



# STATE TAX COMMISSION OF MISSOURI

FIRST MID BANK & TRUST NA, )  
 )  
 Complainant, )  
 ) Appeal No. 23-32515  
 v. ) Parcel No.  
 )  
 TRAVIS WELGE, ASSESSOR, )  
 ST. CHARLES COUNTY, )  
 MISSOURI, )  
 )  
 Respondent. )

## DECISION AND ORDER

First Mid Bank and Trust NA, (Complainant) appeals the St. Charles County Board of Equalization's (BOE) decision finding the subject property's market value was \$1,106,111 with an assessed value of \$353,956 as of January 1, 2023. Complainant is represented by counsel, Jonathan Browning and Grant J. Mabie. Respondent is represented by counsel, Michael Mueth, Assistant County Counselor. An Evidentiary Hearing was held in this matter on October 3, 2024 via Webex before Todd D. Wilson, Senior Hearing Officer. Complainant failed to produce substantial and persuasive evidence of overvaluation. The BOE decision is Affirmed. The true value in money (TVM) of the subject real property as of January 1, 2023, was \$1,106,111.

### Factual Background

**1. The Subject Property.** This appeal involves a commercial property located at

460 Hawk Ridge Trail, Lake St. Louis, St. Charles County, Missouri. The improvements on the property were built in 2015 as a branch bank with a 2,392 square foot building. The real estate consists of 1.42 acres or 61,855 square feet in an irregularly shaped parcel. The subject property is located on the southeast corner of Highway N and Hawk Ridge Trail with good visibility from Highway N.

**2. Assessment and Valuation.** The BOE classified the subject property as Commercial with a fair market value of \$1,106,111 and Assessed value of \$353,956 as of January 1, 2023.

**3. Complainant's Evidence.** Complainant introduced Exhibit A and the Written Direct Testimony (WDT) of Donna J. Howard. Exhibit A is an appraisal report prepared by Donna J. Howard, MAI, on behalf of DJ Howard & Associates, Inc. The WDT and Exhibit A were received without objection.

In her appraisal report, Ms. Howard developed the income and sales comparison approaches to value. Ms. Howard did not develop the cost approach as she stated that it is not typical for this type of property and the property, having an effective age of 5 years, was not brand new and was not unique.

Beginning on Page 34 of her report, Ms. Howard discusses the highest and best use of the property. The property is zoned C2 PUD Commercial which allows a variety of retail, office and commercial uses. Ms. Howard determined that the best use of the site as if vacant was for commercial development. On page 35 of her report, Ms. Howard states that the estimated value of the site as improved exceeds the value of the site as though vacant less demolition costs. There is no calculation of the value of the property as vacant,

simply the assertion that the value if vacant is less than the value as improved.

Ms. Howard developed the Income Capitalization Approach for the property. On Page 37 of her report, it states that there is limited information regarding leases of bank spaces as branch banks tend to be owner occupied. On cross examination, she admitted that there is limited information, but stated that the rent information she was able to obtain was from a broker in the area and was adequate to develop the income capitalization approach. Ms. Howard used three properties for comparison for rents to determine the income of the property, 2 were current bank leases and one was a listing of a bank building for lease. The two leases had rents of \$35.12 and \$28 per square foot, the listing had an asking rental rate of \$25.20. After adjustments were made for size, condition, quality and location, Ms. Howard determined that an appropriate rental rate would be \$30 per square foot resulting in gross potential income of \$71,760 per year. After adjusting for vacancy and collection loss, management fees and reserves for replacement, a net operating income (NOI) of \$64,285 was determined. A capitalization rate was determined by analyzing office rates, retail rates and by the band of investment method to arrive at a capitalization rate of 9%. The report does not state whether this is a loaded or unloaded rate which is unusual as the applicable tax rate is generally included in appraisals for ad valorem tax appeals to arrive at a "loaded" rate. Based on the NOI of \$64,285 and the cap rate of 9%, the final, rounded value of the property, using the income approach as determined by Ms. Howard is \$710,000.

Ms. Howard then developed the Comparable Sales approach to value using 3 sales and 1 current listing, all of which were branch banks. Comparable sale 1 which is a parcel

of land consisting of 1.37 acres and 4,466 square foot branch bank, built in 1966 with an effective age of 20 years, sold in September of 2019 for \$722,750. It was shown through cross and later testimony of Respondent's appraiser that this property sold in February of 2023 for \$1,400,000 and was then torn down to build apartments. Comparable sale 2 is a parcel of land consisting of 1.23 acres in Monroe County, Illinois with a branch bank built in 2008, consisting of 5,064 square feet which sold March 1, 2021 for \$1,540,000.

Comparable sale 3 is a 0.95 acre parcel with a 4,113 square feet branch bank building built in 1997, in St. Louis, Missouri which sold on October 30, 2020 for \$1,343,500. No time adjustment was made for any of the sales in Ms. Howard's analysis. The final property used in the Sales Comparison approach was a current listing in Lake St. Louis for 1.14 acres with a 4,564 square foot branch bank built in 2008 which is listed for \$1,450,000.

The adjusted sales prices for the properties ranged from \$210 to \$369 per square foot. The current listing was in the same community and had the fewest adjustments. After analyzing the sales and the listing, Ms. Howard determined that the appropriate value to use on a square foot basis was \$310 per square foot. This results in a rounded value of the property of \$740,000. The income approach and the sales comparison approach were given equal value in reconciliation, resulting in a final value of \$725,000. If this is calculated just for the land, this results in a value of \$11.72 per square foot. Ms. Howard was asked about this during cross-examination and she stated that there is land available at that price or below, some of which has been on the market a long time. Ms. Howard admitted that there was no information in her report supporting her assertion.

**4. Respondent's Evidence.** Respondent submitted Exhibit 1, an appraisal report

completed by Richard N. Germano of the subject property and the WDT of Richard N. Germano. Exhibit 1 and the WDT were received without objection.

On page 6 of his report and in his testimony, Mr. Germano relayed that the sale price of the subject property as bare land on May 18, 2007 was for \$1,705,339 or \$27.57 per square foot. Complainant's appraiser was asked about this on cross-examination and she relayed that this price reflected the bubble in commercial real estate prices that burst in 2008.

Mr. Germano developed the Sales Comparison, Income and Cost approaches to value.

In analyzing the highest and best use of the property, Mr. Germano developed a value of the land as if vacant on page 26 of his report. In order to do this, he analyzed 6 land sales that were within 0.35 miles of the subject property with sales prices ranging between \$17.97 to \$24.90 per square foot. Using the lowest value reported (\$17.97) x 61,855 square feet for the subject property, results in a value of \$1,111,534 if the property were vacant. Mr. Germano testified that there were no sales of real estate in this area at the \$11.72 per square foot value that was determined by Ms. Howard.

Mr. Germano then developed the Sales Comparison approach to valuation of the property both as unimproved and as improved. For this decision, only the unimproved analysis will be discussed. Mr. Germano used five land sales; one that occurred in 2020, one in August of 2021, and the remaining three in 2022. A sixth sale occurred subsequent to the effective date of the report, but is relevant as it had a value of \$24.90 per square foot with an inferior location, which suggests that unimproved property continues to appreciate. The five sales were within 0.35 miles of the subject property and sold for \$17.97 to \$21.00 per square foot.

Mr. Germano also developed the Cost approach to valuation of the subject property. The first step in the cost approach is to value the land as if vacant and is the only part of the analysis that will be discussed in this decision. In preparing the cost approach valuation of the vacant land, Mr. Germano determined that the vacant land had a value of \$1,175,000.

**5. Value.** The TVM of the subject real property \$1,106,111 and Assessed value is \$353,956 as of January 1, 2023.

## **CONCLUSIONS OF LAW**

**1. Assessment and Valuation.** 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). 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). "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).

**2. Method of Valuing Property.** "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.

**3. 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).

**4. Complainant's Burden of Proof.** The taxpayer bears the burden of proof and must show by a preponderance of the evidence that the property was overvalued. *Westwood P'ship v. Gogarty*, 103 S.W.3d 152, 161 (Mo. App. E.D. 2003). The BOE value 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").

**5. Complainant Failed to Produce Substantial and Persuasive Evidence of Overvaluation.**

Complainant failed to produce substantial and persuasive evidence. Ms. Howard's appraisal never calculated the value of the underlying land. The property was purchased in

2007 for \$1,705,339 or \$27.57 per square foot. By dismissing the cost approach, Ms. Howard failed to do the analysis for the value of the property as if vacant. In her analysis of highest and best use of the property, Ms. Howard made the statement that the value of the property as improved exceeds the value of the site as though vacant, but did not include any calculations to support this assertion in her report and did not calculate the value of the land as if vacant. Ms. Howard testified that there is land available for \$11.72 per square foot, but that was not contained in her report and Respondent's appraiser testified that the sales of property in the area of the subject had a minimum sale price of \$17.97 per square foot and that the prices were steadily increasing. Ms. Howard further made no adjustments for time or appreciation in value of the property. Appreciation of property in St. Charles County was shown as Comparable sale 1 of Ms. Howard's appraisal sold in September of 2019 for \$772,750 and then sold again in February of 2023 for \$1,400,000 at which time the structure upon it was torn down. The lack of analysis of vacant land, the evidence of the sales of vacant land, the lack of time adjustments and the sale of one of the comparable sales that Ms. Howard used for roughly double the price less than four years later make the evidence of Complainant not persuasive.

There is no need to address the evidence of Respondent as Complainant failed to meet its burden.

### **CONCLUSION AND ORDER**

The BOE's decision is Affirmed. The TVM of the subject property as of January 1, 2023, was \$1,106,111 and Assessed value of \$353,956.



## **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 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 November 15th, 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 November 15th, 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