



STATE TAX COMMISSION OF MISSOURI

MICHAEL KEVIN ROSS AND)
JENNIFER ROSS,)
Complainant(s),)
v.) Appeal No. 22-32508
Parcel/locator No. P0252632
SCOTT SHIPMAN, ASSESSOR,)
ST. CHARLES COUNTY,)
MISSOURI,)
Respondent.)

DECISION AND ORDER

Michael Kevin Ross and Jennifer Ross (Complainants) appeal the valuation of the subject property determined by Scott Shipman, Assessor, St. Charles County, Missouri, (Respondent). Complainants did not appeal to the St. Charles County Board of Equalization (BOE), but appealed directly to the State Tax Commission (STC) after receiving first notification of the valuation upon receiving the 2022 tax bill. Respondent placed an assessed value as of January 1, 2022, of \$3,266 for the 2016 Kia Sedona and \$442 for the 2004 Honda Odyssey-V6. Complainants claim the property is overvalued and propose a value of \$7,000 for the 2016 Kia Sedona and \$1,000 for the 2004 Honda Odyssey-V6. Complainants did not produce substantial and persuasive evidence establishing overvaluation of the subject property as of January 1, 2022. Respondent presented substantial and persuasive evidence to establish the true value in money of the

subject property as of January 1, 2022.¹ Complainants appeared *pro se*. Respondent, appeared by and through counsel, Michael Mueth. The evidentiary hearing was conducted via Webex, on April 6, 2023.

FINDINGS OF FACT

1. Subject Property. The subject property is the 2016 Kia Sedona and the 2004 Honda Odyssey-V6.

2. Respondent. Respondent determined the personal property trade-in value of the subject property on January 1, 2022, was \$9,800, \$3,266 assessed, for the 2016 Kia Sedona and \$1,325, \$442 assessed, for the 2004 Honda Odyssey-V6 using the 2021 October issue of the National Automobile Dealers' Association (now doing business as J.D. Power, hereinafter "NADA") Official Used Car Guide pursuant to Section 137.115.9.

3. Respondent's Motion to Dismiss under 138.430. Complainant made no appeal to the local BOE. Respondent filed their Motion, which cites "in the absence of such appeal and review by the Board of Equalization, there [is] no ruling subject to review before the State Tax Commission on the authority of...§ 138.430, RSMo." *Pessin v. State Tax Com'n*, 875 S.W.2d 143, 146 (Mo. Ct. App. 1994)." (Motion at 1) Respondent argues "Complainant timely received a notice of assessment and value change, which was mailed to him on June 27, 2022. However, Complainant did not appeal to the BOE and the BOE

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.

did not issue a decision. Therefore, the BOE did not ‘determine’ Complainant’s appeal as required under § 138.060.1, RSMo and never had the opportunity to correct or adjust the assessment due to Complainant’s failure to file an appeal. Accordingly, there is no ruling subject to review by the Commission under § 138.430, RSMo. *Pessin*, 875 S.W.2d at 146.”

(Motion at 1-2)

Respondent’s Motion is overruled. The STC recognizes two exceptions to an appeal to the local BOE under 12 C.S.R. 30-3.010(1)(B)(1) as follows:

“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.” (*emphasis added*).

The record reflects that Respondent’s notice was mailed on June 27, 2022.

(Respondent’s Motion to Dismiss at 2) The appeal filing deadline is the second Monday in July of each year. *See* RSMo 138.180. Here, the mailing date of June 27, 2022, afforded Complainant a total of 14 days (with the BOE deadline dated July 11, 2022). Therefore,

the exception exists for Complainant, who filed a timely Complaint for Review of Assessment, prior to December 31, 2022. The STC has jurisdiction in the appeal.

4. Complainants' Evidence. Complainant submitted testimony from Jennifer Ross and Michael Kevin Ross, a Complaint for Review of Assessment to the STC with a 2021 and 2022 tax notice, and Exhibit A. Mr. Ross testified to January 1, 2022, values of \$7,000 for the 2016 Kia Sedona and \$1,000 for the 2004 Honda Odyssey-V6. Complainants both testified they disagreed with any increase in value. Complainants submitted the following exhibit:

Exhibit	Description	Ruling
A	Pictures of Vehicle Valuation from Kelly Blue Book website	Admitted

Complainants testified all of the subject property (vehicles) are mechanically maintained and in reasonable working order, have not been recently wrecked and are not currently totaled. Complainants testified they have not recently listed the vehicles for sale. Complainants testified they did not have any appraisal of valuation performed for any of the vehicles. Complainants testified the Assessor did not inspect any of the vehicles. Complainants testified the 2004 Honda Odyssey-V6 is driven weekly, with a mileage of approximately 265,000, and has normal wear and tear on the exterior, but the sliding doors are no longer operational. Complainants testified the 2016 Kia Sedona is driven daily, with a mileage of approximately 140,000, and has normal wear and tear on the exterior. No evidence was submitted regarding any other vehicles listed within the 2022 property assessment.

4. Respondent's Evidence. Respondent submitted the testimony of Michele Baumgartner, St. Charles County Manager of personal property, who testified that the vehicles were valued at their average trade in value, according to NADA reports. Respondent submitted Exhibit 1, which is the NADA report, which was admitted into evidence.

5. Value. The TVM for the 2016 Kia Sedona as of January 1, 2022, was \$9,800 market value, \$3,266 assessed. The TVM for the 2004 Honda Odyssey-V6 as of January 1, 2022, was \$1,325 market value, \$442 assessed.

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. Complainants Did Not Prove Overvaluation.

Complainants' Exhibit A contains no appraisal or other recognized method for valuation for the 2016 Kia Sedona or 2004 Honda Odyssey-V6. Complainants' proposed

value of \$7,000 and \$1,000, respectively, are based in part on the documents within the Exhibit submitted by Complainants. Kelly Blue Book valuation is not the method of valuation recognized in Missouri to value vehicles, and any resulting valuation from this website, is speculative. In sum, Complainants presented no substantial or persuasive evidence as to the values of the subject property on January 1, 2022.

Respondent's testimony and Exhibit 1 demonstrate each vehicle was valued utilizing the average trade-in value of the vehicle published in the October 2021 issue of the National Automobile Dealers' Association (NADA) Official Used Car Guide as required by statute.² Respondent presented substantial and persuasive evidence of the valuation for the vehicles.

CONCLUSION AND ORDER

The TVM for the 2016 Kia Sedona as of January 1, 2022, was \$9,800 market value, \$3,266 assessed. The TVM for the 2004 Honda Odyssey-V6 as of January 1, 2022, was and \$1,325 market value, \$442 assessed.

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

² For more information, please see the guidance provided by the STC to the public further explaining the increased values for personal property in 2022. <https://stc.mo.gov/wp-content/uploads/sites/5/2022/11/News-Release-11182022-Supply-Chain-Chip-Shortage-Inflation-Impact-Vehicle-Values.pdf>

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 April 21, 2023.

STATE TAX COMMISSION OF MISSOURI

ERICA M GAGE
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 April 21, 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