



STATE TAX COMMISSION OF MISSOURI

JULIE LAUX)
)
 Complainant(s),)
) Appeal No. 22-10498
 v.)
)
 JAKE ZIMMERMAN, ASSESSOR,)
 ST LOUIS, COUNTY, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Julie Laux (Complainant) appealed 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 2022 tax bill.¹ Complainant claimed overvaluation of the subject property. An evidentiary hearing was held on June 22, 2023. Complainant appeared as a self-represented litigant. Respondent appeared by counsel, Tim Bowe.

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.

FINDINGS OF FACT

1. Subject Property. The subject property is a 2020 BMW X5.

2. Respondent and BOE. Respondent determined the personal property trade-in value of the subject property on January 1, 2022, was \$55,675, with an assessed value of \$18,560, rounded.²

3. Complainant's Evidence. Complainant testified that Respondent valued the car at substantially more than the amount cars of the same make and model are selling for. Based upon Complainant's online research, the vehicle is worth \$45,000. This valuation is consistent with her proposed valuation in her Complaint for Review of Assessment.

Complainant leased the vehicle from BMW Financial Services NA LLC ("BMW Financial") in June 2020 and has had possession of the property since that date. The lease agreement obligates Complainant to pay all property tax on the vehicle each year for the duration of the lease. Complainant receives an invoice from BMW Financial each year for the amount of tax and pays BMW Financial the amount of tax each year.

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 2020 BMW X5 Series Utility 4D 40i	Admitted
2	Portion of a list of all vehicles that BMW Financial reported as being under lease on January 1, 2022	Admitted

² The process of rounding caused the assessed value of the vehicle to improperly exceed one third of average trade-in value. The vehicle should have been assessed at \$18,558. See the Conclusion and Order, below.

Suzanne Strain, personal property manager in the St. Louis County Assessor's office, testified that Respondent utilized the average trade-in value indicated for the subject vehicle. She 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. Respondent assessed the vehicle at one third of the average trade-in value shown in the used car guide, as required by statute.

5. Value. Respondent's evidence was substantial and persuasive to establish the true value in money of the subject vehicle 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 has standing to bring this appeal in that she would directly benefit from a property tax reduction pertaining to the vehicle. However, Complainant's testimony as to overvaluation was not supported by substantial or persuasive evidence that the valuation method used by Respondent or that Respondent's valuation of the vehicle was unlawful, unfair, improper, arbitrary or capricious.

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. See Exhibits 1 and 2.

CONCLUSION AND ORDER

The true value in money of the 2020 BMW X5 as of January 1, 2022, was \$55,675 with an assessed value of \$18,558.

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 December 15, 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 December 15, 2022, to:

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

Stacy Ingle
Legal Assistant