



# STATE TAX COMMISSION OF MISSOURI

WAYNE SIMMONS )  
 )  
 Complainant(s), )  
 ) Appeal No. 22-30043  
v. )  
 )  
 GAIL McCANN BEATTY, )  
 ASSESSOR, )  
 JACKSON COUNTY, MISSOURI, )  
 Respondent. )

## DECISION AND ORDER

Wayne Simmons (Complainant) appealed valuation of the subject personal property determined by Gail McCann Beatty, Assessor, Jackson County, Missouri (Respondent). Complainant did not appeal to the Jackson County Board of Equalization (BOE), but appealed directly to the State Tax Commission (STC).<sup>1</sup> Respondent determined the true value in money of the subject property to be \$69,099. 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>2</sup>

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<sup>1</sup> Complainant testified that he first received notification of the 2022 valuation when he received his tax bill in December, 2022.

<sup>2</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.

Complainant appeared at the hearing, which was conducted via the Webex platform.

Respondent was represented at the hearing by counsel, Jennifer Ware.

## FINDINGS OF FACT

**1. Subject Property.** The subject property is a 2019 Subaru Legacy 4D Limited AWD I4, a 2008 Chrysler Town & Country LX V6, and a 2021 Kia Telluride 4D EX AWD.

**2. Respondent and BOE.** Respondent determined the average trade-in value of the subject property on January 1, 2022, was \$23,575 for the 2019 Subaru Legacy 4D Limited AWD I4, \$2,125 for the 2008 Chrysler Town & Country LX V6, and \$43,399 for the 2021 Kia Telluride 4D EX AWD.

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 testified that he appealed because he believes that Respondent failed to comply with the notice provisions of Section 137.355 RSMo and, as a result, his 2022 personal property tax should be the same or nearly the same as it was in 2021. He also testified that he based his proposed assessed valuation of \$19,516, at least in part, on his own internet research.

Complainant submitted the following Exhibits:

Exhibit	Description	Ruling
A	Property Account Summary	Admitted
B	Tax Bill	Admitted
C	Table of total assessed value calculations between 2022 and 2021	Admitted

**4. Respondent's Evidence.** Maureen Monaghan, Jackson County Deputy Assessor, testified that Respondent utilized the average trade-in values indicated for the vehicles.<sup>3</sup> After calculating one third of the average trade-in values for the vehicles as required by law, Respondent assessed the 2019 Subaru Legacy 4D Limited AWD I4 at \$7,860, the 2008 Chrysler Town & Country LX V6 at \$635, and the 2021 Kia Telluride 4D EX AWD at \$14,465.

**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

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<sup>3</sup> Complainant testified that he does not challenge the methodology utilized by Respondent.

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 substantial, persuasive evidence sufficient to rebut the determination of valuation made by the Respondent. Specifically, Complainant did not identify the sources of data that he consulted online, nor did he establish the

qualifications or credentials of those sources. Moreover, Complainant consulted those sources around December, 2022 when he received his tax bill. However, as indicated above, assessors statewide are required by Section 137.115.9 to use the October, 2021 issue of the National Automobile Dealers' Association Official Used Car Guide or its successor publication in order to determine valuation as of January 1, 2022.

Complainant's sources presumably indicated vehicle values as of December, 2022, not January 1, 2022. In the absence of credible testimony how a vehicle's value in December, 2022 bears any relation to the vehicle's value on January 1, 2022, Complainant's conclusion that the vehicles are overvalued is not supported by substantial, persuasive evidence.

The testimony of Respondent's witness, Maureen Monaghan, was credible. Respondent determined the true value in money of the property using the method prescribed by law.

#### **5. Respondent's Alleged Noncompliance with Section 137.355.**

Complainant testified that he appealed his 2022 personal property assessment for the main reason that, in his view, the 2022 increase in value should not be allowed because the Respondent failed to comply with the notice provisions of Section 137.355. Specifically, Respondent did not notify Complainant of an increase in valuation of the vehicles either in person or by mail sent to Complainant's home no later than June 15, 2022. Complainant believes that the increase in the assessed value of the vehicles must, therefore, be disallowed, and that the assessment should remain at the 2021 level.

Section 137.355 is divided into three parts. The first part, Section 137.355.1,

provides that “[i]f an assessor increases the valuation of any tangible personal property as estimated in the itemized list furnished to the assessor . . . he shall forthwith notify the record owner of the increase either in person or by mail directed to the last known address . . .”

The term “forthwith” is not defined in the statutes applicable to assessment of property. The General Assembly has not specified a date by which counties *are required* to provide change of assessment notices for *personal property*. In this case, Complainant received notice of increased assessment from the collector (in the form of a tax bill) instead of from the assessor. However, nothing in Section 137.355 or any other statute supports Complainant’s proposition that, because he received notice from the collector instead of from the assessor, his tax for that year must remain fixed at the prior year’s level.

The second part, Section 137.355.2, provides that assessors shall notify the record owners of *real property* of valuation increases by June 15. Nothing in the statute makes the June 15 deadline applicable to *personal property* cases such as this one.

The third part, Section 137.355.3, is conditioned on a future event (receipt of software) that has not yet occurred and, if that future event ever does occur, the third part will apply only to *real property* cases.

Further, whether Section 137.355 applies to Jackson County or to any other charter county is, at the least, questionable.

The Missouri General Assembly has provided in Section 137.325 that Sections 137.325 to 137.420 (including 137.355) are applicable *only* to first class counties. Jackson County is not a first class county – it is a charter county. Charter counties are not classified as first class counties, even though they may otherwise meet the criteria for first class counties. Charter counties comprise their own, separate class of counties.

Section 48.020 provides that “[a]ll counties of this state are hereby classified . . . into four classifications . . .” (first, second, third and fourth class). The statute was enacted under the provisions of Article VI, Section 8 of the Constitution of Missouri. Article VI, Section 8 provides for the classification of counties by general laws not to exceed four classes.

However, in 1995, Missouri voters amended Article VI, Section 18(a) of the Missouri Constitution. Article VI, Section 18(a) provides: “Counties which adopt or which have adopted a charter or constitutional form of government shall be a separate class of counties outside of the classification system established under section 8 of this article.”

In *Leiser v. City of Wildwood*, 59 S.W.3d 597 (Mo. App. E.D. 2001), the court addressed Section 72.424 which, on its face, applied to land located in municipalities “within a *county of the first classification having a charter form of government and having a minimum population of nine hundred thousand . . .*” (emphasis added). The court observed:

St. Louis County has a charter form of government pursuant to Article VI, section 18(a) of the Missouri Constitution and has a population over nine hundred thousand, but it is not a county “of the first classification.” That is because Art VI,



section 18(a), as amended in 1995, provides: “Counties which adopt or which have adopted a charter or constitutional form of government shall be a separate class of counties outside of the classification system established under section 8 of this article.”

...

As written, with the inclusion of the words “of the first classification,” section 72.424 would not apply to any county in Missouri because no county in Missouri can be a county of the first class and have a charter form of government. Because the inclusion of these words creates an absurd law, incapable of being enforced, we may strike this phrase as being improvidently inserted.

Id. at 603.

Therefore, Missouri no longer has charter counties of the first class. Counties are either charter counties or first class counties, but not both. Neither the General Assembly nor the courts have explicitly stated whether Section 137.355 continues to apply to charter counties that were formerly first class counties.<sup>4</sup>

### **CONCLUSION AND ORDER**

The true value in money of the subject property as of January 1, 2022 was \$69,099 with an assessed value of \$22,960.

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<sup>4</sup> There are examples in Chapters 137 and 138 of differing requirements applicable to charter counties and first class counties. For example, requirements for notifying owners of real property of valuation increases in charter counties are set forth in Section 137.180.2. Similar, but somewhat different, requirements applicable to first class counties are set forth in Section 137.335.2. Another example: boards of equalization in charter counties generally have until the fourth Saturday in August each year to complete all business, but boards in first class counties must generally complete their work by July 31 each year. Section 138.050.

## **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 Jackson 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 August 11, 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 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