



STATE TAX COMMISSION OF MISSOURI

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| ROBERT D. STONE, TRUSTEE, |) | |
| |) | |
| Complainant, |) | |
| |) | Appeal No. 23-79001 |
| v. |) | Parcel No. 19-9.0-29-400-009-015.000 |
| |) | |
| DAVID COX, ASSESSOR, |) | |
| PLATTE COUNTY, MISSOURI, |) | |
| |) | |
| Respondent. |) | |

DECISION AND ORDER

Robert D. Stone, Trustee of the Robert D. Stone Revocable Trust, (Complainant) appeals the Platte County Board of Equalization's decision valuing the subject residential property at \$145,000 as of January 1, 2023. Complainant alleges overvaluation and asserts the true value in money (TVM) of the subject property as \$55,000 as of January 1, 2023. The BOE decision is affirmed.¹

The evidentiary hearing was held on April 9, 2025, via Webex. Complainant was present and represented by Robert Megraw. Respondent was represented by counsel, Stephen Magers. The appeal was heard and decided by 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, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

1. The Subject Property. The subject property consists of approximately 0.53 acre residential lot improved with a duplex located at 5701-5703 Northwest Hillside Drive, Kansas City, MO 64151. The structure was built in the early 1970s. Each 3 bedroom, 2 bathroom unit has 1,449 square feet. The property backs to a wooded area with a power line easement. The property drops off steeply approximately 4-5 feet behind the duplex yielding very little usable back yard. Complainant installed decks behind each unit that extend over most of the usable yard. Complainant has, over time, performed various efforts to stabilize the rear of the property from further erosion and damage due to the steep ravine behind the property.

2. Assessment and Valuation. Respondent determined that the subject property's true value in money (TVM) as of January 1, 2023, was \$210,600. The BOE determined the subject property's TVM as of January 1, 2023, was \$145,000.

3. Complainant's Evidence. Complainant introduced the following Exhibits which were admitted without objection:

| Exhibit | Description |
|---------|---|
| A | Appraisal Report completed by James E. Summers, MAI |
| B | Written Direct Testimony of James E. Summers |
| C | Written Direct Testimony of Robert Stone |
| D | Written Direct Testimony of Sandi Schmude |

Complainant requested that the Hearing Officer take judicial notice of the appeal of this property in 2021, which would be appeal 21-79024. Respondent had no objection. Judicial notice will be taken of Missouri State Tax Commission Appeal 21-79024.

Complainant first had Robert D. Stone testify. Mr. Stone is the Trustee of the Robert D. Stone Revocable Trust in which the ownership of the property is vested. Mr. Stone had been a real property appraiser, but let his license lapse in 1995. Mr. Stone testified that he had purchased

the property in 1976, expecting it to wash down into the ravine within 5 years. He has done several things over the time of his ownership to stabilize the property including installing French drains under the decks. The efforts of Mr. Stone are set out in Exhibit A as pages 27 & 28. Mr. Stone believes that, at this time, due to his improvements, the property is stable. Mr. Stone stated that there is about 4 feet of property behind the structure that is somewhat level, then the property drops off very steeply, to the point that they do not attempt to mow it. Mr. Stone stated that he had listed the property in 2021 with Sandi Schmude, a licensed realtor which resulted in several offers on the property that were rescinded after the prospective buyers were made aware of the condition of the property. The highest offer that was received after disclosure of the condition of the property was for \$50,000. Mr. Stone stated that he had approached various lending institutions about the possibility of financing the property and was told that the lenders would not make a loan on the property in the current condition. No documentation of this was provided during the hearing. Mr. Stone further testified that the average rental per month for his properties, including the subject property, was \$865 per month per rental unit; which would be a total of \$1,730 per month for the subject property.

Mr. Stone stated that approximately 7 years ago, he had an engineering report on the property and in accordance with that did work to stabilize the property including the installation of the French drains. Mr. Stone state that in order to have the area necessary for the French drains, Complainant purchased the lot adjacent to the property which can now be used as a side yard for the property. On cross examination, Mr. Stone stated that he had spoken with the County engineer approximately two years prior to the hearing at which time the County engineer told him that the property looked stable after the improvements that Mr. Stone had completed.

Complainant then called Sandy Schmude, a licensed realtor with a great deal of experience in the area of the property. Ms. Schmude stated that at the request of Complainant, she had listed the property for sale in August of 2021 for the county assessed value of \$210,000. She stated that there was a great deal of initial interest in the property, but once the condition disclosures regarding the property were sent, the offers that were made were withdrawn. Ms. Schmude stated that in the initial two days of listing, 20 people looked at the property but the ravine behind the property scared them off. After the initial two days, Ms. Schmude recommended to Complainant that the property be taken off the market, which it was. Ms. Schmude has not attempted to list or sell the property since then and testified that she did not believe she would re-list the property if she had the opportunity to do so.

Complainant's final witness was James E. Summers. Mr. Summers is a certified general Missouri appraiser and has obtained the MAI designation. He testified that he completed the appraisal in accordance with his experience and training with an effective date of January 1, 2021. Mr. Summers did not update the appraisal report to have an effective date of January 1, 2023 and stated in cross examination that he has no opinion as to whether the market value of the property changed between January 1, 2021 and January 1, 2023. The appraisal report valued a hypothetically normal condition of the property at \$225,000. Mr. Summers defined this as not having the detrimental conditions of the property. Mr. Summers estimated the useful life of the property in its current condition, as seen by potential investors, to be 4 to 5 years. One of the Extraordinary Assumptions that Mr. Summers made for the compilation of the appraisal report was that the detrimental conditions cited in this report were ongoing as of the effective date of the report, January 1, 2021. (Exhibit A at 4). Mr. Summers testified that he has not been to the property

since the inspection he did for the appraisal and has not been made aware of any reports of the condition of the property since that time.

Mr. Summers developed the Sales comparison approach using four sales, ranging in time of sale from July, 2017 to November, 2020. Three of the sales were also located on Northwest Hillside Drive, with two of them being on the same side of the street as the subject property with addresses of 5709-11 and 5801-03 Northwest Hillside Drive. The estimated value of the property by the Sales Comparison approach on January 1, 2021; without the detrimental conditions of the property, was \$225,000. (Exhibit A at 21).

Mr. Summers also developed an Income Approach using a Gross Rent Multiplier (GRM) calculation. The GRM was derived from analysis of 3 properties with Northwest Hillside Drive addresses to arrive at a GRM of 10. Multiplying this figure by the Effective Gross Rental Income of \$20,050/year gives a rounded value of \$200,000. (Exhibit A at 24).

On page 29 of Mr. Summers' report, he compiled a Cost Analysis for projected costs for stabilizing the subject property. No estimates from engineering firms or construction companies were included in the report. On page 30 of his report there is a reference to Mr. Tyler Higgins of Midland Wrecking, who estimated the cost of demolition of the structures to be about \$18,000 with annual increases to that figure of 10% annually. There is no documentation setting out this estimated cost. Mr. Summers arrived at a value of the property in its current condition as of January 1, 2021 of \$55,000. Referring to appeal 21-79024; SHO Erica Gage found that the appraisal did not constitute substantial or persuasive evidence of valuation.

4. Respondent's Evidence. Respondent introduced Exhibit 1, the WDT of Michael Gorman and Exhibit 2, the Appraisal Report prepared by Michael Gorman. Both Exhibits were received without objection. Mr. Gorman is an employee of the Platte County Assessor's Office

and is a certified appraiser in the State of Missouri. Mr. Gorman was also involved in Appeal 21-79024 and submitted an appraisal at that time with a value of \$220,000 as of January 1, 2021. Mr. Gorman testified that the values of properties have increased since 2021 and his current appraised value of the subject property is \$275,000 as of January 1, 2023. On cross examination, Mr. Gorman agreed that the backyard drops significantly into the Evergy easement; that the foundation of the property has significant crack lines; that the lack of backyard would probably exclude families with small children or pets who wish to have a backyard. Included as pages 13-14 of Exhibit 2 is a document entitled Engineering Report, signed by the County Engineer. In review of the report, it does not appear to give an opinion as to the stability of the property and its likelihood of further erosion and settling.

Mr. Gorman developed the Sales Comparison method of valuation using 3 duplexes, all located within 4 miles of the subject property and a range of sale dates from August 2021 to March of 2022. The description of the first comparable sale states that it has no backyard. The other two sales were adjusted by \$10,000 for having backyards with little slope. (Exhibit 2 at 4). Mr. Gorman arrived at a value by the Sales Comparison approach of \$285,000. (Exhibit 2 at 4).

Mr. Gorman also developed the Income Approach to value. Mr. Gorman states that based on the comparable rentals he found, the current monthly rental of the subject property (\$850 and \$875) is below market rents of \$1,355 to \$1,800 per month. Mr. Gorman noted that the owner stated that the tenants are long-term tenants. (Exhibit 2 at 3). Mr. Gorman used the current rental rates of six properties to develop a monthly GRM. (Exhibit 2 at 15). Mr. Gorman used a monthly GRM of 175 for his calculations to determine TVM in accordance with the Income Method, $\$1,725 \times 175 = \$301,875$. (Exhibit 2 at 3). Mr. Gorman then reconciled the Sales Comparison approach

and the Income approach, then adjusted this by the external obsolescence caused by the slope in the rear of the property to arrive at a TVM of \$275,000.

5. Value. The TVM of the subject property as of January 1, 2023, was \$145,000.

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. 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 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.

5. Complainant Did Not Produce Substantial and Persuasive Evidence of Overvaluation.

Complainant proposes a value of \$46,500 for the property based upon historical cost. Complainant offered Exhibit A in support of his value, which arrived at a TVM of \$55,000. The main contention for the lower value was the ravine at the back of the property, no backyard and the possibility that erosion would degrade the foundation of the improvements on the foundation. The appraisal report offered had an effective date of January 1, 2021. The appraiser expressed no opinion as to whether or not that value had changed from its effective date to January 1, 2023. No current report was submitted from an engineer as to the further destabilization of the improvements. On the contrary, the only testimony was that the last improvements had stabilized the property and no further shifting or destabilization had been noticed. Mr. Stone's testimony was that when he purchased the property in the 1970s, he expected it to wash away within 5 years; that was 50 years ago. Mr. Summers opinion, from 2021, was that an investor would expect the life span of the improvements to be 4-5 years. It is a credit to Complainant that it has made the necessary improvements to stabilize the structures and undertakes the annual maintenance of the drain line to try to avoid further erosion of the property. While the property was only listed for sale for two days in 2021, the testimony of Ms. Schmude was credible when she stated that she would not list the property again as she did not believe she could sell it. It was not clear if she meant that she could not sell it at all or could not sell it at a price that would be acceptable to the owner. Taking these things into consideration, Complainant did not produce substantial or

persuasive evidence that the value of the BOE was incorrect. Even if Complainant had produced such evidence, there was no evidence as to the current market value of the property, where Complainant's appraiser said that he had no opinion as to whether or not the value he determined for January 1, 2021 should be adjusted for January 1, 2023. Complainant did not produce substantial and persuasive evidence showing the BOE overvalued the subject property and "the value that should have been placed on the property." *Tibbs*, 599 S.W.3d at 7.

Respondent is seeking that the value determination of the BOE be set aside and that the STC accept as the TVM of the subject property, the value as determined by Mr. Gorman at \$275,000. In his adjustments for the Comparable Sales analysis, Mr. Gorman adjusted the comparable properties \$10,000 for their flat, usable, backyard. On cross examination, Mr. Gorman agreed that the backyard drops significantly into the Evergy easement; that the foundation of the property has significant crack lines; that the lack of backyard would probably exclude families with small children or pets who wish to have a backyard. This would significantly reduce the potential pool of buyers.

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). To this end, the testimony of Ms. Schmude, a competent and well experienced realtor, is relevant. For a realtor with her experience to recommend to the client that the property should be taken off the market after two days because the potential buyers had remarked that the price was far too high for the subject property is significant. Under the totality of the circumstances, Respondent has failed to provide substantial and persuasive evidence to support the value of \$275,000.

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 \$145,000.

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 Platte 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 July 10, 2025.
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 July 11th, 2025, to:

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

Stacy Ingle
Legal Assistant