



STATE TAX COMMISSION OF MISSOURI

SAVANNAH RIDGE APARTMENT HOMES, INC., et al.,
Complainants,
v.
TRAVIS WELGE¹, ASSESSOR,
ST. CHARLES COUNTY,
Respondent.

) Appeal Nos. 21-23684 et al.
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) Parcel/Locator Nos. (See table, below.)
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DECISION AND ORDER

Savannah Ridge Apartment Homes, Inc., and the owners of the subject properties as shown in the tables below (Complainants) appeal² the St. Charles County Board of Equalization's (BOE) decisions determining the true value in money (TVM) of the subject residential properties as of January 1, 2021. Complainants allege overvaluation and discrimination and each proposed \$500 as the TVM for each property. Complainants did

¹ Scott Shipman was the previous Assessor of St. Charles County at the time of the valuation date for the assessments at issue, January 1, 2021.

² Complainants timely filed complaints for review of assessment. The State Tax Commission (STC) has authority to hear and decide Complainants' appeals. Mo. Const. art. X, sec. 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

not produce substantial and persuasive evidence of overvaluation and discrimination. The BOE decisions are affirmed.

This matter involves 29 appeals which were consolidated for hearing and decision for administrative efficiency. Complainants were represented by counsel, Brian Mueller. Respondent was represented by counsels, Amanda Jennings and Michael Mueth. The evidentiary hearing was conducted via WebEx on November 15, 2022. The case was heard and decided by Senior Hearing Officer Benjamin C. Slawson.

Preliminary Matter

At the outset of the Evidentiary Hearing, Complainants' counsel alleged that Respondent had made "false statements" before the Commission in his Motion to Quash Subpoenas Duces Tecum regarding discovery responses Respondent had served to Complainants on March 4, 2022, specifically that all documents had been produced by Respondent on that date. Respondent countered that Complainants were in possession of Respondent's discovery responses on March 4, 2022, and had plenty of time to enforce any inadequacies they perceived with those responses before the Exhibit Exchange date. Respondent also denied that he made any inaccurate statements regarding the discovery.

Upon review after the hearing, the Senior Hearing Officer (SHO) discovered that the discovery responses being referred to were actually submitted by Respondent in response to discovery served by a different set of Complainants also represented by counsel Mueller in a separate set of commercial appeals, *Olive Investments LLC, et al. v. Scott Shipman, Assessor, St. Charles County*, Appeal Nos. 21-32658 et al. As such, any discovery dispute regarding Respondent's responses and the statements made regarding

those responses are not at issue in these appeals and will not be adjudicated in this Decision and Order.

FINDINGS OF FACT

1. Subject properties. The subject properties are residential properties located in St. Charles County, Missouri. Complainants own the subject properties. The subject properties are identified as shown in the following table:

Appeal No.	Parcel/Locator Number	Owner/Taxpayer
21-32684	2-0141-0055-00-0013	Savannah Ridge Apartment Homes, Inc.
21-32687	2-050D-S020-00-0017	Huber Family Limited Partnership, LLLP
21-32698	3-0009-4987-00-0116	Jeffrey B. Henderson
21-32701	3-0016-5010-00-0001	Sterling Heights, LLC
21-32704	3-0076-S010-00-0005	Flo dot Investments, LLC
21-32723	3-0115-5072-00-0217	Jeffrey B. Henderson
21-32729	3-157C-6323-00-0173	Jeffrey B. Henderson
21-32739	4-0010-A636-00-0002	Twin Oaks at Heritage Pointe Senior Community, LLC
21-32740	4-0010-A642-00-0001	Twin Oaks at Heritage Pointe Real Estate, LLC
21-32741	4-0010-A928-00-0002	Twin Oaks at Stone Ridge, LP
21-32742	4-0010-C252-00-0005	Stone Ridge Senior Villas, LP
21-32780	6-010A-4120-00-0001	Cedarbrook Apartment Homes, LLC
21-32781	6-010A-4120-00-0002	Cedarbrook Apartment Homes, LLC
21-32782	6-010A-4120-00-0003	Cedarbrook Apartment Homes, LLC
21-32783	6-010A-4120-00-0004	Cedarbrook Apartment Homes, LLC
21-32784	6-010A-4120-00-0005	Cedarbrook Apartment Homes, LLC
21-32785	6-010A-4120-00-0006	Cedarbrook Apartment

		Homes, LLC
21-32786	6-010A-4120-00-0007	Cedarbrook Apartment Homes, LLC
21-32787	6-010A-4120-00-0008	Cedarbrook Apartment Homes, LLC
21-32788	6-010A-4120-00-0009	Cedarbrook Apartment Homes, LLC
21-32789	6-010A-4120-00-0010	Cedarbrook Apartment Homes, LLC
21-32790	6-010A-4120-00-0011	Cedarbrook Apartment Homes, LLC
21-32791	6-010A-4120-00-0012	Cedarbrook Apartment Homes, LLC
21-32792	6-010A-4120-00-0013	Cedarbrook Apartment Homes, LLC
21-32793	6-010A-4120-00-0014	Cedarbrook Apartment Homes, LLC
21-32794	6-010A-4120-00-0015	Cedarbrook Apartment Homes, LLC
21-32795	6-010B-4325-00-0001	St. Andrews, Inc.
21-32796	6-010B-4325-00-000B	St. Andrews, Inc.
21-32797	6-010B-4467-00-0001	St. Andrews, Inc.

1. **Respondent and BOE.** Respondent and the BOE classified the subject properties as residential and determined the TVM as of January 1, 2021, was as shown in the following table:

Appeal No.	Assessor TVM	BOE TVM
21-32684	\$12,189,666	\$12,189,666
21-32687	\$3,961,470	\$3,961,470
21-32698	\$178,070	\$178,070
21-32701	\$12,116,038	\$12,116,038
21-32704	\$258,077	\$258,077
21-32723	\$231,697	\$231,697
21-32729	\$237,115	\$237,115
21-32739	\$8,053,929	\$8,053,929
21-32740	\$5,886,508	\$5,886,508
21-32741	\$982,663	\$982,663
21-32742	\$640,789	\$640,789

21-32780	\$208,636	\$208,636
21-32781	\$208,636	\$208,636
21-32782	\$208,636	\$208,636
21-32783	\$417,273	\$417,273
21-32784	\$208,636	\$208,636
21-32785	\$208,636	\$208,636
21-32786	\$417,273	\$417,273
21-32787	\$104,318	\$104,318
21-32788	\$208,636	\$208,636
21-32789	\$208,636	\$208,636
21-32790	\$208,636	\$208,636
21-32791	\$208,636	\$208,636
21-32792	\$208,636	\$208,636
21-32793	\$208,636	\$208,636
21-32794	\$208,636	\$208,636
21-32795	\$3,599,143	\$3,599,143
21-32796	\$415,286	\$415,286
21-32797	\$2,041,821	\$2,041,821

2. **Complainants’ Opinion of Value.** For each subject property, each respective Complainant’s opinion of value as of January 1, 2021, is \$500.³

3. **Complainants’ Evidence.** Complainants did not call any witnesses.

Complainants submitted the following exhibits for their case in chief:

Exhibit	Description	Status
A1	05-17-2022 Deposition of Scott Shipman in Olive Investments, LLC et al.	Admitted subject to relevance objection
B2	St. Charles County Sales Analysis	Objections for lack of foundation and hearsay sustained
C3	St. Charles County Sales	Objections for lack of foundation and hearsay sustained
D4	2020 St. Louis Missouri Industrial	Objections for lack

³ Taken from Complainants’ respective Complaints for Review.

	Annual Report, etc.	of foundation and hearsay sustained
E5	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
F6	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
G7	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
H8	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
I9	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
J10	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
K11	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
L12	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
M13	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
N14	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
O15	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
P16	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
Q17	Recordings of St. Charles County 2021 BOE Hearings	Objections for lack of foundation and hearsay sustained
R18	Assessor Property Record Cards	Objections for lack

		of foundation and hearsay sustained
S19	Assessor Property Record Cards	Objections for lack of foundation and hearsay sustained
T20	Data Request from St. Charles	Admitted

Prior to the hearing, Respondent filed a written objection to portions of Exhibit A1 on relevance grounds. Exhibit A1 was admitted at hearing subject to the objection. Respondent also filed written objections to Exhibits B2 through S19 alleging that Complainants did not authenticate these exhibits at the time of filing them and could not authenticate them at the Evidentiary Hearing given that: (1) Complainants did not submit written direct testimony of any witnesses who would testify in Complainants' case in chief; (2) none of the exhibits included a business records affidavit or proper certification; (3) and the exhibits were not self-authenticating. Respondent further objected on the ground that each exhibit consisted of and contained hearsay because neither the authors of the exhibits nor the custodians of records would be testifying at the evidentiary hearing and because none of the exhibits included business records affidavits or were self-authenticating. Respondent renewed the objections at hearing.

Complainants filed a response to Respondent's objections arguing that the Exhibits were County records and were self-authenticating. Complainants also argued that foundation had been laid for the documents during Mr. Shipman's deposition. Complainants additionally asserted that the STC had previously

accepted County records in another appeal⁴ where those records had not been previously certified. At the hearing, the SHO took the objections to Exhibits B2-S19 with the case.

The SHO is persuaded that Complainants did not lay a proper foundation for Exhibits B2 through S19 and that they constitute hearsay. No witness or custodian of records affirmed under oath that these Exhibits constitute what Complainants assert them to be. The SHO is not persuaded by Complainants arguments that the documents are self-authenticating as County records. No exhibits were attached to Exhibit A (Shipman’s deposition) showing that he testified to the authenticity of the same documents, nor was there any other supporting documentation offered showing that these exhibits were actually County records. Further, Complainants’ reliance on another STC decision on the issue of evidence admissibility it misplaced. Past STC decisions and orders provide guidance, not precedent. Administrative agency decisions “are not from courts of law and are not precedential.” *Cent. Hardware Co. v. Dir. of Revenue*, 887 S.W.2d 593, 596 (Mo. banc 1994). Therefore, Respondent’s objections for lack of foundation and hearsay are hereby sustained and Exhibits B2 through S19 are not admitted into evidence. Exhibits B2 through S19 are made part of the record of the appeals pursuant to Section 573.070(7).

4. **Respondent’s Evidence.** Respondent submitted the following exhibits:

Exhibit Name	Exhibit Description	Status
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⁴ *Kevin Brennan v. Jake Zimmerman*, No. 20-10320 (Mo. State Tax Comm’n August 12, 2022).

WDT	Written Direct Testimony of Gary Morrison	Admitted
WDT	Written Direct Testimony of Thomas Babb	Admitted
WDT	Written Direct Testimony of Christina Aguilar	Admitted
WDT	Written Direct Testimony of Richard Germano	Admitted
1	Appraisal report of Christina Aguilar for 21-32698	Admitted
2	Appraisal report of Christina Aguilar for 21-32729	Admitted
3	Appraisal reports of Richard Germano for 21-32780 through 21-32794	Admitted
4	Appraisal reports of Richard Germano for 21-32780 through 21-32795 to 32797	Admitted
5	Appraisal report of Richard Germano for 21-32701	Admitted
6	Appraisal report of Richard Germano for 21-32684	Admitted
7	Property Record Card, aerial map, and photographs for 21-32704	Admitted
8	Appraisal report of Thomas Babb for 21-32723	Admitted
9	Audit Report and Property Record Card for 21-32741	Admitted
10	Audit Report and Property Record Card for 21-32741	Admitted
11	Property Record Cards for 21-32687, 21-32739 & 21-32740	Admitted

Complainants had no objections to Respondent’s Exhibits, and all were admitted into evidence. Respondent offered the testimony of several witnesses, all which were present at the hearing.

Gary Morrison, the lead agricultural appraiser for the St. Charles County Assessor’s Office, testified first for Respondent. Mr. Morrison is a licensed real estate appraiser. Mr. Morrison performed a cost approach appraisal for the subject

property in Appeal No. 21-32704 using the data contained in Exhibit 7. (Morrison WDT at 2) Mr. Morrison did not perform an income approach due to insufficient economic rental data and because the subject is not an income generating property. (Morrison WDT at 3) A sales comparison approach was not developed because the subject property is located on soil grades that are set by the State and not valued at fair market value. (Morrison WDT at 3) Based on his cost approach appraisal, his opinion of the market value of the subject property as of January 1, 2021, was \$258,077. (Morrison WDT at 3)

Thomas Babb testified for Respondent. Mr. Babb is a licensed real estate appraiser working for the St. Charles County Assessor's Office. Mr. Babb testified that he performed an appraisal of the subject property for Appeal No. 21-32723 using the cost approach and sales comparison approaches to value, and that Exhibit 8 is a true and accurate copy of the appraisal. (Babb WDT at 2) Mr. Babb testified that he relied primarily on the sales comparison approach. (Babb WDT at 4) In his professional opinion, it is the most reliable method for estimating the value of the subject property because it best recognizes actions between buyers and sellers and demonstrates a defensible indication of value. (Babb WDT at 4) Using the sales comparison approach, Mr. Babb arrived at an opinion of value of \$240,000 for the subject as of January 1, 2021. On cross examination, Mr. Babb testified that he did not personally inspect the subject property for Appeal No. 21-32723 before the property was assessed by Respondent. However, Mr. Babb testified that it is standard procedure in Respondent's office for someone to make an inspection every two

years as part of the assessment process.

Christina Aguilar then testified for Respondent. She is a review appraiser for the St. Charles County Assessor's Office. Ms. Aguilar performed appraisals for the subject properties in Appeal Nos. 21-32698 and 21-32729 (Exhibits 1 and 2 respectively). As both properties were single family residential properties, Ms. Aguilar used the cost approach and the comparable sales approach. She relied primarily on the sales comparison approach because it "is the most reliable method for estimating the value of the subject property because it best recognizes actions between buyers and sellers and demonstrates a defensible indication of value" for this type of property (Aguilar WDT at 4, 6) Under the comparable sales approach, she utilized comparable validated sales and then made market-based adjustments for the characteristic differences between those sold properties and the subjects to reach a TVM for each property. (Exhibit 1 at 16-29; Exhibit 2 at 17-32) For Appeal No. 21-32698, Ms. Aguilar arrived at an opinion of value of \$200,000 for the subject as of January 1, 2021. (Aguilar WDT at 4) For Appeal No. Appeal No. 21-32729, Ms. Aguilar arrived at an opinion of value of \$260,000 for the subject as of January 1, 2021.

Richard Germano then testified for Respondent. Mr. Germano is a Missouri Certified General Real Estate Appraiser and has worked for the St. Charles County Assessor's Office since 2021. (Germano WDT at 1) Mr. Germano completed appraisals on several of the subject properties, specifically the properties for Appeal Nos. 21-32780 through 21-32794, 21-32795 to 21-32797, 21-32701, and

21-32684. Mr. Germano testified that Exhibits 3 through 6 are true and accurate copies of his appraisals. (Germano WDT at 2) Mr. Germano generally performed cost, sales comparison, and/or income capitalization approaches to value for each property he appraised. Depending on the particular property and available data, he gave more weight to a particular approach over others based on its reliability for accuracy under the circumstances. (Germano WDT at 2-10) For each appraisal, Mr. Germano developed an opinion of value for each property group as follows:

Appeals	Property Description	Germano Opinion of Value as of January 1, 2021
21-32780 through 21-32794	Cedarbook Apartments (66-unit apartment complex, 15 parcel/locator numbers)	\$4,230,000
21-32795 through 21-32797	St. Andrews Apartments (13 two-story frame apartment buildings)	\$6,480,000
21-32701	Sterling Heights Apartments (20 free-standing two-story to three-story frame apartment buildings)	\$14,630,000
21-32684	Savannah Ridge Apartments (seven three-story wood frame buildings)	\$15,570,000

(WDT at 2-10, Exhibits 3-6)

For Appeal Nos. 21-32741 and 21-32742, Mr. Germano testified that the subject properties “have federal or state-imposed restrictions in regard to rent limitations, operations requirements, or restrictions imposed upon the property in

connection with the property being eligible for income tax credits under Section 42 of the Internal Revenue Code of 1986.” (Germano WDT at 10-11) Accordingly, Mr. Germano testified that Respondent is required to value the subject property using the income approach to value. (Germano WDT at 10-11) Mr. Germano testified that Exhibits 9 and 10 contain the financial records and other information on the subject properties for Respondent to be able to enter that data into a worksheet and develop a TVM for the properties using the income approach. (Germano WDT at 10-11) Mr. Germano also testified that for these two properties Respondent’s TVM is reflected on the Property Record Card (PRC) also contained in Exhibits 9 and 10. (Germano WDT at 10-11) For Appeal Nos. 21-32687, 21-32739, and 21-32740, Mr. Germano testified that Exhibit 11 contains the PRCs for these subject properties which contain Respondent’s valuation methodology in arriving at his TVM for each property. (Germano WDT at 11-12) Mr. Germano testified the BOE upheld these values and he believes the values to be correct. (Germano WDT at 12)

5. Presumption of Correctness of BOE’s Valuations Not Rebutted:

Complainant did not present substantial and persuasive evidence to rebut the presumption of correctness of the BOE’s valuations of the subject properties. The TVM of each subject property as of January 1, 2021, is shown in the following table:

Appeal No.	BOE TVM
21-32684	\$12,189,666
21-32687	\$3,961,470

21-32698	\$178,070
21-32701	\$12,116,038
21-32704	\$258,077
21-32723	\$231,697
21-32729	\$237,115
21-32739	\$8,053,929
21-32740	\$5,886,508
21-32741	\$982,663
21-32742	\$640,789
21-32780	\$208,636
21-32781	\$208,636
21-32782	\$208,636
21-32783	\$417,273
21-32784	\$208,636
21-32785	\$208,636
21-32786	\$417,273
21-32787	\$104,318
21-32788	\$208,636
21-32789	\$208,636
21-32790	\$208,636
21-32791	\$208,636
21-32792	\$208,636
21-32793	\$208,636
21-32794	\$208,636
21-32795	\$3,599,143
21-32796	\$415,286
21-32797	\$2,041,821

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 of the even-numbered year remains the same as the previous odd-numbered year unless new construction or property improvements have been made. *Id.* "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 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).

The cost approach is most appropriate when the property being valued has been recently improved with structures that conform to the highest and best use of the property or when the property has unique or specialized improvements for which there are no comparables in the market. *Snider*, 156 S.W.3d at 347.

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 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. "Although technical rules of evidence are not controlling in administrative hearings, fundamental rules of evidence are applicable." *Mo. Church of Scientology v. State Tax Comm'n*, 560 S.W.2d 837, 839 (Mo. banc 1977).

3. Complainants' Burden of Proof. The taxpayer bears the burden of proof and must show by a preponderance of the evidence that the property overvalued. *Westwood P'ship v. Gogarty*, 103 S.W.3d 152, 161 (Mo. App. E.D. 2003). The BOE's valuation is presumptively correct. *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 7 (Mo. App. S.D. 2020). The "taxpayer may rebut this presumption by presenting substantial

and persuasive evidence that the valuation is erroneous." *Id.* (internal quotation omitted). The taxpayer also must prove "the value that should have been placed on the property." *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 v. State Tax Comm'n*, 722 S.W.2d 72, 77 (Mo. banc 1986) (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").

4. Complainants Did Not Prove Overvaluation.

Complainants did not present substantial and persuasive evidence to rebut the presumption that the BOE's values were correct. For nearly 150 years, Missouri law has recognized the self-evident proposition that "if there be no evidence sufficient in law to make a *prima facie* case on this issue, plaintiff cannot be entitled to recover." *Callahan v. Warne*, 40 Mo. 131, 135 (Mo. 1867).

Complainants offered no witness testimony to authenticate or lay a foundation for their exhibits nor provide testimony supporting their claims. Complainants' counsel asserted at hearing that the exhibits are self-authenticating and support Complainants claims. Complainants' counsel also asserted during the hearing that for at least for three of the subject properties Respondent failed to perform an inspection before assessing over a 15% increase from Respondent's previous assessment in violation of Section

137.115.10. However, no Complainant testified as to these allegations and no other evidence was offered by Complainants supportive of these claims. "Bare assertions by counsel do not prove themselves and are not evidence of the facts presented." *Andersen v. Osmon*, 217 S.W.3d 375, 381 (Mo. App. W.D. 2007); *see also Schubert v. Trailmobile Trailer, L.L.C.*, 111 S.W.3d 897, 906 (Mo. App. S.D. 2003) (noting that counsel's statements are not a substitute for proof). Although technical rules of evidence are not controlling in hearings before the Commission, fundamental rules of evidence are applicable. *Missouri Church of Scientology v. State Tax Commission*, 560 S.W.2d 837, 839 (Mo. banc 1977).

Even if these foundational deficiencies are downplayed, none of Complainants' exhibits establish the necessary facts showing overvaluation or utilize any of the court-approved approaches to valuing real property, i.e., the cost approach, the income approach, or the comparable sales approach, to persuasively estimate the TVM of the subject properties as of January 1, 2021.

While not required to, Respondent offered the testimony of four licensed appraisers and appraisals for most of the subject properties in question. The SHO found their testimonies to be credible and their appraisals and conclusions regarding value supportive of the TVMs determined by the BOE.

5. Complainant Did Not Produce Substantial and Persuasive Evidence of Discrimination.

Complainants did not produce substantial and persuasive evidence of discrimination.

Both the United States and Missouri constitutions prohibit discriminatory taxation of similarly situated taxpayers. *Savage v. State Tax Comm’n of Missouri*, 722 S.W.2d 72, 78 (Mo. banc 1986). To prove discrimination, a property owner must first prove the fair market value of the subject property on the valuation date. *Id.* After proving fair market value, the property owner can prove discrimination by showing an “intentional systematic undervaluation . . . of other taxable property in the same class.” *State ex rel. Ashby Rd. Partners, LLC, v. State Tax Comm’n*, 297 S.W.3d 80, 85 (Mo. banc 2009) (internal quotation omitted). In the absence of intentional discrimination, a discrimination claim requires proof that the level of assessment is “so grossly excessive as to be inconsistent with an honest exercise of judgment.” *Savage*, 722 S.W.2d at 78.

Complainants’ discrimination claims as denominated on their complaints for review of assessment must fail at the outset because they did not “first prove the fair market value of the subject property on the valuation date.” *Savage*, 722 S.W.2d at 78. Further, Complainants did not offer a scintilla of admissible evidence showing discrimination. There is no evidence Respondent singled out Complainants’ properties for discriminatory assessment. Nor is there any evidence of “intentional systematic undervaluation . . . of other taxable property in the same class.” *Ashby Rd. Partners*, 297 S.W.3d at 85.

CONCLUSION AND ORDER

The BOE's decisions are affirmed. The TVM of the subject properties as of January 1, 2021, is as shown in the following table:

Appeal No.	TVM
21-32684	\$12,189,666
21-32687	\$3,961,470

21-32698	\$178,070
21-32701	\$12,116,038
21-32704	\$258,077
21-32723	\$231,697
21-32729	\$237,115
21-32739	\$8,053,929
21-32740	\$5,886,508
21-32741	\$982,663
21-32742	\$640,789
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21-32785	\$208,636
21-32786	\$417,273
21-32787	\$104,318
21-32788	\$208,636
21-32789	\$208,636
21-32790	\$208,636
21-32791	\$208,636
21-32792	\$208,636
21-32793	\$208,636
21-32794	\$208,636
21-32795	\$3,599,143
21-32796	\$415,286
21-32797	\$2,041,821

Application for Review

A party may file with the STC 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 of Missouri, 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. Charles County, and 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 the disputed taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED January 12, 2024.
STATE TAX COMMISSION OF MISSOURI

Benjamin C. Slawson
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 January 12, 2024, to:

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

Stacy Ingle
Legal Assistant