

STATE TAX COMMISSION OF MISSOURI

WJD PROPERTIES, LLC,)	Appeal Nos. 21-110394
)	Parcel/locator No.
Complainant,)	16O230543
)	
v.)	
)	
JAKE ZIMMERMAN, ASSESSOR,)	
ST. LOUIS COUNTY, MISSOURI,)	
Respondent.)	

DECISION AND ORDER

WJD Properties, LLC (Complainant) appeals Respondent’s valuation of the subject property finding the true value in money (TVM) of the subject property on January 1, 2021, was \$221,900. Complainant does not have standing in the appeal. As Complainant does not have standing to prosecute the appeal, the State Tax Commission (STC) is without jurisdiction and must dismiss.

PROCEDURAL BACKGROUND

1. On January 24, 2023, Respondent filed a Motion to Dismiss with exhibits asserting that Complainant does not have standing because it is not an owner of the subject property. Respondent therefore asks the STC to dismiss the appeal.
2. On January 25, 2023, the STC issued an Order canceling the hearing and ordering Complainant to file a response to the Motion on or before February 3, 2023.
3. On February 2, 2023, Complainant filed its response to Respondent’s Motion (“Reply”). Complainant admits that it received the deed to the property in January of 2022,

but argues in principle that it did have standing in this appeal as a real party in interest because it paid the taxes.

4. In their filings, Complainant and Respondent agree to the essential facts regarding Complainant's purchase of the subject property and the recording of its deed to the property. The parties also have stated that they agree as to the value of the property as of January 1, 2021 (\$195,500), but that a written stipulation to that effect has not been submitted due to the underlying question of standing raised by Respondent's Motion.

FINDINGS OF FACT

1. On December 29, 2021, Complainant purchased the subject property at a foreclosure auction. At the time of the sale, property taxes for 2021 were owed and they were paid by Complainant.

2. Also on December 29, 2021, as a new purchaser of the property, Complainant directly appealed Respondent's assessment pursuant to 12 CSR 30-3.010(1)(B)1.

3. Complainant received the deed to the property on January 14, 2022, and it was recorded in St. Louis County on January 18, 2022.

CONCLUSIONS OF LAW AND DECISION

"Parties seeking relief 'bear the burden of establishing that they have standing.'" *St. Louis Ass'n of Realtors v. City of Ferguson*, 354 S.W.3d 620, 622 (Mo. banc 2011), quoting *Manzara v. State*, 343 S.W.3d 656, 659 (Mo. banc 2011). To prove standing, Complainant must show that it has standing to prosecute this appeal as an owner of the subject property.

Appeals to the local board of equalization shall be made by the aggrieved taxpayer in the manner required by law. Section 137.275, RSMo. (emphasis added). Every *owner* of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with Missouri law and the rules set by the State Tax Commission (“STC”). 12 CSR 30-3.010(1) (Emphasis added). Similarly, with direct appeals to the STC for taxpayers who recently acquired property, *owners* of property may appeal. 12 CSR 30-30.3.010(1)(B) provides, in pertinent part:

1. In any county or the City of St. Louis, *the owner* may appeal directly to the State Tax Commission (a) where the assessor fails to notify the current owner of the property of an initial assessment or an increase in assessment from the previous year, prior to thirty (30) days before the deadline for filing an appeal to the board of equalization, including instances in which real property was transferred and the prior owner was notified, or *(b) where a new owner purchased real property less than thirty (30) days before the deadline for filing an appeal to the board of equalization or later in the tax year, regardless if the assessment is an initial assessment, an increase or decrease in assessment, or an assessment established in the prior year.* Appeals under this paragraph shall be filed within thirty (30) days after a county official mailed a tax statement or otherwise first communicated the assessment or the amount of taxes to the *owner* or on or before December 31 of the tax year in question, whichever is later. Proof of late notice, the date of purchase, and/or notice sent to the prior owner shall be attached to, or set forth in, the complaint.

Complainant has not shown that it owned the subject property in the tax year of 2021. Complainant was not an owner of the property until January 2022. An “owner” is a person who has a legal title to the real estate. *State ex rel. Missouri Highway and Transportation Commission v. Wallach*, 826 S.W.2d 901 (Mo. App. 1992). In Missouri,

ownership is conveyed through a deed. Section 442.380 provides:

Every instrument in writing that conveys any real estate, or whereby any real estate may be affected, in law or equity, proved or acknowledged and certified in the manner herein prescribed, shall be recorded in the office of the recorder of the county in which such real estate is situated.

Section 442.400 provides the consequence for failing to record the instrument with the applicable office of the recorder: “(n)o such instrument in writing shall be valid, except between the parties thereto, and such as have actual notice thereof, until the same shall be deposited with the recorder for record.”

The parties agree a deed transferring ownership to Complainant was recorded on January 18, 2022. Therefore, Complainant did not become owner of the subject property for purposes of an appeal of ad valorem taxes until the deed was recorded. A December 29, 2021, contract to purchase real estate at auction does not give Complainant standing in these appeals, ownership does. Section 138.430.1. Therefore, because Complainant has not proven ownership for tax year 2021, Complainant cannot proceed with this appeal of the 2021 assessment.

Further, Complainant cannot remedy that defect now. Although in a different context, the Eastern District of Missouri Court of Appeals’ decision in *Bray v. Lee*, 620 S.W.3d 278 (Mo. App. E.D. 2021), instructive. There, the Court held that a purported property owner failed to establish that he had an ownership interest or some other legally protectable interest in the property at issue in that case at the time the alleged damages occurred or at the time the litigation was commenced, and that he could not cure that

defect at a later time during the action. *Id.* at 281-283.

Last, Complainant cites *Herky, LLC v. Holman*, 277 S.W.3d 702 (Mo. Ct. App. 2008) in its Reply to Respondent's Motion. Reply, p. 2. However, that case is distinguished from this case as it involved a proration agreement for taxes which is not present here.

Complainant's failure to establish standing is fatal to its appeal. As an administrative tribunal, the STC can only give relief to those parties to whom statutes give the right to appeal. If standing is not established, the STC cannot give relief.

The Missouri Supreme Court has held:

Standing is a jurisdictional matter antecedent to the right to relief ... It asks whether the persons seeking relief have a right to do so ... Where, as here, a question is raised about a party's standing, courts have a duty to determine the question of their jurisdiction before reaching substantive issues, for if a party lacks standing, the court must dismiss the case because it does not have jurisdiction of the substantive issues presented. Lack of standing cannot be waived.

Farmer v. Kinder, 89 S.W.3d 447, 451 (Mo. banc 2002).

CONCLUSION AND ORDER

Complainant was not the owner of the subject property in 2021 and did not have the statutory right to appeal the 2021 ad valorem assessment. Therefore, for the reasons stated above, Respondent's Motion to Dismiss is sustained and Complainant's appeal is hereby DISMISSED.

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. 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 March 23, 2023.
STATE TAX COMMISSION OF MISSOURI

Benjamin C. Slawson
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 March 23, 2023, to:

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

Amy S. Westermann
Chief Counsel