



STATE TAX COMMISSION OF MISSOURI

FORSYTH CENTRE ASSOCIATES LLC,) Appeal No. 17-111556,
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Complainant,)
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v.)
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JAKE ZIMMERMAN, ASSESSOR,)
ST. LOUIS COUNTY, MISSOURI,)

ORDER AFFIRMING HEARING OFFICER DECISION UPON APPLICATION FOR REVIEW

Procedural History

Complainant filed its Complaint for Review alleging both overvaluation and discrimination. On June 4, 2019, Chief Counsel, Maureen Monaghan, acting as the Hearing Officer (Hearing Officer) entered a Decision and Order (Decision) in this appeal. The Decision set aside the valuation of the property as determined by the Board of Equalization of the County of St. Louis (BOE) and further found no Discrimination. Forsyth Centre Associates, LLC, (Complainant) subsequently filed an Application for Review of Hearing Officer’s Decision and Order on both overvaluation and discrimination grounds. Jake Zimmerman, Assessor of St. Louis County, Missouri, (Respondent) filed a Response to Complainant’s Application for Review but did not contest the value of the subject property as determined by the Hearing Officer. Complainant filed a Reply.

Valuation

The subject property is located at 8235 Forsyth Boulevard, St. Louis County, Missouri. It is a 14 story, multi-tenant office building constructed in 2000 and sits on .67 acres. The Respondent and the BOE determined the true value in money (TVM) of the property to be \$36,733,400 as of January 1, 2017. Complainant timely appealed to the State Tax Commission (STC) on the issues of overvaluation and discrimination.

The issue of overvaluation was submitted on exhibits upon agreement of the parties. With respect to valuation, Complainant presented the testimony of Certified General Real Estate Appraiser, Thomas Slack. Respondent did not present evidence of valuation of the subject property. Upon review of the exhibits, the Hearing Officer found that the Complainant presented substantial and persuasive evidence to establish the subject property's TVM as of January 1, 2017 at \$33,000,000 and set aside the BOE's determination. Upon application for review, Respondent does not challenge the Hearing Officer's determination of value of the subject property.

Complainant challenges the Hearing Officer's valuation of \$33,000,000 only to the extent that, according to the undisputed evidence, the value of \$33,000,000 includes allocation of parking spaces in an attached parking garage to both the subject property and to the parking garage (in appeals 17-111564 and 17-111565) and, therefore, the parking spaces are being taxed twice. If the parking spaces are not allocated to the parking garage for property tax purposes, then Complainant has no objection to the Hearing Officer's valuation of \$33,000,000.

Discrimination

The Hearing Officer found against Complainant on the issue of discrimination.

Evidence from the parties regarding Complainant's discrimination claim was submitted during a consolidated hearing involving this appeal and others. A detailed description and analysis of the evidence and our findings of fact and conclusions of law with respect to Complainant's discrimination claim are set forth in our Decision and Order upon application for review in appeal 17-111818 ELDA MO WW H LLC v. Zimmerman and incorporated by reference as if fully set forth herein.

Standard of Review

A party subject to a Decision and Order of a hearing officer of the STC may file an application requesting the case be reviewed by the STC. Section 138.432. The STC may then summarily allow or deny the request. Section 138.432. The STC may affirm, modify, reverse, set aside, deny, or remand to the Hearing Officer the Decision and Order of the Hearing Officer on the basis of the evidence previously submitted or based on additional evidence taken before the STC. Section 138.432.

The Commission reviews the hearing officer's decision and order de novo. *Lebanon Properties I v. North*, 66 S.W.3d 765, 770 (Mo. App. 2002); *Union Electric Company, d/b/a Ameren Missouri, v. Estes*, 2020 WL 3867672 (Mo. St. Tax Com., July 2, 2020); *AT&T Mobility, LLC, v. Beverly Alden, Assessor, Caldwell County, Missouri, et al.*, 2020 WL 3867819 (Mo. St. Tax Com., July 2, 2020). "The extent of that review extends to credibility as well as questions of fact." *Lebanon Properties I*, 66 S.W.3d at 770. The Commission "is free to consider all pertinent facts and estimates and give them such weight

as reasonably they may be deemed entitled to.” *St. Louis Cty. v. State Tax Comm'n*, 515 S.W.2d 446, 450 (Mo. 1974).

There is a presumption of validity, good faith and correctness of assessment by the BOE. *Hermel, Inc. v. STC*, 564 S.W.2d 888, 895 (Mo. banc 1978); *Chicago, Burlington & Quincy Railroad Co. v. STC*, 436 S.W.2d 650, 656 (Mo. 1968); *May Department Stores Co. v. STC*, 308 S.W.2d 748, 759 (Mo. 1958). This presumption is a rebuttable rather than a conclusive presumption. The presumption of correct assessment is rebutted when the taxpayer presents substantial and persuasive evidence to establish that the BOE’s assessment is erroneous and what assessment should have been placed on the property. *Id.*

The taxpayer in a STC appeal bears the burden of proof. The taxpayer is the moving party seeking affirmative relief. Therefore, Complainant bears the burden of proving by substantial and persuasive evidence the vital elements of the case, i.e., the assessment was “unlawful, unfair, improper, arbitrary, or capricious.” *See, Westwood Partnership v. Gogarty*, 103 S.W.3d 152 (Mo. App. E.D. 2003); *Daly v. P.D. George Co.*, 77 S.W.3d 645 (Mo. App E.D. 2002); *Reeves v. Snider*, 115 S.W.3d 375 (Mo. App. S.D. 2003); *Industrial Development Authority of Kansas City v. State Tax Commission of Missouri*, 804 S.W.2d 387, 392 (Mo. App. W.D. 1991). *Substantial evidence* can be defined as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Cupples Hesse Corp. v. State Tax Commission*, 329 S.W.2d 696, 702 (Mo. 1959). *Persuasive evidence* is evidence that has sufficient weight and probative value to convince the trier of fact. *Cupples Hesse Corp.*, 329 S.W.2d at 702. The persuasiveness of evidence does not depend on the quantity or amount thereof but on its effect in inducing belief. *Brooks v.*

General Motors Assembly Division, 527 S.W.2d 50, 53 (Mo. App. 1975). "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.

Summary and Conclusion

For reasons that we explain in our Order upon Applications for Review in 17-111564 and 17-111565, we set aside the Hearing Officer's valuations which would allocate the parking spaces to both the subject property and to the parking garage. The Hearing Officer determined (and the parties do not dispute) that the appraisal presented by Complainant was substantial and persuasive evidence of TVM of the subject property. We agree.

ORDER

The decision of the Hearing Officer, setting aside the determination of value of the BOE and determining the TVM of the subject property to be \$33,000,000, assessed as commercial property at 32% (\$10,560,000) is hereby affirmed. The decision of the Hearing Officer finding insufficient evidence of discrimination is hereby affirmed.

Judicial review of this Order may be had in the manner provided in Sections 138.432 and 536.100 to 536.140 RSMo within 30 days of the mailing date set forth in the Certificate

of Service for this Order.

If judicial review of this decision is made, any protested taxes presently in an escrow account in accordance with this appeal shall be held pending the final decision of the courts unless disbursed pursuant to Section 139.031.8 RSMo.

If no judicial review is made within thirty days, this decision and order is deemed final and the Collector of the City of St. Louis, as well as the collectors of all affected political subdivisions therein, shall disburse the protested taxes presently in an escrow account in accord with the decision on the underlying assessment in this appeal.

SO ORDERED January 30th, 2025.

Gary Romine, Chairman

Debbi McGinnis, Commissioner

Gregory Razer, Commissioner

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Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on January 31st, 2025 to:

Christopher Bauman, Counsel for Complainant, cbauman@bbdlc.com
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