



STATE TAX COMMISSION OF MISSOURI

LIBERTY K LLC,)	Appeal No. 23-32007
)	Parcel No. 14-303-00-04-024.00
)	
Complainant(s),)	
)	
v.)	
)	
TRACY BALDWIN, ASSESSOR,)	
CLAY COUNTY, MISSOURI,)	
Respondent.)	

DECISION AND ORDER

Liberty K, LLC, (Complainant) appeals the Clay County Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2023, was \$8,622,000. Complainant claims the subject property is overvalued and proposes TVM of \$6,150,000. Complainant did not produce substantial and persuasive evidence establishing overvaluation. The BOE's decision is affirmed.¹

Complainant was represented by counsel Ryan Mason. Respondent was represented by counsel, Lucas Wallingford. The evidentiary hearing was conducted on February 25, 2025, via WebEx before Senior Hearing Officer Todd D. Wilson.

FINDINGS OF FACT

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.

1. Subject Property. The subject property is located at 8540 N Church Road, Kansas City, Clay County, Missouri. The parcel/locator number is 14-303-00-04-024.00. The property is operated as Kohl's pursuant to a lease that has been in place since construction was completed on the structure in 2004. The property is a big box retail store that has approximately 87,925 square-feet of gross building area and sits on approximately 6.1 acres of land. It has 274 striped parking spaces with 141,900 square feet of asphalt and 15,240 square feet of concrete in the parking lot. The building improvements were constructed in 2003-2004 pursuant to a built to suit lease.

2. Respondent and BOE. Respondent classified the subject properties as commercial and determined the TVM on January 1, 2023, was \$8,622,000. The BOE classified the subject property as commercial and independently determined the TVM on January 1, 2023, was \$8,622,000.

3. Complainant's Evidence. Complainant presented Exhibit A, the appraisal report of the property prepared by Gerald A. Maier for Mainland Valuation Service, and the Written Direct Testimony (WDT) of Mr. Maier; both of which were received without objection. Mr. Maier is an MAI certified and Missouri licensed appraiser. Mr. Maier prepared two possible values for the property, the first being a "fee simple" TVM of \$6,150,000; the second being a "hypothetical leased fee" TVM of \$7,190,000 as of January 1, 2023. (Exhibit A at 127).

Mr. Maier developed the comparable sales approach, the cost approach and the income approach to value. The cost approach was relied upon the least due to the amount of depreciation and obsolescence associated with the subject building improvements. Mr. Maier reconciled the comparable sales and income approaches and relied most on the sales comparison approach with the Income Approach given significant consideration in the value conclusion. (Exhibit A at 126).

Mr. Maier stated that if the current owner decided to sell the property, the key factor to any potential investor would be the income stream from any applicable leases. (Exhibit A at 59). On

cross examination, Mr. Maier stated that if he were appraising the property for a bank, the interest he would appraise would be a leased fee, not a fee simple.

The first approach to value that Mr. Maier developed in his appraisal was the cost approach. The first step in the cost approach is to determine the land value. To do this, he used 8 comparable sales of vacant land in the Kansas City Metro area which ranged in price from \$1.74 to \$10.79 per square foot. Mr. Maier adjusted the sales for: Time, Physical Condition, Zoning and Location. (Exhibit A at 64-65). The adjustments ranged from -30% to +170% with a range of adjusted sales prices from \$1.40 to \$8.85. (Exhibit A at 67). Mr. Maier used \$7.00 per square foot to arrive at a rounded value for the land of \$1,860,000.

Mr. Maier then developed the Replacement cost of the structures and improvements of \$10,065,993 for a total value with the land of \$11,925,993. Depreciation and obsolescence of \$4,733,443 was then subtracted from this to arrive at a rounded value of \$7,190,000 by use of the Cost Approach.

For the Sales Comparison Approach to value, Mr. Maier valued the fee simple interest in the subject real property, which he defined as if it is available to be leased or available to be occupied, therefore, vacant. (Exhibit A at 7). The lease is a valuable right in the property while the actual fee simple value may be only a fraction of the sale price of a property. (Exhibit A at 74). In accordance with this definition, the nine comparable sales that Mr. Maier used were all vacant, formerly occupied big box retail properties in which the sale prices ranged from \$24.85 to \$71.75 per square foot prior to adjustments. (Exhibit A at 86). Mr. Maier adjusted the sales for Time, Age/Condition, Location, Size and Quality to arrive at a range of \$36.33 to \$82.40 per square foot with an average of \$64.80. Mr. Maier used \$70.00 per square foot to arrive at a rounded value of \$6,150,000. (Exhibit A at 86).

Mr. Maier discussed three different types of rental rates for the income approach, those being built-to-suit rental rates for properties that had not been built yet; second generation tenants in big box structures that were renovated for the new tenant; and third which are second generation leases for big box spaces that were taken by the tenants on an as is basis or with only minimal renovations/alterations. (Exhibit A at 91). Even though the property in this appeal is occupied under a built to suit lease, Mr. Maier believed it would be more appropriate to use the third category of lease rates in which a new tenant rents the property as is or with minimal renovations. (Exhibit A at 91). These leases ranged from \$3.50 to \$13.98 per square foot prior to adjustments and \$5.80 to \$8.80 after adjustments. (Exhibit A at 96). Mr. Maier then established the rental rate of the subject property of \$7.00 per square foot. Mr. Maier used a vacancy rate of 100% for the first year with the property being 100% occupied thereafter. (Exhibit A at 100). For the “hypothetical leased fee,” Mr. Maier used an 8% capitalization rate and assumed a two to three year lease to a moderate credit tenant and further assumes that the current tenant would vacate the property at the time of sale to end up with a rounded value of \$7,190,000. (Exhibit A at 120). For the Fee Simple value under the Income Approach, Mr. Maier used a capitalization rate of 7.25% and assumed a six to eight year remaining lease term after the initial twelve months necessary to stabilize occupancy. (Exhibit A at 121). Based upon the NOI in year 2 of \$593,421 and the cap rate of 7.25% the value of the property would be \$8,185,124; Mr. Maier then reduced this figure by leasing commissions of \$369,285, opportunity cost of \$844,822, and entrepreneurial incentive of \$736,411, to arrive at a rounded fee simple value of \$6,230,000. (Exhibit A at 121). Mr. Maier further analyzed the values by using a discounted cash flow analysis to arrive at final values under the income approach of \$7,200,000 for the hypothetical leased fee and \$6,420,000 for the fee simple. (Exhibit A at 126; page 127 states that the value of the hypothetical leased fee is \$7,190,000).

Mr. Maier then reconciled the sales comparison value of \$6,150,000; the fee simple income value of \$6,420,000 and the Cost Approach value of \$7,190,000 giving the most weight to the sales approach, with the Income Approach given significant consideration and moderate consideration to the Cost Approach to a final TVM of \$6,150,000. (Exhibit A at 127). The hypothetical leased fee value was only developed under the income approach and was determined to be \$7,190,000. (Exhibit A at 127).

4. Respondent's Evidence. Respondent submitted the following Exhibits which were all received without objection:

Exhibit	Description	Admitted
1	Assessor's card for subject property	Y
2	Valuation Report prepared by Grant Knauff	Y
3	Information from CoStar & Assessor on Comparable Sale 3	Y
4	Decision of STC in Appeal 21-32124	Y
5	Additional Sales Comparables	Y
6	Leases of subject property	Y
7	Building Permit Records of subject property	Y
WDT	WDT of Grant Knauff	Y

Respondent presented the testimony of Grant Knauff. Mr. Knauff is employed as an appraiser in the office of the Assessor in Clay County, Missouri, therefore, is not required to be licensed as a real estate appraiser in accordance with Section 339.501.5 of the Revised Statutes of Missouri. Mr. Knauff testified that he prepared Exhibit 2, the valuation report of the property.

Mr. Knauff developed the value of the underlying land for use in the Cost Approach to value using 3 comparable sales in Clay County. Mr. Knauff made adjustments for Time, Size, and a miscellaneous adjustment for a canopy cover on Comparable Sale 2. (Exhibit 2 at 9). The sales prices ranged from \$5.86 to \$8.11 per square foot prior to adjustments and \$6.37 to \$7.13 per square foot after adjustments. The county currently has the land valued at \$7.39 per square foot for a total value for the land of \$1,965,300. Mr. Knauff then proceeded to develop the replacement cost of the building and improvements of \$10,845,104 for the building and \$101,808 for the paved parked area. Mr. Knauff then determined that depreciation of \$3,036,639 was appropriate to arrive at a rounded total value by the Cost Approach of \$9,875,600. (Exhibit 2 at 11).

Mr. Knauff then developed the Income Approach to value. He used 3 rental comparables, one of which was the subject property. The rents ranged from \$7.00 to \$8.90 per square foot. (Exhibit 2 at 15). Mr. Knauff also considered the results from the Clay County Questionnaire which is sent to retailers to obtain information regarding lease terms. (Exhibit 2 at 16). Mr. Knauff calculated expenses using only the owner's obligations under the terms of a triple net lease. (Exhibit 2 at 18). Mr. Knauff testified that he had used a higher cap rate (8.25% v 8%) and a higher vacancy and collection loss (11% v 6%) than Complainant's appraiser which would cause the value to decrease. Mr. Knauff used a rental rate of \$10 per square foot which is significantly above the rents of the comparables. His explanation was that the factors offset each other with the goal of the report is to have a reasonable NOI. Mr. Knauff arrived at a rounded value for the property by the Income Approach of \$8,622,000.

5. Value. The TVM of the subject property on January 1, 2021, was \$8,622,000.

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. These three approaches are the cost approach, the comparable sales approach, and the income approach (also known as income capitalization). *Id.* at 346-48; *Missouri Baptist Children's Home v. State Tax Comm'n* ("MBCH"), 867 S.W.2d 510, 511 n.3 (Mo. banc 1993).

The cost approach may be based on either reproduction cost or replacement cost. While reproduction cost is the best indicator of value for newer properties where the actual costs of construction are available, replacement cost may be more appropriate for older properties. *Snider*, 156 S.W.3d at 341, 347.

The comparable sales approach "is most appropriate when there is an active market for the type of property at issue such that sufficient data are available to make a comparative analysis." *Snider*, 156 S.W.3d at 348. For this reason, the comparable sales approach is typically used to value residential 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." *Id.* at 347-48 (internal quotation omitted). "Comparable sales consist of evidence of sales reasonably related in time and distance and involve land comparable in character." *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 to 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).

The parties' basis for excluding the exhibits and WDT is offset because the facts are determined by an administrative hearing officer rather than a jury. Cf. *State v. Sladek*, 835 S.W.2d 308, 313 (Mo. banc 1992) (noting that in matter not tried to a jury, "a certain amount of latitude in the admission of evidence is allowed, and [...] the rules of exclusion are less strictly enforced"). "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. Prior Decisions of the State Tax Commission.

"STC decisions and orders are non-binding, persuasive authority aiding the consistent disposition of factually analogous cases." *Tuba v. Zimmerman*, Appeal No. 21-18285, 2022 WL 16841480 at • 6 (Mo. St. Tax Com. Nov. 4, 2022) (emphasis added); *see also Laclede Gas Co. 's Verified Application to Re-Establish & Extend the Fin. Auth. Previously Approved By the Comm 'n v. Mo. Pub. Serv. Comm 'n*, 526 S.W.3d 245, 252 (Mo. Ct. App. W.D. 2017) (an administrative agency, such as the STC, "is not bound by its previous decisions, so long as its current decision is not otherwise unreasonable or unlawful.").

4. 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 fact-finder 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).

5. Complainant Did Not Prove Overvaluation.

Although Complainant presented substantial evidence to support its opinion of value, Complainant's evidence was not both substantial and persuasive to rebut the BOE's value and to establish the TVM of the subject property on January 1, 2023.

Complainants' definition of "fee simple" is based on an industry-specific dictionary, not Missouri law. Missouri law defines "fee simple absolute" as "the entire title; it is the most extensive interest one may have in property, comprehends an absolute estate in perpetuity, and is potentially infinite." *Vaughan v. Compton*, S.W.2d 328, 331 (Mo. 1950); *see also Kimberling N., Inc. v. Pope*, 100 S.W.3d 863, 873 (Mo. App. S.D. 2003) (noting fee simple defines a legal "estate without end or limitations" and which is "the largest estate a person can possibly have").

A fundamental aspect of the fee simple estate is the "absolute power and right to sell, use or otherwise dispose of said property[.]" *Vaughan*, 235 S.W.2d at 331. When an owner exercises the "absolute power and right" to lease real property, the owner retains the fee simple interest and grants a temporary possessory interest to the lessee. See *Santa Fe Trail Neighborhood Redevelopment Corp. v. W.F. Coehn & Co.*, 154 S.W.3d 432, 440 (Mo. App. W.D. 2005) (holding that a written agreement created a lease and the owners "held a fee simple interest in the [p]roperty, while [the lessee] was granted a possessory interest therein for only a limited term). The power to encumber real property with a lease is therefore both a fundamental aspect of the fee simple interest, *Vaughan*, 235 S.W.2d at 331, and a principal way of realizing the value of real property. *Mo. Baptist Children's Home*, 867 S.W.2d at 513. Complainants cite no law requiring real property to be valued on the hypothetical assumption it is "unencumbered" or vacant. Missouri law instead utilizes a "realistic approach" requiring consideration of "economic realities" when estimating the TVM of real property for purposes of ad valorem taxation. *Id.* at 512-513. Chief among these economic realities is that the TVM of real property is in part a function of the income it generates. *Id.* at 513.

The evidence established that Complainant's Appraiser gave the most weight to a sales comparison approach. Complainant's comparables consist completely of vacant properties and excluded built-to-suit or sale leaseback. Mr. Maier stated that if the current owner decided to sell the property, the key factor to any potential investor would be the income stream from any applicable leases. (Exhibit A at 59). This is the economic reality that is referenced in *Mo. Baptist Children's Home*, 867 S.W.2d at 513. On cross examination, Mr. Maier stated that if he were appraising the property for a bank, the interest he would appraise would be a leased fee, not a fee

simple. The lease is a valuable right in the property while the actual fee simple value may be only a fraction of the sale price of a property. (Exhibit A at 74). To completely ignore a lease in place, does not consider the economic realities of the subject property. His analysis excluded properties that were leased, but in so doing, he did not develop an accurate measure for the market value. The theory that a leased property is encumbered, and therefore not a preferable comparable, is unpersuasive, is speculative, and not a methodology utilized by Missouri Courts to value property. Courts have addressed a leasehold's non-impact on the transferability of a fee simple estate, stating, "Cases and treatises frequently describe a conveyance of real estate subject to a leasehold estate as a conveyance of a 'remainder' interest, *notwithstanding that fee simple title is what is conveyed.*" *Cooper v. Ratley*, 916 S. W.2d 868, 870 n. 3 (Mo. App. 1996) (emphasis added). The STC has decided *St. Louis BOA Plaza, LLC, et al. v. Stephen Conway, Assessor, City of St. Louis*, 17-20066, 17-20067, and 17-20068 (2019) and the Commission, in affirming the decision of the hearing officer, stated:

"The assessor values property in fee simple interest. An estate in fee simple is ownership of all the rights in a property. A lease conveys property rights to another. The tenant receives a leasehold interest that allows the tenant the right to use and occupy the property under conditions. *The fee ownership remains with the owner of the property.* For ad valorem purposes, the property to be assessed consists of the land and improvements and the possessory interests in the property. Section 137.115.1 RSMo. In most cases, the value of the leased fee and the value of the leasehold should approximate the value of the fee simple unencumbered by a lease." (emphasis added).

"While the Commission has some discretion in deciding which approach best estimates the value of a particular property," the Commission's choice of valuation approach "must comply with the law, and once the Commission decides to use a particular approach, it must apply that approach properly and consider all relevant factors." *Parker v. Doe Run Co.*, 553 S.W.3d 356, 360 (Mo. App. S.D. 2018). To assume that a vacant property is the best or most accurate measure for a value

of the subject property doesn't equate to evidence. The present record contains no evidence to support Complainant's theory. The record indicates a lack of sufficient comparable sales for the subject properties.

Complainant also provided a value of a "Hypothetical Leased Fee". This was in response to prior decisions of appeals in which the theory of using only vacant properties as comparable sales of occupied properties has been rejected by the STC. Mr. Maier developed the Hypothetical Leased Fee in the Income Approach using leases of second generation big box stores with little or no modification or alteration and that the property would be 100% vacant for the first year of ownership. This ignores the economic reality of the situation and may significantly underestimate the value of the property.

Complainant failed to provide substantial and persuasive evidence, therefore, the presumption that the BOE determination was correct and has not been overcome. As the presumption was not overcome, Respondent's evidence need not be addressed.

CONCLUSION AND ORDER

The BOE's decision is affirmed. The TVM of the subject property as of January 1, 2023, was \$8,622,000.

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 Clay 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 on July 10, 2025.
STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson
Senior Hearing Officer
State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on July 11th, 2025, 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