



STATE TAX COMMISSION OF MISSOURI

LORRAINE COLEMAN,) Appeal Nos. 22-10430
) Parcel/locator No(s): I00855489
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 Complainant(s),)
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 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST LOUIS COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Lorraine Coleman (Complainant) appealed valuation of the subject property determined by Jake Zimmerman, Assessor, St. Louis County, Missouri, (Respondent). Complainant did not appeal to the St. Louis County Board of Equalization (BOE), but appealed directly to the State Tax Commission (STC) after receiving first notification of the valuation upon receiving her 2022 tax bill.¹ Complainant claimed overvaluation of the subject personal property. An evidentiary hearing was held via Webex on June 23, 2023. Complainant appeared as a self-represented litigant. Respondent appeared by counsel,

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.

Steven Robson.

FINDINGS OF FACT

1. Subject Property. The subject property is a 2018 Toyota Rav 4 SUV.

2. Respondent and BOE. Respondent determined the personal property trade-in value of the subject property on January 1, 2022, was \$21,175, with an assessed value of \$7,060, rounded.²

3. Complainant's Evidence. Complainant submitted the following exhibits:

Exhibit	Description	Ruling
A	Tax Year 2022 Personal Property Declaration	Admitted
B	Tax Year 2021 Personal Property Declaration	Admitted

According to Complainant's exhibits, the assessed value of Complainant's vehicle increased from \$5,800 in 2021 to \$7,060 in 2022. Complainant testified that the exhibits themselves indicate that these were not to be considered final assessments. Complainant testified that the information in these exhibits is insufficient to satisfy the notice requirements of Section 137.355 and 12 CSR 30-3.010 because the final value is not published until after July 1 which is less than 30 days before the deadline to file BOE appeals.

Jefferey Coleman, Complainant's husband, testified that he monitors and keeps track of all of the couple's financial affairs and checks them for errors and discrepancies.

² The process of rounding caused the assessed value of the vehicle to exceed one third of average trade-in value by \$2.00. One third of the property's appraised value is \$7,058.

He testified that the declaration form for 2022 showed a preliminary value increase over 2021, but not a final value. He testified that Respondent is required by Section 137.355 to provide timely notice of any actual (i.e., final) increase in assessment. Complainant never received a final 2022 assessment from Respondent. The only final 2022 assessment that she received was from the St. Louis County Collector in the form of a tax bill, received on November 19, 2022.

Following Mr. Coleman’s testimony, Complainant emphasized that although she appealed on the basis of overvaluation, her appeal was not intended to contest valuation, but rather, lack of proper notice. In her view, the preliminary assessment contained in Exhibit A did not satisfy the notice requirements of Section 137.355. She asks the STC to match her 2022 assessment with her 2020 assessment, inasmuch as the 2021 assessment suffers from the same defect as the 2022 assessment.

5. Respondent's Evidence. Respondent submitted the following exhibits:

Exhibit	Description	Ruling
1	October, 2021 J.D. Power printout applicable to a 2018 Toyota Rav 4	Admitted
2	2022 Property Record from the St. Louis County Assessor’s Office pertaining to Complainant’s vehicle	Admitted
3	2022 online declaration filed on 3/8/2022 by the Complainant	Admitted

Suzanne Strain, personal property manager in the St. Louis County Assessor’s office, testified that Respondent utilized the average trade-in value indicated for the subject vehicle. She used the October 2021 issue of the National Automobile Dealers’ Association Official Used Car Guide or its successor publication pursuant to Section 137.115.9. There

was no Board of Equalization decision regarding the property. Respondent assessed the vehicle at one third of the average trade-in value shown in the used car guide, as required by statute.

6. Value. The true value in money of the 2018 Toyota Rav 4 SUV as of January 1, 2022 was \$21,175.

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. Personal property is assessed at 33.33% of its TVM as of January 1 of each year. Section 137.115.5. Pursuant to Section 137.115.9 “[t]he assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers’ Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of the motor vehicles described in such publication. The assessor shall not use a value that is greater than the average trade-in value in determining the true value of the vehicle without performing a physical inspection of the motor vehicle. ...”. “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).

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). "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. Complainant's Burden of Proof

The Complainant bears the burden of proving the vital elements of the case, i.e., the assessment was "unlawful, unfair, improper, arbitrary or capricious." *Westwood*

Partnership, 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). 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).

4. Complainant Did Not Prove Overvaluation.

Complainant did not submit any evidence indicating overvaluation. Moreover, as stated above, she never intended in this appeal to challenge valuation, but rather, lack of timely notice from Respondent of a final assessment.

The testimony of Respondent's witness, Suzanne Strain, was credible. Respondent determined the true value in money of the property using the method prescribed by law.

5. Respondent's Alleged Noncompliance with Section 137.355.

Section 137.355 is divided into three parts. The first part, Section 137.355.1, provides that “[i]f an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor . . . he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address”

Much of Complainant’s argument has to do with whether the assessed valuation listed in the 2022 Personal Property Declaration form was a “preliminary” or a “final” valuation. From the Complainant’s perspective, it was “preliminary” in that it was subject to change until July 1. From Respondent’s perspective, it was “final” in that, unlike in 2021, the form itself did not indicate that it was a preliminary valuation. It was a final valuation, unless it was modified before July 1 – and it wasn’t modified.

However, it is not necessary to determine whether the valuation indicated in the 2022 Personal Property Declaration form was “preliminary” or “final” because Section 137.355 neither defines nor makes any distinction between a “preliminary” or a “final” valuation. To impose a requirement that an assessor provide a “final” valuation is to impose a requirement that is not in the statute.

Similarly, the term “forthwith” is not defined in the statutes applicable to assessment of property. The General Assembly has not specified a date by which counties *are required* to provide change of assessment notices for *personal property*. Nothing in Section 137.355 or any other statute supports the notion that, because a taxpayer receives notice from the collector (in the form of a tax bill) instead of from the assessor, the tax for that year must remain fixed at a prior year’s level.

The second part, Section 137.355.2, provides that assessors shall notify the record owners of *real property* of valuation increases by June 15. Nothing in the statute makes the June 15 deadline applicable to *personal property* cases such as this one.

The third part, Section 137.355.3, is conditioned on a future event (receipt of software) that has not yet occurred and, if that future event ever does occur, the third part will apply only to *real property* cases.

12 CSR 30-3.010 does not impose any additional notice requirements upon Respondent. The regulation provides in pertinent part that a taxpayer who does not receive notice in time to file an appeal with the BOE may appeal directly to the STC, as Complainant did in this case. Thus, there was no loss of right to file an appeal or other prejudice to Complainant which resulted from any alleged lack of final notice from the Respondent.

Further, whether Section 137.355 applies at all to St. Louis County or to any other charter county is, at the least, questionable.

The Missouri General Assembly has provided in Section 137.325 that Sections 137.325 to 137.420 (including 137.355) are applicable *only* to first class counties. St. Louis County is not a first-class county – it is a charter county. Charter counties are not classified as first-class counties, even though they may otherwise meet the criteria for first class counties. Charter counties comprise their own, separate class of counties.

Section 48.020 provides that “[a]ll counties of this state are hereby classified . . . into four classifications . . .” (first, second, third and fourth class). The statute was enacted under the provisions of Article VI, Section 8 of the Constitution of Missouri.

Article VI, Section 8 provides for the classification of counties by general laws not to exceed four classes.

However, in 1995, Missouri voters amended Article VI, Section 18(a) of the Missouri Constitution. Article VI, Section 18(a) provides: “Counties which adopt or which have adopted a charter or constitutional form of government shall be a separate class of counties outside of the classification system established under section 8 of this article.”

In *Leiser v. City of Wildwood*, 59 S.W.3d 597 (Mo. App. E.D. 2001), the court addressed Section 72.424 which, on its face, applied to land located in municipalities “within a *county of the first classification having a charter form of government and having a minimum population of nine hundred thousand . . .*” (emphasis added). The court observed:

St. Louis County has a charter form of government pursuant to Article VI, section 18(a) of the Missouri Constitution and has a population over nine hundred thousand, but it is not a county “of the first classification.” That is because Art VI, section 18(a), as amended in 1995, provides: “Counties which adopt or which have adopted a charter or constitutional form of government shall be a separate class of counties outside of the classification system established under section 8 of this article.”

...

As written, with the inclusion of the words “of the first classification,” section 72.424 would not apply to any county in Missouri because no county in Missouri can be a county of the first class and have a charter form of government. Because the inclusion of these words creates an absurd law, incapable of being enforced, we may strike this phrase as being improvidently inserted.

Id. at 603.

Therefore, Missouri no longer has charter counties of the first class. Counties are

either charter counties or first-class counties, but not both. Neither the General Assembly nor the courts have explicitly stated whether Section 137.355 continues to apply to charter counties that were formerly first-class counties.³

CONCLUSION AND ORDER

The true value in money of the subject property as of January 1, 2022 was \$21,175 with an assessed value of \$7,058.

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.

³ There are examples in Chapters 137 and 138 of differing requirements applicable to charter counties and first class counties. For example, requirements for notifying owners of real property of valuation increases in charter counties are set forth in Section 137.180.2. Similar, but somewhat different, requirements applicable to first class counties are set forth in Section 137.335.2. Another example: boards of equalization in charter counties generally have until the fourth Saturday in August each year to complete all business, but boards in first class counties must generally complete their work by July 31 each year. Section 138.050.

Disputed Taxes

The Collector of St. Louis 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 December 15, 2023.

STATE TAX COMMISSION OF MISSOURI

Gregory Allsberry
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 December 15, 2023, to:

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

Stacy Ingle
Legal Assistant