms. Jensen included a townhouse in her comparables despite the fact, as both her and Mr. Zahner’s appraisals show, the availability of several garden style condos within the relevant timeframe for valuation.

The SHO also did not find Ms. Jensen’s testimony that square footage of living space within a condo unit was a more determinative factor for value than the number of bedrooms when selecting and analyzing comparable properties. Ms. Jensen made no market based adjustments between comparables with a different number of bedrooms. As generally marketability and the increased amount of rents are tied to bedroom count, not making adjustments for additional bedrooms seems problematic.⁴ Some of Ms. Jensen’s comparables were also located far enough away from the subjects to be in different school districts. Mr. Zahner’s testimony regarding his experience of evaluating properties in the St. Louis area and the significant effect a school district can have on value was found to be credible and persuasive.

Concerning the condition issues with the subject properties or lack of renovation or updating that Mr. Gorman testified about, Complainant provided no evidence providing a way to quantify the dollar amount effect of these issues on value or showing the BOE value did not account for these when it determined its values. The fact that the BOE lowered

⁴ Ms. Jensen testified that in her opinion adjusting for both bedrooms and square footage would be “double dipping.” Tr. at 31:20. However, such an approach is not necessarily problematic unless the extra space is double counted in the quantitative adjustments:

Appraisers often adjust for the size of the unit, which may be all that is needed to compensate for the extra bedroom. Adjusting for both size and configuration may be appropriate, but adjusting for the size of the unit and then also for the extra area included in an extra room would likely be double counting the influence of the larger unit.

Respondent's assessed values of for all nine properties suggests that the BOE did take condition issues such as these into account.

Last, Respondent presented persuasive evidence in support of the BOE's valuations. Mr. Zahner appraisals included the November 9, 2020, sale of 7517 Oxford Dr #1C, a property within the same building as the subjects. While the property was significantly in better condition than the subjects and contained an extra bathroom, Mr. Zahner made appropriate adjustments for those characteristics in his report. Due to its extremely close proximity to the subjects, the date of the sale, and being the same style of condo unit to the subjects with the same number of bedrooms, the SHO agrees with Mr. Zahner's analysis that once properly adjusted its sales price is very indicative of the value of the subjects as of the valuation date. Zahner's adjusted sales price of \$205,000 for this property, along with the other three comparables' adjusted sales prices, adequately support the values determined by the BOE which are near that range.

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
21-15883	19J133536	\$193,200	\$36,708.00
21-15884	19J133547	\$162,000	\$30,780.00
21-15885	19J133558	\$199,500	\$37,905.00
21-15886	19J133569	\$193,200	\$36,708.00

21-15887	19J133570	\$162,000	\$30,780.00
21-15888	19J133581	\$199,500	\$37,905.00
21-15889	19J133592	\$193,200	\$36,708.00
21-15890	19J133602	\$162,000	\$30,780.00
21-15891	19J133613	\$199,500	\$37,905.00

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 November 17, 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 November 17, 2023, to:

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

Stacy Ingle
Legal Assistant

Appendix A

Appeal No.	Parcel No.
21-15883	19J133536
21-15884	19J133547
21-15885	19J133558
21-15886	19J133569
21-15887	19J133570
21-15888	19J133581

21-15889	19J133592
21-15890	19J133602
21-15891	19J133613