



STATE TAX COMMISSION OF MISSOURI

NATIONAL HEALTH INVESTORS,) Appeal No. 21-32521
INC.,)
Complainant(s),)
)
v.)
)
)
TRAVIS WELGE, ASSESSOR,)
ST. CHARLES COUNTY,)
MISSOURI,)
Respondent.)

DECISION AND ORDER

National Health Investors, Inc. (Complainant) appeals the St. Charles County Board of Equalization's (BOE) decision determining the true value in money (TVM) of the subject commercial property as of January 1, 2021, alleging overvaluation. Complainant did not produce substantial and persuasive evidence of overvaluation. However, the Respondent stipulated to a TVM of \$3,350,000 for the property, therefore, the BOE's decision is set aside.¹

Complainant were represented by counsel, Richard Hill. Respondent was represented by counsel, Michael Mueth. The evidentiary hearing was conducted on August

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.

25, 2022, via WebEx before Senior Hearing Officer (SHO), Eric Peterson. These matters were assigned to SHO Todd D. Wilson for decision on August 19, 2024.

FINDINGS OF FACT

1. Subject Property. The subject property is a 120 bed skilled nursing facility (SNF, commonly referred to as a care home) located at 35 Sugar Maple Lane, St. Charles, St. Charles County, Missouri. Two, separate Tax ID#s are assigned to the property, they are: 3-0116-0165-00-0004.2200000 and 3-0116-4031-00-0005.0000000; however, only one value is assigned. The structure sits on approximately 7.28 acres. It was built in 1982 and, according to the testimony, is in good condition for its age with Complainant having done some updating of the property within the last 10 years.

2. BOE. The BOE classified the subject properties as commercial and independently determined the TVM on January 1, 2021 was \$3,594,346.

3. Complainant' Evidence. Complainant submitted Exhibit A, the Appraisal report completed by Jeffrey Michael Johnson, a commercial appraiser licensed in Missouri; Exhibit B, the income statement of the subject property, the Written Direct Testimony (WDT) of Mr. Johnson and the Written Direct Rebuttal Evidence of Justin Epley. The exhibits and WDT were received without objection.

Complainant presented testimony from Jeffrey Michael Johnson, a commercial real estate appraiser licensed in Missouri. Mr. Johnson completed an appraisal report of the subject property. Mr. Johnson developed both the Cost Approach and the Sales Comparison Approach to arrive at a final value of the property. Mr. Johnson did not develop the income approach (Exhibit A at 85) Mr. Johnson's report states that the cost

approach is most applicable with special purpose or unique structures. (Exhibit A at 86)

In the development of the Cost Approach, Mr. Johnson first developed a value of the land using the Sales Comparison Approach. (Exhibit A at 86) In doing this, he developed a value, before adjustments of \$2.00 to \$4.96 per square foot. (Exhibit A at 99) Mr. Johnson adjusted these values to \$1.10 to \$2.23 per square foot and used \$1.80 per square foot of area to arrive at a rounded value of \$570,000 for the land. This amount was adjusted further because the comparable properties had been on the market for over a year, so a present value discount was applied of about 3% which resulted in a final value of the land of \$505,000. (Exhibit A at 100)

Mr. Johnson calculated the replacement cost of the improvements using a base cost of \$145.47 per square foot, including \$3.50 per square foot for a fire sprinkler system allowance and full climate control. His report then states that he adjusted for a local cost multiplier of 1.08 and a perimeter multiplier of 0.983 to arrive at an adjusted base cost of \$142.99 per square foot. (Exhibit A at 100) This calculation cannot be done using these numbers, $145.47 \times 1.08 \times .983 = \154.44 per square foot. $\$154.44 \times 39,094$ square feet = \$6,037,677 for the building costs of the main building using Mr. Johnson's numbers which is more than \$412,000 in difference based upon this calculation. Mr. Johnson did not include any Indirect Costs, Entrepreneurial incentive, or other soft costs in his calculation of the Replacement Cost of the improvements.

In Exhibit A, Mr. Johnson developed the replacement cost of the buildings, the cost of the site improvement and deductions for the improvements as follows: (Exhibit A at 106)

Bldg Replacement cost	\$5,625,051	
Site Improvement cost	\$225,400	
Total Replacement cost		\$5,850,451
Deferred Maintenance	\$50,000	
Ordinary Depreciation	\$2,812,526	
Site Improvement Dep	\$136,422	
External Economic Obsolescence	\$4,050,000	
Final value of improvement		\$0
Plus land value		\$505,000
Cost Approach final		\$500,000

Mr. Johnson then developed the Sales Comparison Approach to value. Mr. Johnson used the sales of 3 other care centers which reflected sales per square foot values of \$56.34; \$57.36 and \$45.11. The third sale was an REO sale by a lender which resulted in the lowest price per square foot and was adjusted up to account for the distressed sale. (Exhibit A at 113) These values were then adjusted to establish a range of values from \$31.01 to \$53.52 per square foot. Mr. Johnson used the value of \$50 per square foot which resulted in a value of \$1,955,000. Mr. Johnson then deducted deferred maintenance and rounded to a final value of \$1,900,000. (Exhibit A at 117) Mr. Johnson then reconciled the Cost Approach and the Sales Comparison Approach to arrive at his final value of \$1,620,000.

4. Respondent's Evidence. Respondent submitted Exhibit 1, an Appraisal Report of the property completed by Bradley J. Schopp, a commercial appraiser licensed in Missouri, Exhibit 2, the St. Charles Assessor's Property Record Card; the WDT of Bradley J. Schopp and the WDT of Richard Germano. The exhibits and WDT were received without objection.

Respondent presented testimony from Bradley J. Schopp, a commercial real estate appraiser licensed in Missouri. Mr. Schopp testified that approximately 90% of his appraisal work is of Care Facilities. Mr. Schopp developed the Cost Approach, the Sales Comparison Approach and Income Capitalization Approach.

To develop the Cost Approach, Mr. Schopp first used the comparable sales approach to determine a value of the real estate. Mr. Schopp used three sales for comparison with the value per square foot values prior to any adjustments of \$3.44, \$0.93 and \$1.35 per square foot. Mr. Schopp arrived at a final value, after adjustments of \$1.55 per square foot to arrive at a rounded value of \$490,000. (Exhibit 1 at 89)

Mr. Schopp then determined that the total project cost to replace the existing structure and site improvements would be \$11,863,935. (Exhibit 1 at 96) To do this he started with a base cost of \$144 per square foot, added in for fire sprinklers (\$3.90 per square foot), Current cost multiplier or 1.04, Local cost multiplier of 1.11 to arrive at an adjusted base price of \$170.74 per square foot for the main building. He added in for the Canopy area and other site improvements to arrive at a total for direct construction costs of \$7,462,910. He then added in Developer's fee, indirect costs, marketing costs and Entrepreneurial Profit to arrive at the total project costs. (Exhibit 1 at 97) Mr. Schopp then

deducted depreciation and obsolescence, and adding the value of the land, he arrived at a final value, according to the cost approach, of \$3,505,000. (Exhibit 1 at 102)

Mr. Schopp then developed the Sales Comparison Approach using three sales of care centers in Missouri. (Exhibit 1 at 118) He arrived at an average adjusted price per bed of \$35,647 and used that as the standard unit of comparison. After making adjustments, Mr. Schopp arrived at a value of \$37,000 per bed. (Exhibit 1 at 119) The price per bed was then multiplied by the number of beds to arrive at the final value in accordance with the Sales Comparison Approach of $\$37,000 \times 120 = \$4,440,000$.

Mr. Schopp also developed the Income Capitalization Approach to value for the subject property. The historical data of the subject property showed losses in 2018, 2019 and 2020, much of which was due to “bad debt” from Medicare and Medicaid failing to fully reimburse the facility. (Exhibit 1 at 124) Mr. Schopp compared the data of the subject with data from 10 other care facilities to develop projected Effective Gross Revenue, Expenses and Net Operating Income (NOI) in the Direct Capitalization Technique of the Income Capitalization Approach. The NOI developed was \$547,062. (Exhibit 1 at 145) Mr. Schopp then analyzed skilled nursing facility cap rates to determine a 12.00% cap rate. He then used a band of investment analysis to arrive at a cap rate of 12.22%. (Exhibit 1 at 152) Mr. Schopp determined that the appropriate cap rate was 12% with an additional 1.24% to load it for real estate taxes. (Exhibit 1 at 154) Mr. Schopp’s final values using the Income Capitalization Approach were \$4,195,000 for the direct capitalization technique and \$4,489,000 for the Discounted Cash Flow Technique.

The final reconciled value then for the going concern of the business and the real

estate and improvements was determined to be \$4,350,000. (Exhibit 1 at 169) This amount was then analyzed to take out the value of the Furniture, Fixtures & Equipment (FF&E) and Business Assets to arrive at a final value of the real estate and improvements of \$3,350,000.

5. Value. The TVM of the subject property as of January 1, 2021 was \$3,350,000.

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. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(c). "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. The STC has wide discretion in selecting the appropriate valuation method but "cannot base its decision on opinion evidence that fails to consider information that should have been considered under a particular valuation approach." *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). "When applying the income approach the valuing business property for tax purposes, it is not proper to consider income derived from the business and personal property; only income derived from the land and improvements should be considered." *Id.*

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 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 factfinder 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's opinions of value are ultimately not persuasive. Complainant's appraiser had errors in his calculations of replacement cost. He did not consider or include any indirect costs in the Cost Method, arriving at a negative value for a building that he agreed was well maintained. He did not develop the Income Approach to value the property. The appraiser, after completing the Sales Comparison Approach to arrive at a value, then adjusted that value for deferred maintenance of \$55,000; rather than making adjustments within the Sales Comparison Approach. The appraiser relied upon a sale by lender in the Sales Comparison Approach, which could be and was adjusted, but a better approach would have been to use a different sale. When the totality of his report is considered, it is unpersuasive.

Although not required given the burden of proof, Respondent presented exhibits and testimony that supported the stipulated valuation of the subject property.

CONCLUSION AND ORDER

The BOE decision is Set Aside in accordance with the Assessor's stipulation of value. The TVM of the subject property, as of January 1, 2021 was \$3,350,000.

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. Charles 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 September 20th, 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 September 20th, 2024, to:

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

Stacy M. Ingle

Legal Assistant