



# STATE TAX COMMISSION OF MISSOURI

DAVID L. POELING AND NANCY J. )  
POELING, )  
Complainant, )  
 ) Appeal No. 23-32514  
v. ) Parcel No. T180700009  
 )  
TRAVIS WELGE, ASSESSOR, )  
ST. CHARLES COUNTY, MISSOURI, )  
 )  
Respondent. )

## DECISION AND ORDER

David L. Poeling and Nancy J. Poeling (Complainant) appeals the St. Charles County Board of Equalization's decision valuing the subject residential property at \$627,650 as of January 1, 2023. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$553,414 to 579,039 as of January 1, 2023. The BOE decision is affirmed.<sup>1</sup>

The evidentiary hearing was held on June 20, 2024, via Webex. Complainant, Nancy J. Poeling, appeared pro se. Respondent was represented by counsel, Michael Mueth. The appeal was heard and decided by Senior Hearing Officer Todd D. Wilson.

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<sup>1</sup> 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, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

## FINDINGS OF FACT

**1. The Subject Property.** The subject residential property consists of a 0.3656 acre lot improved with a single family home located at 909 Bellevaux Place, St. Charles, Missouri. The house is approximately 5 years old and has 2,567 square feet of above grade living space. Complainant testified regarding the issues regarding the house including foundation issues.

**2. Assessment and Valuation.** Respondent determined that the subject property's value as of January 1, 2023, was \$627,650. The BOE determined the subject property's appraised value as of January 1, 2023, was \$627,650.

**3. Complainant's Evidence.** Complainant introduced the following Exhibits which were admitted without objection:

<b>Exhibit</b>	<b>Description</b>
A	Property search exhibit
B	Email sent February 13, 2024
C	Assessment card for the property
D	Assessment card for 1015 Bellevaux Place
E	Assessor Dashboard printout with handwritten calculations at top
F	Declarations from Insurance policy with State Farm
G	Additional Declarations page from State Farm
H	Assessor Dashboard printout with handwritten calculations at top
I	Photograph of front door in current condition
J	Photograph of interior of front door in current condition
K	Photograph of front door in original condition

Complainant introduced Exhibits A through E and Exhibit H to show that Complainant's house is assessed higher on a square foot basis than other properties in the area are assessed. Complainant did not provide information regarding sales in the relevant time frame, but concentrated on showing that Complainant's residence was taxed more on a per square foot basis than other houses in the immediate area. Complainant introduced Exhibits F and G to show the value placed on the residence by Complainant's insurance company. Complainant introduced

Exhibits I, J, and K as an example of the condition of the property as compared to when the property was new. Complainant had allowed an interior inspection of the property to assess the cracks in the concrete foundation. Complainant agreed that she is not a licensed appraiser in Missouri. Complainant does not believe that it is fair that her property, which is the smallest house in the subdivision and was built with the cheapest materials, is valued higher on a square foot basis than the other properties in the subdivision.

**4. Respondent's Evidence.** Respondent introduced Exhibit 1, an Appraisal Report prepared by Jeff Duecker, a Missouri Certified Residential Real Estate Appraiser. Mr. Duecker testified that he had prepared the Appraisal in accordance with his experience and training. Mr. Duecker stated that the Income approach was considered but because of the nature of the property and lack of rental information, it was not developed.

Mr. Duecker developed the Cost approach to value for the property. After accrued depreciation of the property, the value of the property in accordance with the cost approach was: the improvements was estimated to be \$580,638 plus the site value of \$80,000 for a total indicated value by the Cost approach of \$660,638.

Mr. Duecker further developed the Sales Comparison approach. He stated that an Interior Inspection of the property was conducted and adjustments to condition were made if necessary. He then valued the property using the Sales Comparison approach to arrive at a value of the property of \$640,000.

The cost approach and sales comparison approach were then reconciled with a final opinion of value of the property at \$640,000. Exhibit 1 was admitted without objection.

Mr. Duecker further testified that he had been to the property and completed an interior inspection of the property. In his appraisal report, he has a photograph of the purported cracks in

the concrete foundation. It is the opinion of Mr. Duecker that the cracks are superficial and not uncommon in concrete foundations; that there was no indication of water infiltration and, therefore, the cracks would not impact the marketability of the property.

**5. Value.** The TVM of the subject property as of January 1, 2023, was \$627,650.

## 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. Sections 137.115.1; 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). The TVM "is a function of [the property's] highest and best use[.]" *Snider*, 156 S.W.3d at 346. "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).

The TVM of a property is typically determined by the sales comparison approach, the income approach, or the cost approach. *Snider v. Casino Aztar/Aztar Missouri Gaming Corp.*, 156 S.W.3d at 346-48.

**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). "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. Complainant's Burden of Proof.** The taxpayer bears the burden of proof and must show by a preponderance of the evidence the property is 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*, 599 S.W.3d at 7. 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 factfinder to view the facts in a way that favors that party").

Property owners are competent to testify to the reasonable fair market value of their property. *Cohen*, 251 S.W.3d at 348. However, if owner's testimony is based on "improper elements or an improper foundation[,]" it is not substantial and persuasive evidence rebutting the presumptively correct BOE value. *Id.* at 349.

**4. Complainant Did Not Produce Substantial and Persuasive Evidence of Overvaluation.**

Complainant proposes a range of values for the property. This was derived from considering the assessed value of other properties in the area. Complainant did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value. Complainant

did not produce evidence supporting a comparable sales approach, income approach, or cost approach to value. “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). The comparable sales approach requires sales. *Id.* Therefore, the information provided does not persuasively and substantially show overvaluation.

Complainant testified about the repairs necessary to the property. Exhibits I, J and K show weathering of the front door as an example of the repairs necessary. Complainant then announced that after contacting the manufacturer of the door, it was going to be replaced under the warranty provisions of the door. Complainant allowed an inspection of the interior of the property by Mr. Duecker who stated that the foundation cracks that the Complainant pointed out were superficial and would have no impact on the marketability of the property. Mr. Duecker did not note any condition that Complainant pointed out in his inspection that would change his opinion of value.

Neither Complainant's exhibits nor her testimony utilized the comparable sales approach, income approach, or cost approach to support a proposed value. The lack of evidence relating to a recognized valuation method renders Complainant's proposed value speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Complainant did not produce substantial and persuasive evidence showing the BOE overvalued the subject property and "the value that should have been placed on the property." *Tibbs*, 599 S.W.3d at 7.

### **CONCLUSION AND ORDER**

Complainant did not produce substantial and persuasive evidence of overvaluation. The BOE decision is affirmed. The TVM of the subject property as of January 1, 2023, was \$627,650.

### **Application for Review**

A party may file 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](mailto: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 August 19<sup>th</sup>, 2024.  
STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson  
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 August 23, 2024, to:

Nancy J. Poeling, Complainant(s), at [dlpoeling@att.net](mailto:dlpoeling@att.net)

Michael Mueth, Attorney for Respondent, [mmueth@sccmo.org](mailto:mmueth@sccmo.org)

Stacy M. Ingle  
Legal Assistant