



# STATE TAX COMMISSION OF MISSOURI

DAVID BRAUCH,	)	Appeal No. 23-10048
	)	Parcel No. 26S520676
Complainant(s),	)	
	)	
v.	)	
	)	
JAKE ZIMMERMAN, ASSESSOR,	)	
ST. LOUIS COUNTY, MISSOURI,	)	
	)	
Respondent.	)	

## DECISION AND ORDER

David Brauch (Mr. Brauch) appeals the St. Louis County Board of Equalization's (BOE) decision finding the true value in money (TVM) of the subject property on January 1, 2023, was \$138,100. Mr. Brauch alleges overvaluation and claims that the TVM as of that date was \$100,000.<sup>1</sup> Mr. Brauch did not produce substantial and persuasive evidence of overvaluation. The BOE decision is affirmed. The TVM of the subject property on January 1, 2023, was \$138,100.

The evidentiary hearing was held on February 25, 2025, via Webex. Mr. Brauch appeared *pro se* via Webex. Respondent Jake Zimmerman, Assessor, St. Louis County,

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<sup>1</sup> 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.

Missouri, was represented by counsel, Steven Robson who appeared via Webex. The appeal was heard and decided by Hearing Officer Samuel Knapper.

## **FINDINGS OF FACT**

**1. The Subject Property.** The subject residential real property is located at 672 Castlecliff Rd., Ballwin, Missouri with a Parcel ID of 26S520676. The subject property consists of a 0.59 acre lot and a single-family home built in 1915. The house has 1,028 includes two bedrooms and one bathroom and was originally built as a clubhouse.

**2. Assessment and Valuation.** Respondent classified the subject property as residential and determined the TVM on January 1, 2023, was \$235,400. The BOE independently determined the TVM of the subject property as of January 1, 2023, was \$138,100.

**3. Complainant's Evidence.** Mr. Brauch solely relied upon his testimony as proof in this matter. He testified that his opinion of value as of January 1, 2023, for the subject property is \$100,000. Mr. Brauch testified that he believes that the Assessor overvalued his property because of the several condition issues with the subject, including but not limited to: (1) poor electric wiring, (2) poor plumbing, (3) the house is not code compliant, and (4) the house will need to be torn down as opposed to repaired.

Mr. Brauch performed online research and estimates that the cost to tear down the home will be between \$12,000 to \$37,500. Mr. Brauch believes the cost would be towards the upper end of this range because he lives on a one lane road that has two hairpin turns; therefore, heavy equipment would not be able to access the subject. Mr. Brauch submitted pictures of these condition issues to the BOE but did not provide these to the State Tax

Commission (STC). Mr. Brauch testified that he would need a minimum of one acre to install a septic tank and he owns 0.59 acres so he will not be able to do so. He believes this limits potential buyers to his neighbors, but they are likely not interested due to the layout of the respective properties. He also testified that there is no sewer, no streetlights, and no snow removal.

Mr. Brauch also testified that he thought the highest and best use of the property would be to tear down the house. He admitted that he did not understand the meaning of “highest and best use” but was advised by a friend who works in the real estate sector. Consequently, Mr. Brauch believes an accurate assessment would be the value of the property minus the cost to tear down the house. Mr. Brauch also testified about statements made by Gregory Allsberry, Chief Counsel of the STC, during prehearing settlement conferences to support his position that the TVM of the subject is \$100,000 because Chief Counsel Allsberry agreed the house should be torn down.

Upon cross examination Mr. Brauch testified that he has no plans to demolish the house because he plans to live on the subject property as long as possible. Mr Brauch testified he is not a licensed appraiser but worked as a carpenter. Lastly, Mr. Brauch testified that he looked up the cost to demolish the house online and did not procure an estimate.

**4. Respondent's Evidence.** Respondent did not provide testimonial evidence and introduced Exhibit 1, the BOE’s October 17, 2023, Decision Letter. Complainant did not object. Respondent’s Exhibit 1 was admitted into evidence.

**5. Value.** The TVM of the subject property as of January 1, 2023, was \$138,100.

## 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. Residential real property is assessed at 19% of its TVM as of January 1 of each odd-numbered year. Section 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). "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).

"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.

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.

**2. Evidence.** “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). 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). “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.* The presiding officer may order prehearing conferences for the purpose of formulating or simplifying the issues, arranging for the exchange of

proposed exhibits or prepared expert testimony, limiting the number of witnesses, and such other matters as may expedite orderly conduct and disposition of the proceeding. *MO R S.CT. OP. RULES Rule 12-11.05*. “While contested administrative proceedings are not required to follow the ‘technical rules of evidence,’ the ‘fundamental rules of evidence’ applicable to civil cases also are applicable in such administrative hearings.” *State Bd. of Healing Arts v. McDonagh*, 123 S.W.3d 146, 154. Hearsay is an out-of-court statement offered in evidence to prove the truth of the matter asserted. *Nettie's Flower Garden, Inc. v. SIS Inc.*, 869 S.W.2d 226, 229 (Mo.App. E.D.1993)

**3. 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'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").

#### **4. Complainant Did Not Produce Substantial and Persuasive Evidence of Overvaluation.**

Mr. Brauch did not produce substantial and persuasive evidence rebutting the presumptively correct BOE value. Mr. Brauch did not produce substantial and persuasive evidence to support his opinion of value of \$100,000 for the subject property as of January 1, 2023. He also did not produce evidence comprising of a comparable sales approach, income approach, or cost approach to value.

The comparable sales approach is typically used to value residential properties improved with a single-family home. "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." *Snider*, 156 S.W.3d at 347-48 (internal quotation omitted).

Mr. Brauch testified about the several condition issues for the subject and the needed updates and repairs that are needed for the property. Pictures of the subject were submitted to the BOE evidencing the alleged problems with the home. Mr. Brauch also introduced cost estimates from online research to support his position. However, he offered no professional analysis completed by someone trained to analyze such condition issues and to show the deleterious effect they had on the property on the assessment date, January 1, 2023.

Mr. Brauch also testified as to an out-of-court statement made by a third party, Chief Counsel Allsberry of the STC, to prove the truth of the matter asserted. In this instance,

Mr. Brauch sought to introduce through his testimony that Chief Counsel Allsberry agreed that the house on the subject property had no value and needed to be torn down. This statement was made during a prehearing settlement conference. The purpose of the prehearing conference is to identify issues for hearing and possibly settle contested cases. The prehearing conference is not an occasion to administer oaths and collect testimonial evidence. Consequently, the fundamental rule of disallowing hearsay must apply to this testimony and be excluded from consideration of this matter.

Mr. Brauch testified that he presented these issues to the BOE. The BOE reduced the TVM to \$138,100 from the Assessor's original \$235,400 which tends to show that the BOE did take the condition of the home into consideration when reaching its value.

The lack of evidence relating to a recognized valuation method renders Complainant's proposed value speculative and unpersuasive. *See Cohen*, 251 S.W.3d at 349 (holding an opinion of value loses probative value when based on an improper foundation). Mr. Brauch 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.

### **CONCLUSION AND ORDER**

The BOE decision is affirmed. The TVM of the subject property as of January 1, 2023, was \$138,100.



### **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. Louis 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 August 21, 2025.

STATE TAX COMMISSION OF MISSOURI

Samuel Knapper  
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 August 22nd, 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