



STATE TAX COMMISSION OF MISSOURI

DANIEL B. ABKEMEIER)
)
 Complainant(s),)
) Appeal No. 23-20102
 v.)
)
 MICHAEL DAUPHIN, ASSESSOR,)
 ST LOUIS, MISSOURI,)
 Respondent.)

DECISION AND ORDER

Daniel B. Abkemeier (Complainant) appealed the valuation of the subject personal property determined by Michael Dauphin, Assessor, St. Louis, Missouri (Respondent). Complainant did not appeal to the St. Louis Board of Equalization (BOE), but appealed directly to the State Tax Commission (STC) after receiving first notification of the valuation upon receiving the 2023 tax bill.¹ Complainant appealed on the basis of overvaluation. An evidentiary hearing was held via Webex on June 13, 2024 before Todd D. Wilson, Senior Hearing Officer. Complainant appeared in person. Respondent appeared by counsel Nick Morrow.

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 Ford Expedition Max.

2. Respondent and BOE. Respondent determined the average trade-in value of the subject property on January 1, 2023, was \$54,100, resulting in an assessed value of \$18,030, rounded.

Respondent used the October 2022 issue of the J.D. Power Official Used Car Guide, which is the successor to the National Automobile Dealers' Association Official Used Car Guide pursuant to Section 137.115.9. There is no BOE decision regarding the property inasmuch as Complainant did not appeal to the BOE.

3. Complainant's Evidence. Complainant presented 3 Exhibits which are:

Exhibit A	Car Appraisal from Edmunds
Exhibit B	Complainant's Purchase Agreement
Exhibit C	Bloomberg Used Car Index

Exhibits A, B, and C were received without objection. Complainant testified that he believes the use of the J.D. Power Official Used Car Guide is a poor indication of value for vehicles in St. Louis, Missouri. The J.D. Power Guide is an outdated source that does not track as many data points as other guides and or indices and, therefore, should not be binding upon the Assessor for valuation. Complainant purchased the subject vehicle on October 28, 2022 for a total sales price of \$41,499, which included a \$1,500 delivery fee. Complainant contends that the value of the vehicle should be the purchase price of the vehicle, \$40,000.

4. Respondent's Evidence. Respondent submitted the following Exhibits:

Exhibit	Description
1	Account Information Summary Report
2	Personal Property Declaration form
3	October 2022 Edition of J.D. Power Official Used Car Guide

Lisa Robinson, Customer Service Supervisor for the St. Louis Assessor, testified that Respondent utilized the average trade-in value indicated for the 2020 Ford Expedition in order to determine valuation as of January 1, 2023 in the amount of \$54,100. Exhibits 1, 2 and 3 were received without objection.

5. Value. The true value in money of the subject property on January 1, 2023 was \$54,100.

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 presented Exhibit A, an Edmunds Appraisal Report. Exhibit A was from November of 2023 and clearly states on the exhibit, “This is not a firm offer.”

Exhibit A is given no weight. Exhibit B is a copy of the purchase agreement in which Complainant purchase the vehicle. Complainant testified that this was an arm's length transaction in the City of St. Louis which occurred very close to the valuation date. Complainant's testimony was credible and established the purchase of the vehicle. However, it is for the Missouri General Assembly, not the STC, to determine whether the current property tax laws are fair. Under current law, motor vehicle owners are liable for property tax on vehicles owned on January 1 of each tax year, whether or not they still own or possess the vehicles at the end of the year when the property tax bill arrives in the mail. The Assessor is to follow Missouri Revised Statute Section 137.115 in valuing motor vehicles. The STC does not have the authority to create a rule whereby the purchase price of the property and/or other indices of valuing motor vehicles would be used as suggested by Complainant.

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

CONCLUSION AND ORDER

The true value in money of the 2020 Ford Expedition Max as of January 1, 2023 was \$54,100 with an assessed value of \$18,030.

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, 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 19th, 2024.
STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson
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 23, 2024, to:

Daniel B. Abkemeier, Complainant(s), at superbondtrader@gmail.com

Nick Morrow, Attorney for Respondent, morrow@stlouis-mo.gov

Stacy M. Ingle
Legal Assistant