



STATE TAX COMMISSION OF MISSOURI

LORRAINE COLEMAN,) Appeal Nos. 21-110445
) Parcel/locator No(s): I00855489
)
)
)
 Complainant(s),)
)
 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST LOUIS COUNTY, MISSOURI,)
 Respondent.)

ORDER OF THE COMMISSION DENYING APPLICATION FOR REVIEW

HOLDING

On June 30, 2023, Senior Hearing Officer Erica Gage (Hearing Officer) entered a Decision and Order (Decision) affirming the assessment of personal property made by Jake Zimmerman, Assessor, St. Louis County, Missouri (Respondent). Lorraine Coleman (Complainant) subsequently filed an Application for Review of the Decision and Order of the Hearing Officer.

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 Commission. Section 138.432¹. The Commission may summarily allow or deny the request. Section 138.432. If an application for review is denied, the Decision and Order of the hearing officer shall be deemed to be the final decision of the Commission for the purpose of judicial review. Section 138.432.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The subject property is a 2018 Toyota Rav 4 SUV, a motor vehicle that Respondent assessed under the methodology required by Section 137.115.9. Respondent determined the subject property had an assessed value of \$5,800 as of January 1, 2021. On December 10, 2021, Complainant received a tax bill dated November 9, 2021, informing her of the 2021 assessed value placed on the subject property. The 2021 assessed value of the subject property was higher than or increased from the 2020 assessed value of the subject property, which was \$5,580 as of January 1, 2020. In the Decision following an evidentiary hearing, the Hearing Officer found that Complainant was entitled to appeal pursuant to 12 CSR 30-3.010(B)(1) and that “Complainant presented no substantial or persuasive evidence as to the value of the subject property on January 1, 2021” while “Respondent presented substantial and persuasive evidence of the valuation for the vehicle.”

In her Application for Review, Complainant essentially argues that the 2021 assessment of the subject property should have been considered nullified and the 2020 assessment should be adopted because Respondent did not issue a “notice of final assessment prior to the personal property tax bill received by Complainant on December

¹ All statutory citations are to RSMo. 2000, as amended, unless indicated otherwise.

10, 2021.” Complainant argues that Respondent violated Section 137.355.1 “by failing to ‘forthwith’ provide lawful and proper notice of a taxable 2021 final assessment which exceed the 2020 assessment.” Complainant admits that she did not present any evidence of overvaluation but requests “a determination in her favor” because “Respondent’s assessment increase is unlawful and improper due to absence of required notice.”

Section 137.355.1 provides:

If an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor, and if an assessor increases the valuation of any real property, he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address, and if the address of the owner is unknown notice shall be given by publication in two newspapers published in the county.

The evidence in the record established that Complainant was provided notice of the 2021 assessment through the tax bill for the subject property. The 2021 assessment of the subject property increased from the 2020 assessment of the subject property. The 2021 tax bill was dated November 9, 2021, and Complainant received the tax bill on December 10, 2021. Given these dates, Complainant did not have an opportunity to file an appeal with the local Board of Equalization for the 2021 assessment because the deadline for filing such an appeal was the second Monday in July of 2021. *See* Section 138.180. However, Complainant was provided with a remedy for not being notified of the assessment in time to appeal to the BOE under 12 CSR 30-3.010(1)(B), which allowed her to file her appeal directly with the STC. Notably, Section 137.355.1 does *not* state that a taxpayer receives a “determination in her favor” if the notice contemplated by the statute is not sent “forthwith.”

Commission's Ruling

The Application for Review is DENIED. The Decision and Order of the Hearing Officer, including the findings of fact and conclusions of law therein, is incorporated by reference, as if set out in full, as the final decision of the Commission.

Judicial review of the Decision and Order may be had in the manner provided in Section 138.432 and Sections 536.100 to 536.140 within 30 days of the mailing date set forth in the Certificate of Service for this Order. The Collector of St. Louis County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes associated with this appeal pending the possible filing of a petition for judicial review, unless said taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

If no judicial review is made within 30 days, the Decision and Order is deemed final and the Collector of St. Louis County, as well as the collectors of all affected political subdivisions therein, shall disburse the protested taxes in accord with the Decision and Order.

SO ORDERED August 11, 2023.

Gary Romine, Chairman

Victor Callahan

Debbi McGinnis, 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 August 11, 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

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DECISION AND ORDER

Lorraine Coleman (Complainant) appeals the valuation of the subject 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 2021 tax bill. Respondent placed an assessed value of \$5,800 on a 2018 Toyota Rav 4 SUV as of January 1, 2021. Complainant did not produce substantial and persuasive evidence establishing overvaluation of the subject property as of January 1, 2021. Respondent presented substantial and persuasive evidence to establish

the true value in money of the subject property as of January 1, 2021.² Complainant appeared *pro se*. Respondent, appeared by and through counsel, Steve Robson. The evidentiary hearing was conducted via Webex, on May 11, 2023.

FINDINGS OF FACT

1. Subject Property. The subject property is the 2018 Toyota Rav 4 SUV.

2. Respondent. Respondent determined the personal property trade-in value of the subject property on January 1, 2021, was \$17,600, \$5,800 assessed, for the 2018 Toyota Rav 4 SUV using the 2020 October issue of the National Automobile Dealers' Association (hereinafter "NADA") Official Used Car Guide pursuant to Section 137.115.9.

3. Respondent's Motion to Dismiss under 138.430. On February 3, 2023, Respondent filed a Motion to Dismiss, alleging the STC lacks jurisdiction to hear the appeal because the taxpayer, by filing Notice of Assessment/Tax Bill documents in lieu of proof of a Board of Equalization Decision and pursuant to Section 138.430, failed to exhaust administrative remedies. (Motion at 1) Specifically, Respondent asserted that "a taxpayer, as was attempted here, is authorized to '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.'" 12 CSR 30-

² 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.

3.010(1)(B),” but “Exhibit 4 shows Complainant received her assessment and took action on the declaration” on “February 19, 2021, after receiving her assessment from the County and was planning on appealing to the BOE in May/summer 2021.” (Motion at 1-2) On February 7, 2023, Complainant filed a response indicating “the obligation falls upon Respondent to give proper notice, not upon Complainant to extract it. Internet publication alone does not comply with Missouri statute, which requires notice of any increased valuation shall be given “either in person or by mail directed to the last known address” of the property owner. See RSMo. Section 137.355.1.” (Response at 2)

Respondent’s Motion is overruled. The STC recognizes two exceptions to requiring an appeal to the local BOE before filing an appeal with the STC 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 alleged notice was in the form of a

“Declaration of Personal Property” (hereinafter Declaration), which was mailed about February 2021, and included BOE appeal information and the initial assessment of the subject property. (Motion at 1-2) The Declaration also stated the assessment was not “final,” requested the Declaration be returned with additional information from Complainant, and included instruction that Complainant would receive a “final valuation” after July 1, 2021. (Exhibit A) A response to the Declaration was sent by Complainant, which Respondent alleges proved that notice of an initial assessment under the statute was satisfied. However, Respondent’s Declaration form is, first and foremost, a request for additional information from taxpayers. Its purpose is for taxpayers to declare their property and provide general information regarding the appeal process. (See Exhibit A) If Respondent intended the form to be a notice of initial assessment, then it would be titled and demonstrated as such. Hence, a simple response to the Declaration from a taxpayer cannot always be construed as receipt of the notice of initial assessment. *See* RSMo 137.180 However, even if the notice requirements were found to be satisfied based on Complainant’s response to the Declaration, Complainant also testified that she was waiting for a “final valuation” to be mailed to her by Respondent. Respondent did not send a “final valuation” until the tax bill was sent to Complainant. The BOE appeal filing deadline is the second Monday in July of each year. *See* RSMo 138.180. Here, even if Respondent had sent a “final valuation” to Complainant on or after July 1, 2021, Complainant would not have had more than 30 days notice to be able to file an appeal of the “final valuation” timely with the BOE. The deadline for filing an appeal with the BOE in 2021 was July 12. As such, the exception stated in 12 CSR 30-3.010(1)(B)(1) applies. The STC has

jurisdiction in the appeal.

4. Complainant's Evidence. Complainant submitted testimony from Jeffrey Coleman and Lorraine Coleman and Exhibit A. Mrs. Coleman testified she did not have any opinion of value for the 2018 Toyota Rav 4 SUV, but did not agree with any increase from the 2020 assessed value of \$5,580. Complainant submitted the following exhibit:

Exhibit	Description	Ruling
A	2021 Personal Property Declaration received by Complainant in February 2021	Admitted

Mrs. Coleman testified the subject property (vehicle) is mechanically maintained and in reasonable working order and has not been recently wrecked nor totaled. Mrs. Coleman testified she has not recently listed the vehicle for sale. Mrs. Coleman testified she had no appraisal of valuation performed for the vehicle. Mrs. Coleman testified the Assessor did not inspect the vehicle. Mrs. Coleman testified the 2018 Toyota Rav 4 SUV is driven daily, with unknown mileage, and is a hybrid, all-wheel drive.

5. Respondent's Evidence. Respondent submitted the testimony of Suzanne Strain, St. Louis County Manager of personal property, who testified that the vehicle was valued at average trade in value, according to NADA reports. Respondent submitted Exhibits 1-4, which are admitted into evidence.

Exhibit	Description	Ruling
1	Assessors Original Valuation	Admitted
2	Average Trade in Value for Rav 4 4D LE	Admitted
3	Average Trade in Value for Rav 4 AWD hybrid	Admitted
4	Business Record Affidavit for Coleman Online Declaration	Admitted

6. Value. The assessed value for the 2018 Toyota Rav 4 SUV as of January 1, 2021, was \$5,800.

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. Complainant Did Not Prove Overvaluation.

Complainant's Exhibit A contains no appraisal or other recognized method for valuation for the 2018 Toyota Rav 4 SUV. In sum, Complainant presented no substantial or persuasive evidence as to the value of the subject property on January 1, 2021.

Respondent's testimony and Exhibit 2 demonstrate the vehicle was valued utilizing the average trade-in value of the vehicle published in the October 2020 issue of NADA as required by statute.³ Respondent presented substantial and persuasive evidence of the valuation for the vehicle.

³ 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>

CONCLUSION AND ORDER

The assessed value for the 2018 Toyota Rav 4 SUV as of January 1, 2021, was \$5,800.

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 June 30, 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 June 30, 2023, to:

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

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Legal Assistant