



STATE TAX COMMISSION OF MISSOURI

DAL DUBOIS AND CHRISTINE)
DUBOIS,)
Complainant,)
) Appeal No. 23-52007
v.) Parcel No. 11-04-17-0002-004-002
)
CHRISTOPHER ESTES, ASSESSOR,)
COLE COUNTY, MISSOURI,)
)
Respondent.)

DECISION AND ORDER

Dal DuBois and Christine DuBois (Complainant) appeals the Cole County Board of Equalization's decision valuing the subject residential property at \$39,700 as of January 1, 2023. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$8,000 to \$20,000 as of January 1, 2023. The BOE decision is affirmed.¹

The evidentiary hearing was held on August 14, 2024, via Webex. Complainant, Dal DuBois, appeared pro se. Respondent was present along with Josh Mullins, Lead Appraiser, and Michael Hernandez, Chief Deputy Assessor. The appeal was heard and decided by Senior Hearing Officer Todd D. Wilson.

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, 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 0.04 acres, a 36.7' x 50' lot, improved with a single-family home located at 416 Clark Ave, Jefferson City, Missouri. The house is 1 ½ stories, was built in 1925 and has 795 square feet on the main floor, 302 square feet of upper floor and a full unfinished basement of 755 square feet.

2. Assessment and Valuation. Respondent determined that the subject property's TVM as of January 1, 2023, was \$39,700 with an assessed value of \$7,550. The BOE determined the subject property's TVM as of January 1, 2023, was \$39,700.

Evidence. Both parties experienced technical difficulties attempting to submit Exhibits in support of their position. As a result, an Order was issued on August 14, 2024 giving both parties until the close of business on August 27, 2024 to submit exhibits and until September 12, 2024 to submit any objections or rebuttal to the other party's exhibits.

3. Complainant's Evidence. Complainant did not introduce any Exhibits prior to, at the hearing or within the allotted time after the hearing. Complainant stated that the property had many issues, deferred maintenance and rampant crime in the area that decreased its value, but provided no exhibits. Complainant argued that he has purchased and sold many properties and believes that the property should be valued at \$8,000 to \$20,000 in accordance with his experience as of January 1, 2023.

Complainant asserted that the "Hancock Amendment" limits the ability of the Assessor to increase values of the property by more than 5%. The Hancock Amendment was a constitutional amendment approved by the voters in 1980, amending sections 18-24 of the Missouri Constitution. A good discussion of the Amendment can be found in the Missouri Legislative Academy, Institute of Public Policy by the University of Missouri, Report 17-2012 authored by Bridget Kevin-Myers

and Russ Hembree in November of 2012. The application of the Hancock amendment to Local Government is set out in Sections 16 and 22 which discuss the limits on political subdivisions to levy more than they had in previous years. The Amendment specifically does not address the issue of valuation of property, which is within the purview of the Assessor, but addresses the levy of the political subdivision. In essence, political subdivisions adjust their overall levy to accommodate increases in valuation and still comply with the requirements of the Hancock Amendment. Complainant's reliance upon the Hancock Amendment is misplaced.

4. Respondent's Evidence. Respondent introduced Exhibit 1, a report prepared by Josh Mullins, the lead appraiser in the Assessor's Office with 3 comparable sales. The report suggested a TVM for the property of \$49,532. Mr. Mullins stated that the other sales were in similar condition, worn out/badly worn, as the subject property and were in the same area. Having received no objection from Complainant, Exhibit 1 is received.

5. Value. The TVM of the subject property as of January 1, 2023, was \$39,700 with an assessed value of \$7,550.

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 \$8,000 to \$20,000 for the property. This was derived from considering the deferred maintenance of the property, the crime in the area, and Complainant's experience buying and selling property. 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 did not provide any foundation for his knowledge of the real estate market other than to say that he has purchased and sold multiple properties. There was no indication of the number of properties, the time frame over which that occurred, the condition and location of the properties or the terms of those prior sales. Without any foundation, the owner's opinion of value is not persuasive.

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 \$39,700 with an assessed value of \$7,550.

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. 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 Cole 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 September 27th, 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 27th, 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