



# STATE TAX COMMISSION OF MISSOURI

SARAH GREENWELL )  
Complainant(s), )  
v. ) Appeal No. 22-32548  
Parcel/Locator No. P1714484  
SCOTT SHIPMAN, ASSESSOR, )  
ST. CHARLES COUNTY, )  
MISSOURI, )  
Respondent. )

## DECISION AND ORDER

Sarah Greenwell (Complainant) appealed valuation of the subject personal property determined by Scott Shipman, Assessor, St. Charles County, Missouri, (Respondent). Complainant did not appeal to the St. Charles County Board of Equalization (BOE), but appealed directly to the State Tax Commission (STC). Complainant appealed on the basis of overvaluation. Respondent moved to dismiss this appeal on the grounds that Complainant did not first appeal to the BOE. Ruling on the motion was deferred and the motion was taken with the case. An evidentiary hearing was held on June 6, 2013. Complainant appeared at the evidentiary hearing without an attorney. Respondent appeared by counsel, Michael Mueth.

## FINDINGS OF FACT

**1. Subject Property.** The subject property is a 2019 GMC Light Duty Acadia Utility 4D Denali 3.6L V6, classified as personal property.

**2. Complainant's Evidence.** Complainant did not submit any exhibits. Her brief testimony consisted of her expressing her unhappiness that the assessed value of her motor vehicle increased instead of decreased in 2022. Complainant did not express any opinion as to valuation of her vehicle. Complainant is not represented by counsel.

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

Exhibit	Description	Ruling
1	Screenshot of information from Respondent's computer pertaining to Account #P17-14484	Admitted
2	J. D. Power vehicle information sheets as of October 1, 2021 pertaining to a 2019 GMC Light Duty Acadia Utility 4D Denali 3.6L V6	Admitted

Michele Baumgartner, manager of the personal property department in the St. Charles County Assessor's office, testified that Respondent utilized the average trade-in value indicated for the vehicle using the October, 2021 issue of the National Automobile Dealers' Association Official Used Car Guide or its successor publication as required by Section 137.115.9. Respondent determined a trade-in value of \$36,150 for a vehicle in average condition. After calculating one third of the average trade-in value for the vehicle as required by law, Respondent assessed the vehicle at \$12,049.

**4. Value.** On January 1, 2022, the true value in money of the 2019 GMC Light Duty Acadia Utility 4D Denali 3.6L V6 was \$36,150.

## 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 that might tend to establish the value of the subject property and did not prove overvaluation. The testimony of Respondent's witness, Michele Baumgartner, was credible. Respondent determined the true value in money of the property using the method prescribed by law.

#### **5. Respondent's Motion to Dismiss.**

Respondent filed a Motion to Dismiss Complainant's appeal, alleging the STC lacks jurisdiction to hear the appeal because Complainant failed to exhaust administrative remedies. In essence, Respondent alleges that Complainant received a notice of assessment and value change, mailed to her on January 22, 2022 and returned by her electronically on February 1, 2022. Respondent urges that "[c]omplainant thus received notice of an increase in assessment from the previous year more than 30 days before the BOE filing deadline of July 11, 2022."

A taxpayer is authorized to appeal directly to the State Tax Commission 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 30-3.010(1)(B). The actual “notice” document itself, which Respondent asserts was mailed to Complainant on January 22, 2022 is not in evidence. By way of testimony, Respondent sought to prove that the information contained in Exhibit 1 was communicated to Complainant in a mailing which the Complainant returned to Respondent electronically on February 1, 2022. The issue before the STC is whether Respondent has demonstrated that Complainant received “notice” of an increase in assessment such that appeal to the BOE was required. This agency determines that Complainant did not receive such notice of increase in assessment.

The information conveyed to Complainant on January 22, 2022 was in the form of a declaration sheet, designed to afford taxpayers the opportunity to list any property they may have acquired and to delete any property they may have sold or transferred after January 1 of the preceding tax year. Presumably, the form contained the updated assessed value for the vehicle, but there is no evidence that the form contained the words “Notice of Increase in Assessment” or similar language that would reasonably call to the taxpayer’s attention the fact that the assessed value of the property had increased from the previous year.

Moreover, the assessment information conveyed to Complainant on January 22, 2022 was neither accurate nor final. The assessment information conveyed to Complainant in January indicated an assessed value of \$12,024. On June 27, 2022, Respondent mailed Complainant a postcard (which Complainant testified she did not receive) increasing the assessed value to \$12,049. Respondent did not finalize the assessment until July 27, 2022, 16 days after the deadline to file an appeal with the BOE.

## **CONCLUSION AND ORDER**

Respondent's motion to dismiss is denied. Respondent's determination of value of the subject property is affirmed. The true value in money of the 2019 GMC Light Duty Acadia Utility 4D Denali 3.6L V6 as of January 1, 2022 was \$36,150 with an assessed value of \$12,049.

### **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. 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 September 22, 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 September 22, 2023, to:

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

Stacy Ingle  
Legal Assistant