



# STATE TAX COMMISSION OF MISSOURI

DANIEL ROBERT MUELLER, )  
 )  
 Complainant, )  
 ) Appeal No. 23-32544  
 v. ) Parcel No. A870001448  
 )  
 TRAVIS WELGE, ASSESSOR, )  
 ST. CHARLES COUNTY, MISSOURI, )  
 )  
 Respondent. )

## DECISION AND ORDER

Daniel Robert Mueller (Complainant) appeals the St. Charles County Board of Equalization's decision valuing the subject residential property at \$251,765 as of January 1, 2023. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$199,000 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 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 0.26 acre lot improved with a single family home located at 1238 Running Waters Dr., St. Charles, Missouri. The house is approximately 36 years old and has 1,482 square feet of above grade living space. The property has 1,454 square feet of basement area of which the square footage of finished area is uncertain. 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 \$251,765. The BOE determined the subject property's appraised value as of January 1, 2023, was \$251,765.

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

<b>Exhibit</b>	<b>Description</b>
A	Documents regarding the property
B	Photo of Joist Brackets
C	Proposal and Drawing from Atlas Foundation Solutions
D	Diagram of Tiebacks to be installed by Atlas Foundation Solutions

Complainant introduced Exhibit A consisting of pages of correspondence/argument from the Complainant, correspondence with comparable sales from a realtor, Garland Griffin, a listing of repairs, photographs of the interior and exterior of the subject property, an estimate from Rebath for remodeling the bathrooms in the house, an estimate from Lowes for a new HVAC system, and an estimate from Home Depot for flooring.

Complainant also introduced Exhibit B, a photograph of joist brackets to stabilize the floor joists of the subject property.

Complainant introduced Exhibit C, a written proposal from Atlas Foundation Solutions LLC of Fenton, MO to install helical tiebacks and use epoxy to seal the existing crack in the foundation at a cost of \$6,600. Also included in Exhibit C is optional work of excavating the exterior wall, installing a drain pipe, a submersible sump pump and a urethane membrane for an additional fee of \$16,600.

Complainant introduced Exhibit D, an illustration of the tiebacks that would be installed by Atlas Foundation Solutions, LLC to stabilize the foundation.

All of Complainant's Exhibits were received without objection.

**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 residence was estimated to be \$191,286 plus the site value of \$65,000 for a total indicated value by the Cost approach of \$256,286.

Mr. Duecker further developed the Sales Comparison approach. He stated that an Extraordinary Assumption had to be made regarding the condition of the property as the homeowner did not allow an interior inspection. If the condition of the property was consistent with the photographs presented by the homeowner, it would be in Fair Condition and have a lower value than if the inside was found to be in average condition. He then valued the property in average and fair condition. Mr. Duecker's opinion of value in fair condition was \$255,000 and in average

condition was \$342,000. Mr. Duecker further testified that if the repairs and remodeling set out in Complainant's Exhibit A were completed, the property would be in good condition and the market value of the property would be higher.

The cost approach and sales comparison approach were then reconciled with a final opinion of value of the property at \$255,000. Exhibit 1 was admitted without objection.

**5. Value.** The TVM of the subject property as of January 1, 2023, was \$251,765.

## **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 fact-finder 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 value of \$199,000 in his Complaint for Review. This was derived from considering the deferred maintenance of the property and a listing of sales furnished to

Complainant by a realtor. 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.

Complainant testified about the repairs and upgrades which are evidenced in Exhibit A. Complainant provided a list of sales of properties that was provided by a realtor, but there is no analysis as to the similarities of those properties to the subject property and adjustments that would need to be made to value 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). The comparable sales approach requires sales. *Id.* Therefore, the information provided does not persuasively and substantially show overvaluation.

Neither Complainant's exhibits nor his testimony utilized the comparable sales approach, income approach, or cost approach to support his 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 \$251,765.

## 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:

Daniel Robert Mueller, Complainant(s), at [drm.handyman65@gmail.com](mailto:drm.handyman65@gmail.com)

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

Stacy M. Ingle  
Legal Assistant