



STATE TAX COMMISSION OF MISSOURI

JACK G KITTRELL)
)
 Complainant(s),)
) Appeal No. 22-10590
 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST LOUIS, COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Jack G Kittrell (Complainant) appealed valuation of the subject personal 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 the 2022 tax bill. Respondent determined the true value in money of the subject property to be \$24,500. 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, 2022.¹ Complainant did not appear at the hearing.

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.

Respondent was represented at the hearing by counsel, Tim Bowe.

FINDINGS OF FACT

1. Subject Property. The subject property is a 2006 Toyota Highlander and a 2017 Toyota Sienna.

2. Respondent and BOE. Respondent determined the trade-in value of the subject property on January 1, 2022, was \$4,300 for the 2006 Toyota Highlander and \$20,200 for the 2017 Toyota Sienna. 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. There was no Board of Equalization decision regarding the property.

3. Complainant's Evidence. Complainant did not submit any evidence.

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

Exhibit	Description	Ruling
1	J. D. Power vehicle information sheet as of October 1, 2021 pertaining to a 2006 Toyota Highlander	Admitted
2	J. D. Power vehicle information sheet as of October 1, 2021 pertaining to a 2017 Toyota Sienna	Admitted
3	2022 Personal Property Declaration form	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 2006 Toyota Highlander at \$1,430, rounded, and the 2017 Toyota Sienna at \$6,730, rounded.

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 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 any evidence and did not prove overvaluation. Complainant did not appear at the evidentiary hearing and produced no evidence to support the overvaluation claim. Complainant's failure to appear and to present any evidence necessarily means Complainant fails to meet his burden of proof.²

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.

CONCLUSION AND ORDER

² For over 150 years, Missouri law has recognized the self-evident proposition that "if there be no evidence sufficient in law to make a prima facie case on this issue, plaintiff cannot be entitled to recover." *Callahan v. Warne*, 40 Mo. 131, 135 (Mo. 1867).

The true value in money of the 2006 Toyota Highlander as of January 1, 2022 was \$4,300 with an assessed value of \$1,430. The true value in money of the 2017 Toyota Sienna as of January 1, 2022 was \$20,200 with an assessed value of \$6,730.

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