



# STATE TAX COMMISSION OF MISSOURI

DENNIS ALLEN FEIT, )  
 )  
 Complainant(s), )  
 ) Appeal No. 22-10005  
 v. )  
 )  
 JAKE ZIMMERMAN, ASSESSOR, )  
 ST LOUIS, COUNTY, MISSOURI, )  
 Respondent. )

## DECISION AND ORDER

Dennis Allen Feit (Complainant) appealed valuation of the subject personal property initially determined by Jake Zimmerman, Assessor, St. Louis County, Missouri (Respondent). Complainant appealed to the St. Louis County Board of Equalization (BOE). On September 15, 2022, the BOE determined the assessed value of Complainant’s property to be \$12,900, the same amount determined by Respondent. Complainant appealed to the State Tax Commission (STC). Complainant claimed overvaluation but did not produce substantial and persuasive evidence establishing overvaluation. Respondent presented substantial and persuasive evidence to establish the true value in money of the subject property as of January 1, 2022.<sup>1</sup> Complainant

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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, Section 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

appeared at the hearing which was held on the WebEx platform. Respondent was represented at the hearing by counsel, Steven Robson.

### FINDINGS OF FACT

**1. Subject Property.** The subject property is a 2004 Lexus RX 330 and a 2017 Lexus GX utility 4D 4WD.

**2. Respondent and BOE.** Respondent determined the trade-in value of the subject property on January 1, 2022, was \$4,450 for the 2004 Lexus RX 330 and \$34,250 for the 2017 Lexus GX utility 4D 4WD. Respondent 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. The BOE determined the assessed value of the subject property to be \$12,900.

**3. Complainant's Evidence.** Complainant referenced the following exhibits, but did not request their admission into evidence:

Exhibit	Description	Ruling
A	Email thread between Complainant and Nancy Montgomery; July 21, 2021 Personal Finance online article by Sarah O'Brien; J. D. Power vehicle information sheet as of April 10, 2022 pertaining to a 2004 Lexus RX 330; J. D. Power vehicle information sheet as of April 10, 2022 pertaining to a 2017 Lexus GX utility 4D 4WD; Complaint for Review of Assessment	N/A
B	Photos depicting damaged or failing door molding, door scratches, window molding, trunk latch, dents, and mileage on the vehicles	N/A

Complainant testified that, based upon his research, vehicle market values increased by 21% between October, 2021 and the date that he performed his research. As

a result, the assessed values determined by the BOE should be adjusted downward by 21%.

Complainant testified that the 2004 Lexus mileage exceeds 150,000 and that the vehicle is not in good condition. Complainant testified that the molding on the door is coming off, that there are scratches on the door, that the window molding is coming off, that the trunk latch is not working, and that the vehicle has scratches. He also testified that the 2017 Lexus is in rough condition for trade-in purposes.

Complainant does not have credentials as a used car appraiser, nor is he a licensed automobile dealer, but through his company, he has had a lot of experience over the years buying and selling vehicles.

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

Exhibit	Description	Ruling
R1	N.A.D.A. Sept – Dec, 2021 used car guide, pages 214-15, pertaining to a 2004 Lexus RX 330	Admitted
R2	J. D. Power vehicle information sheet for October 1, 2021 pertaining to a 2017 Lexus GX utility 4D 4WD	Admitted
R3	St. Louis County Board of Equalization letter	Admitted

Suzanne Strain, personal property manager in the St. Louis County Assessor's office, testified that Respondent utilized the average trade-in values indicated for the vehicles. After calculating one third of the average trade-in values for the vehicles as required by law, Respondent assessed the 2004 Lexus RX 330 at \$1,480, rounded, and

the 2017 Lexus GX utility 4D 4WD at \$11,420, rounded. The BOE assessed the property at the same amounts.<sup>2</sup>

**5. Value.** Respondent's evidence was substantial and persuasive to establish the true value in money of the subject vehicles on January 1, 2022.

## **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

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<sup>2</sup> The process of rounding caused the assessed value of the 2017 Lexus GX utility 4D 4WD to exceed one third of its true value in money by \$4.00. The property should be assessed at \$11,416. See the Conclusion and Order, below.

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 submitted two exhibits that were not admitted into evidence. However, Complainant testified without objection as to substantially the same information that is contained in the exhibits. Complainant's experience over the years buying and selling vehicles is noted – Complainant is adjudged to be a knowledgeable, truthful witness.

Nevertheless, Complainant did not submit substantial, persuasive evidence sufficient to rebut the determination of valuation made by the BOE. For example:

a. Complainant did not establish the qualifications or credentials of the source he relied upon as a basis for adjusting the assessed values downward by 21%.

b. Complainant did not prove that the value of the 2004 Lexus should be adjusted downward due to its mileage. Its current mileage is approximately 151,000; whereas, the N.A.D.A. guide indicates that the average mileage for that year, make and model vehicle is 167,000.

c. Complainant credibly established that both vehicles have wear, tear and damage. However, Complainant's testimony that the cost to repair would be between \$5,000 and \$7,500 (as to both vehicles combined) is not backed by specific repair bids or estimates that would afford the Respondent or the STC the ability to determine the cost to repair each vehicle separately, or to determine whether either or both vehicles should be valued at less than average condition.

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 Missouri law.

### **CONCLUSION AND ORDER**

The true value in money of the 2004 Lexus Rx 330 as of January 1, 2022 was \$4,450 with an assessed value of \$1,480. The true value in money of the 2017 Lexus GX utility 4D 4WD as of January 1, 2022 was \$34,250 with an assessed value of \$11,416.

## **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 July 14, 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 July 14th, 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