



# STATE TAX COMMISSION OF MISSOURI

JEFFREY CALL HARDIE, )  
 )  
 Complainant(s), )  
 ) Appeal No. 22-32550  
 v. )  
 )  
 SCOTT SHIPMAN, ASSESSOR, )  
 ST. CHARLES, COUNTY, )  
 MISSOURI, )  
 Respondent. )

**ORDER AFFIRMING HEARING OFFICER DECISION UPON**  
**APPLICATION FOR REVIEW**  
**HOLDING**

On May 19, 2023, State Tax Commission (STC) Senior Hearing Officer Gregory Allsberry (Hearing Officer) entered a Decision and Order (Decision) setting aside the valuation of the St. Charles County Board of Equalization (BOE), which had affirmed the valuation made by Scott Shipman<sup>1</sup>, Assessor, St. Charles County, Missouri, (Respondent), and determining the true value in money (TVM) of the subject property in this appeal as of January 1, 2022. Jeffrey Call Hardie (Complainant) timely filed an Application for Review of the Decision and Order of the Hearing Officer.

We AFFIRM the Decision of the Hearing Officer. Segments of the Hearing

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<sup>1</sup> As of the date this Order, Travis Welge is the current Assessor of St. Charles County, Missouri.

Officer's Decision may have been incorporated into our Order without further reference.

### **FINDINGS OF FACT AND PROCEDURAL HISTORY**

The subject property consists of a 2012 Dodge Ram 3500Crew Cab ST 4WD (truck) and a 2005 Tahoe Thor M-36 TB SS 39 FT travel trailer (trailer), classified as personal property. The account number is P0201898.

Respondent determined the trade-in value of the subject property on January 1, 2022, was \$19,450 for the truck and \$10,350 for the trailer. On the basis of these market values, Respondent determined an assessed value of \$9,933. A hearing was held before the BOE on July 13, 2022, following which the BOE also determined the assessed value of the subject property to be \$9,933.

Complainant timely filed a Complaint for Review of Assessment to the STC based on overvaluation. An evidentiary hearing was held via Webex on May 19, 2023. Complainant appeared *pro se*. Respondent appeared by counsel. On September 22, 2023, the Hearing Officer issued his Decision and Order setting aside the value as determined by the BOE. The Hearing Officer found that the TVM of the truck as of January 1, 2022, was \$17,775, with an assessed value of \$5,925, and the TVM of the trailer as of January 1, 2022, was \$10,350, with an assessed value of \$3,450. Complainant timely filed an application for review.

### **CONCLUSIONS OF LAW**

#### **Complainant's Point on Review**

Complainant alleges the Hearing Officer's Decision was erroneous because Respondent's witness' testimony regarding the values of the truck and trailer using values

reported by J.D Power was incorrect because the truck's condition issues and opinions of local camper dealerships indicated lower values for the truck and trailer.

### **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.<sup>2</sup> 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*

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<sup>2</sup> All statutory citations are to RSMo 2000, as amended.

*& 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).

### **Commission's Ruling**

For the reasons that follow, the Commission finds Complainant's arguments to be unpersuasive. The Commission, having thoroughly reviewed the whole record and having

considered the Hearing Officer's Decision, the application for review of Complainant, the response of Respondent, and the reply of Complainant, affirms the Hearing Officer's decision.

With regard to Complainant's point on Application for Review, we find the allegation to be without merit.

The Hearing Officer correctly applied the substantial and persuasive evidence standard to the evidence presented in an appeal before the STC. The taxpayer in a STC appeal bears the burden of proof. The taxpayer is the moving party seeking affirmative relief. Additionally, there was no presumption in favor of Respondent's valuation in this appeal, see Section 138.431.4, but Complainant still had the burden of proving that the valuation placed on the subject property was erroneous and of establishing what should be the value of the subject property.

With regard to the truck, the record reveals that Complainant did not provide any evidence that credibly challenged the BOE's determination of the value of the truck. Complainant did not even testify as to his opinion of the truck's TVM. The record shows that Complainant presented a "CarMax Appraisal Offer," indicating a vehicle dealership's offer to purchase the 2012 Ram Pickup for \$11,000. As noted by the Hearing Officer, this was not an independent appraisal but an offer to purchase the truck so that CarMax could resell the truck at a profit.

With regard to the trailer, Complainant's evidence at the Evidentiary Hearing was essentially an estimate of the trailer's worth after subtracting potential repairs. In his Application for Review, Complainant relates a conversation that he had with an appraiser

at a local camper dealership regarding the retail value of the trailer, which appears to have occurred after the evidentiary hearing in this matter. No appraisal report regarding the trailer was offered as evidence at the evidentiary hearing and preserved in the record for our review. Any discussion Complainant had with an appraiser at a local camper dealership regarding the retail value of the trailer that was not properly presented as evidence constitutes hearsay and will not be considered.

Moreover, the record reveals that Respondent presented credible and persuasive evidence as to the subject property's TVM under the methodology prescribed by Section 137.115.9. Respondent's witness testified that this was the methodology used for determining the TVM of the truck and the trailer and that Respondent also took into account the condition of the truck. Respondent's witness stipulated at the hearing that the rough trade-in value of \$17,775 was appropriate for the truck rather than the average trade-in value. The record supports the Hearing Officer's findings. The Commission finds that a reasonable mind could have conscientiously reached the same result as the Hearing Officer based on a review of the entire record. *Hermel*, 564 S.W.2d at 895-96; *Black v. Lombardi*, 970 S.W.2d 378 (Mo. App. E.D. 1998). The Hearing Officer did not err in setting aside the BOE's determination of value and finding the TVM of the truck and trailer based upon the substantial and persuasive evidence in the record.

### **ORDER**

The Decision of the Hearing Officer is AFFIRMED. Segments of the Decision and Order of the Hearing Officer, including the findings of fact and conclusions of law therein, may have been incorporated by reference, as if set out in full, in this final decision of the

Commission.

Judicial review of this Order may be had in the manner provided in Sections 138.432 and 536.100 to 536.140 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.

If no judicial review is made within 30 days, this decision and order is deemed final and the Collector of St. Charles County, 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 December 15, 2023.  
STATE TAX COMMISSION OF MISSOURI

Gary Romine, Chairman

Victor Callahan, Commissioner

Victor Callahan, Commissioner

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 M. Ingle  
Legal Assistant





# STATE TAX COMMISSION OF MISSOURI

JEFFREY CALL HARDIE, )  
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 ) Appeal No. 22-32550  
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 SCOTT SHIPMAN, ASSESSOR, )  
 ST CHARLES, COUNTY, )  
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## DECISION AND ORDER

Jeffrey Call Hardie (Complainant) appealed<sup>3</sup> valuation of the subject personal property determined by Scott Shipman, Assessor, St. Charles County, Missouri (Respondent). Complainant appealed on the basis of overvaluation. An evidentiary hearing was held via Webex on May 19, 2023. Complainant appeared *pro se*. Respondent appeared by counsel Michael Mueth.

## FINDINGS OF FACT

**1. Subject Property.** The subject property consists of a 2012 Dodge Ram 3500 Crew Cab ST 4WD and a 2005 Tahoe Thor M-36 TB SS 39 FT travel trailer, classified as personal property. The Parcel/Locator number is P0201898.

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<sup>3</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, Section 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

**2. Respondent and BOE.** Respondent determined the trade-in value of the subject property on January 1, 2022 was \$19,450 for a 2012 Dodge Ram 3500 Crew Cab ST 4WD and \$10,350 for a 2005 Tahoe Thor M-36 TB SS 39 FT travel trailer. On the basis of these market values, Respondent determined an assessed value of \$9,933. A hearing was held before the St. Charles County Board of Equalization (BOE) on July 13, 2022, following which the BOE also determined the assessed value of the subject property to be \$9,933.<sup>4</sup>

**3. Complainant’s Evidence.** Complainant submitted the following documents as exhibits:

Exhibit	Description	Ruling
Not marked	CarMax Appraisal Offer	Admitted
Not marked	Camper roof estimate from St. Louis RV Body	Admitted
Not marked	Pomp’s Tire Service estimate	Admitted
Not marked	J.D. Power printout period July 12, 2022 regarding 2012 Ram 3500 Crew Cab ST 4WD	Admitted
Not marked	Photo of Ram front bumper	Admitted
Not marked	Photo of Ram left front	Admitted
Not marked	Photo of Ram right side	Admitted
Not marked	Photo of Ram drivers seat	Admitted
Not marked	Photo of Ram left side	Admitted
Not marked	Photo of Ram tailgate	Admitted

The CarMax appraisal indicated an offer to purchase the Ram pickup truck for \$11,000 during the period from March 6, 2023 and March 13, 2023. The J.D. Power printout for the Ram applied to July 12, 2022, was calculated based upon mileage of 314,068, and listed average and rough trade-in values of \$14,475 and \$12,775,

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<sup>4</sup> In addition, Respondent assessed Complainant’s property that was not subject to this appeal in the amount of \$1,554.

respectively. The photos showed wear and damage to various parts of the truck, consisting of front bumper and front fender damage, paint missing from various areas of the truck, a missing driver side running board, a worn out driver seat, and an airbag light that remains on continuously. Complainant estimated that it will cost \$4,000 to \$4,500 to repair these items.

The estimate from St. Louis RV Body was in two parts. One estimate listed parts and labor for repairs in the amount of \$4,658.15. The other estimate listed parts and labor for repairs in the amount of \$10,227.34. Combined, they indicate that a total of at least \$14,885.49 of repair work is needed on the travel trailer. The bids were dated June 12, 2020. Complainant points out that the cost for parts and labor have likely increased since that date.

Complainant testified that the travel trailer is not currently usable. It needs a new roof and it needs all six tires replaced. Complainant doubts that he could sell it for as little as \$4,000.

**4. Respondent's Evidence.** Respondent submitted the following Exhibits:

Exhibit	Description	Ruling
1	J. D. Power vehicle information sheet for October 1, 2021 pertaining to a 2012 Dodge Ram 3500 Crew Cab ST 4WD DRW 6.7L I6 Diesel (page 1) and a 2005 Tahoe by Thor Ind travel trailer 39 feet long by 8 feet wide	Admitted

Michele Baumgartner, personal property manager for the St. Charles County Assessor’s office, testified for the Respondent. The average trade-in value of the truck as of January 1, 2022 was \$19,450 according to the October, 2021 edition of the J.D.

Power used car guide. However, at the hearing, having reviewed photos of the truck, Ms. Baumgartner testified that it is appropriate to use rough trade-in value rather than average trade-in value in the amount of \$17,775. Also, by utilizing pricing information from the September-October, 2021 edition of J.D. Power for the travel trailer, Respondent determined a used wholesale trade-in value of \$10,350. Use of these particular used car guides is mandated by Section 137.115.9. After calculating one third of these values for personal property as required by law, Respondent assessed the property at \$9,933.

**5. Value.** Respondent’s evidence was substantial and persuasive to establish that the true value in money of the subject property on January 1, 2022 was \$28,125, with an assessed value of \$9,375.

## **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 true value in money 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 true value in money 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 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 substantial, persuasive evidence sufficient to rebut the determination of valuation made by the Respondent and the BOE. With respect to the RAM pickup truck, Complainant credibly established that the truck needs repairs costing

several thousand dollars in order to restore it to its former condition. However, none of the repair items affect the truck's functionality as a truck. With the exception of the airbag light, the repair items (body, paint, running board, seat) are cosmetic in nature.

Complainant has not provided an appraisal that credibly challenges the Respondent's determination of value of the truck. The "Appraisal Offer" from CarMax is not truly an appraisal of the vehicle, but rather, an offer to purchase the vehicle for a limited period of time, presumably so that CarMax might resell the vehicle at a higher price and make a profit. This necessarily implies that CarMax thought the truck was worth more than the "appraisal offer" of \$11,000. Complainant did not testify as to his personal opinion of the truck's value.

Complainant provided a printout from J.D. Power listed a rough trade-in value of \$12,775 as of July 12, 2022. However, because the date specified by law for valuation purposes is January 1 of each tax year, not July 12, the evidence carries very little weight.

Concerning the travel trailer, Complainant credibly proved that substantial repairs are needed that would cost several thousand dollars. The trailer is not usable at this time because it needs six new tires which would cost approximately \$1,257.83 to repair. It is not clear from the evidence whether the remaining repair items also affect the travel trailer's functionality, or whether they are mainly cosmetic in nature.

Given the extent of the substantial repairs that are needed, it is quite possible that the trailer is indeed worth less than the used wholesale trade-in value listed in the J.D. Power guide. However, Complainant has not provided specific, credible evidence (such as an appraisal from a dealer) that might help to establish the trailer's value. Other than

the cost of repairs, the only evidence which Complainant offered regarding valuation was his testimony that he doubted he could sell it for even \$4,000 in its current condition. Complainant did not offer any specific facts as to how he arrived at that amount. There is no evidence that Complainant regularly buys and sells travel trailers or that he consulted any pricing sources or guides. His estimate of value of \$4,000 or less is little more than a guess on his part. It is not sufficient evidence to rebut the presumption that the BOE's determination of value was correct.

The testimony of Respondent's witness, Ms. Baumgartner, was credible and persuasive as to the subject property's true value in money. She used the method prescribed by Missouri law for determining the values of the truck and travel trailer. She properly took into account the condition of the truck by stipulating at the hearing to use of rough trade-in value for the truck in the amount of \$17,775, rather than average trade-in value.

### **CONCLUSION AND ORDER**

The BOE decision is set aside. The true value in money of the 2012 Dodge Ram 3500 Crew Cab ST 4WD as of January 1, 2022 was \$17,775 with an assessed value of \$5,925. The true value in money of the 2005 Tahoe Thor M-36 TB SS 39 FT travel trailer as of January 1, 2022 was \$10,350 with an assessed value of \$3,450.

### **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 St Charles 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 September 22, 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 September 22, 2023, 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