



# STATE TAX COMMISSION OF MISSOURI

WILDBERRY CREEK LLC, )  
 )  
 Complainant, )  
 ) Appeal No. 23-91000  
 v. ) Locator No. 04-33.0-0-00-001.003.00  
 )  
 KATHRYN SMITH, ASSESSOR, )  
 WARREN COUNTY, MISSOURI, )  
 )  
 Respondent. )

## DECISION AND ORDER

Wildberry Creek LLC, (Complainant) appeals the Warren County Board of Equalization's (BOE) decision classifying the subject property as commercial with a value of \$757,060 as of January 1, 2023.<sup>1</sup> Complainant alleges misclassification. Complainant asserts the property should be classified as agricultural. Complainant is not challenging the value of the property.

The BOE decision is set aside. The property is agricultural and its market value as of January 1, 2023, was \$757,060.

Complainant is represented by counsel R. Brian Mueller. Respondent is represented

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<sup>1</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, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

by counsel, Mark S. Vincent. The parties knowingly waived their rights to an evidentiary hearing and submitted a Joint Stipulation of Facts in lieu of a hearing to facilitate an expedited decision in this matter.

## **FINDINGS OF FACT**

**1. The Subject Property.** The subject property consists of 16.41 acres of land and a 110 x 180 building located at 26766 State Highway D, Wright City, Warren County, Missouri, 63390. The property is operated as Infinity Farms through the Missouri limited liability company Wildberry Creek, LLC. The parties have stipulated to the following pertinent facts regarding this appeal:

- A) Infinity Farm is used solely for agricultural purposes and devoted entirely to the care, feeding, boarding, showing, and management of livestock.
- B) All buildings, structures, and acreage on the site are customarily associated with and necessary for farming, agricultural, and horticultural uses.
- C) Infinity Farm is private property, open only to the twelve individuals who own and board their horses at the stable. Owners have 24/7 access to their horses, the tack room, and the indoor riding arena as well as the outdoor grazing paddocks. No other individuals are allowed on the property without a personal invitation or appointment.
- D) Boarding, feeding, and care of livestock at Infinity Farm includes but is not limited to providing:
  - a healthy mix of forage such as grass, quality hay, grains, and fresh water throughout the day,

- daily outdoor turnout on grass pastures in the summer and dry lots in the winter with hay and water,
- daily cleaning of stalls with fresh bedding,
- indoor evening and night-time shelter, with stall fans in the hot summer
- support to horse owners in scheduling routine vaccinations,
- constant watchfulness for injuries or illnesses during the owner's absence.

E) Showing of horses at Infinity Farm includes but is not limited to providing support for horse owners in riding and showing their horses with riding lessons and horse training to ensure the safety of riders and to help riders progress toward their goals of showing their horses. All of the horse owners show their horses each year in the discipline of dressage. Horses that qualify participate in the Regional Championship shows and go on to participate in the annual United States Dressage Finals in Lexington, Kentucky. Numerous horses at Infinity Farm have placed in the top ten ranking horses in the nation.

F) Horse breeds boarding at Infinity Farm include Dutch Warmbloods, Oldenbergs, Andalusians, Friesians, Hanoverians and similar breeds. These are muscular, athletic horses – significantly larger than the ever-popular American Quarter Horse – and require larger stalls, daily turnout in paddocks for freedom of movement, and a large indoor arena for exercise during rainy, icy or other poor weather conditions.

**2. Assessment and Valuation.** The BOE classified the subject property as commercial with an appraised value of \$757,060. Complainant's sole contention is that the property is misclassified and is not contesting the value of the property.

**3. Classification and Value.** The subject property is agricultural. The TVM as of January 1, 2023, was \$757,060.

## CONCLUSIONS OF LAW

**1. Assessment and Valuation.** Agricultural real property is assessed at 12% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(b). The TVM is "the fair market value of the property on the valuation date[.]" *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). "True value in money is defined in terms of value in exchange not value in use." *Tibbs v. Poplar Bluff Assocs. I, L.P.*, 599 S.W.3d 1, 7 (Mo. App. S.D. 2020) (internal quotation omitted). "Determining the true value in money is an issue of fact for the STC." *Cohen v. Bushmeyer*, 251 S.W.3d 345, 348 (Mo. App. E.D. 2008).

**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). "Although technical rules of evidence are not controlling in administrative hearings, fundamental rules of evidence are applicable." *Mo. Church of Scientology v. State Tax Comm'n*, 560 S.W.2d 837, 839 (Mo. banc 1977).

**3. Complainant's Burden of Proof.** The taxpayer bears the burden of proof and must show by a preponderance of the evidence that the property was misclassified or overvalued. *Westwood P'ship v. Gogarty*, 103 S.W.3d 152, 161 (Mo. App. E.D. 2003). The BOE's classification of the subject property is presumptively correct. *Rinehart v. Bateman*, 363 S.W.3d 357, 367 (Mo. App. W.D. 2012). The "taxpayer may rebut this presumption by presenting substantial and persuasive evidence." *Id.* (internal quotation omitted). "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 v. State Tax Comm'n*, 722 S.W.2d 72, 77 (Mo. banc 1986) (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").

**4. Complainant Produced Substantial and Persuasive Evidence of Misclassification.**

Section 137.016.2 provides a statutory definition of "agricultural and horticultural property" which shall include *breeding, showing and boarding of horses* along with the buildings and structures customarily associated with farming, agricultural, and horticultural uses. (Emphasis added.)

The property is used solely for agricultural purposes and devoted entirely to the care, feeding, boarding, showing and management of livestock as set out in the stipulation of

facts. Consequently, the proper classification of the property is agricultural in accordance with definition and facts set forth.

Complainant produced substantial and persuasive evidence showing that as of the valuation date. The property is used solely for agricultural purposes. The subject property should have been classified as agricultural.

### **CONCLUSION AND ORDER**

The BOE's decision classifying the subject property as commercial is set aside. The subject property is classified as agricultural with a TVM of \$757,060, as of January 1, 2023.

### **Application for Review**

A party may file 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 of Missouri, 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 Warren County, and 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 the disputed taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED April 19, 2024.

Todd D. Wilson  
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 April 19, 2024, 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