



STATE TAX COMMISSION OF MISSOURI

JOHN & LYDIA LAPIERRE,)
)
 Complainant,)
) Appeal No. 23-33003
 v.) Parcel No. 0815200007
)
 BRENT JOHNSON, ASSESSOR,)
 GREENE COUNTY, MISSOURI,)
)
 Respondent.)

DECISION AND ORDER

John Lapierre and Lydia Lapierre (Complainant) appeals the Greene County Board of Equalization's decision classifying 5 acres of their property as residential, resulting in a true value in money (TVM) of the property at \$101,700 as of January 1, 2023. Complainant alleges that only one acre should be residential with the other 4 acres agricultural which would result in a TVM of \$77,900. The BOE decision is affirmed.¹

The evidentiary hearing was held on September 17, 2024, via Webex. Complainants appeared pro se by telephone and Lydia Lapierre made arguments and testified. Respondent was present in person and represented by counsel, Austin Fax. The appeal was heard and decided by Senior Hearing Officer Todd D. Wilson.

FINDINGS OF FACT

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, sec. 14; Section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

1. The Subject Property. The subject property consists of 20.5 acres in rural Greene County, Missouri. Complainants purchased the property in 2003. Complainants use the property as their primary residence and as agricultural land to keep horses and beehives. Complainants have a well and septic system on the property all of which is included in one acre with the residence. Complainants are not contesting the value of the property, simply the classification of 4 acres that Complainant believes should be agricultural rather than residential.

2. Assessment and Valuation. Respondent determined that 5 acres of the subject property are residential and valued the property accordingly as of January 1, 2023. This resulted in a TVM of the property at \$101,700 as of January 1, 2023. The BOE confirmed the determination of the Assessor that 5 acres of the property was residential and the remaining 15.5 acres was agricultural with a TVM of \$101,700 as of January 1, 2023.

3. Complainant's Evidence. Complainant introduced the following Exhibits. Exhibits A, B, C and F were received without objection:

Exhibit	Description
A	3 pages Narrative
B	Articles of Organization of J&L Honey Farm, LLC
C	2024 Assessment List
D	Federal and State references
E	Aerial photos of differing acreage amounts
F	Agricultural pictures

Complainant introduced Exhibit A consisting of 3 pages of discussion and description of the operation of the property. Complainant also introduced Exhibit B, the Articles of Organization of Complainants' LLC formed for the purpose of an apiary. Complainant introduced Exhibit C, a copy of the Assessment List of the property. Respondent objected to Exhibit D in that the Federal regulations purported to be contained therein are not relevant and that the State Statute cited may

be made part of the file by Judicial Notice. Exhibit D is not received. Judicial Notice is taken of Missouri Revised Statute Section 144.010. Respondent objected to Exhibit E for lack of foundation and hearsay, the objection is overruled and Exhibit E is received for demonstrative purposes and given the weight due. Exhibit F consists of photographs taken by Complainant of their farming operation on the property.

Complainant testified that there is a division fence that divides the residence and approximately one acre away from the remaining property. Complainant described the use of the property for rotational grazing and the location of the beehives at various locations on the property. Complainant testified that the residence, water well and septic system are all located on approximately one acre. Complainant stated that all of the property is used for agricultural purposes, but since the residence and its infrastructure are located on one acre, it made sense to have one acre residential but the remaining 19.5 acres should be agricultural.

4. Respondent's Evidence. Respondent requested that Judicial Notice be taken of Missouri Revised Statute Section 137.016 and the State Tax Commission's (STC) Assessor's Manual. Complainant had no objection. Judicial Notice was taken of Missouri Revised Statute Section 137.016 and the STC Assessor's Manual. Respondent introduced Exhibit 1, an Appraisal Report prepared by Kelli Featherstone. Exhibit 1 was received without objection. Ms. Featherstone is an employee of the Greene County Assessor's Office who has received training applicable to be a Real Estate Appraiser and attends continuing education for appraisers every year. Ms. Featherstone testified that she had prepared the Appraisal in accordance with her experience and training. Ms. Featherstone testified that she used the sales comparison approach to arrive at a value for the property and in so doing, found that the value of \$101,700 was well supported by the sales comparison approach. Ms. Featherstone testified that it is the practice of

the Greene County Assessor's office in a rural residential setting to assign 5 acres to residential and the remaining acreage to agricultural if there is an agricultural use of the property. This is based on the State Tax Commission Assessor's Manual, Missouri Revised Statute section 137.016 and the Greene County Planning & Zoning Ordinance which requires rural tracts to have at least 5 acres to construct a residence.

5. Classification and Value. Five acres of the property is determined to be residential, the remaining 15.5 acres are agricultural with the TVM of \$101,700 and assessed value of \$19,020 as of January 1, 2023.

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). Residential real property is assessed at 19% of its TVM as of January 1 of each odd-numbered year. Sections 137.115.1; 137.115.5(1)(a). 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). The TVM "is a function of [the property's] highest and best use[.]" *Snider*, 156 S.W.3d at 346. "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).

The TVM of a property is typically determined by the sales comparison approach, the income approach, or the cost approach. *Snider v. Casino Aztar/Aztar Missouri Gaming Corp.*, 156 S.W.3d at 346-48.

2. Split Use property. Missouri Revised Statute Section 137.016(4) explains the procedure Assessors are to use to determine the classification of real estate that is agricultural in nature but also contains a residence, to-wit; “. . . where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property, . . .” The STC Assessor Manual on Page 6, discusses split use property as well, “It is common for a single property to have a split use. For instance, a farm very often has a portion of it, usually up to five acres, classified as residential.” The guidance provided to Assessors by the legislature and the STC set out a “safe harbor” limit of 5 acres for residential property in a farm, but it is up to each assessor to exercise his or her judgment as to whether 5 acres or some amount less than that should be residential on each property.

3. 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).

4. Complainant's Burden of Proof. The taxpayer bears the burden of proof and must show by a preponderance of the evidence the property is misclassified or overvalued. *Westwood P'ship v. Gogarty*, 103 S.W.3d 152, 161 (Mo. App. E.D. 2003). The BOE's valuation is presumptively correct. *Tibbs*, 599 S.W.3d at 7. The "taxpayer may rebut this presumption by

presenting substantial and persuasive evidence." *Id.* (internal quotation omitted). The taxpayer also must prove "the value that should have been placed on the property." *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 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").

Property owners are competent to testify to the reasonable fair market value of their property. *Cohen*, 251 S.W.3d at 348. However, if owner's testimony is based on "improper elements or an improper foundation[.]" it is not substantial and persuasive evidence rebutting the presumptively correct BOE value. *Id.* at 349.

4. Complainant Did Not Produce Substantial and Persuasive Evidence of Misclassification.

Missouri Revised Statute Section 137.016(4) explains the procedure Assessors are to use to determine the classification of real estate that is agricultural in nature but also contains a residence; ". . . where agricultural and horticultural property, as defined in this section, also contains a dwelling unit or units, the farm dwelling, appurtenant residential-related structures and up to five acres immediately surrounding such farm dwelling shall be residential property,..."

The STC Assessor Manual on Page 6, discusses split use property as well, "It is common for a single property to have a split use. For instance, a farm very often has a portion of it, usually up to five acres, classified as residential." The guidance provided to Assessors by the legislature and the STC set out a "safe harbor" limit of 5 acres for residential property in a farm, but it is up

to each assessor to exercise his or her judgment as to whether 5 acres or some amount less than that should be residential on each property. The question then becomes, did the Assessor abuse his discretion in determining that 5 acres of the subject property should be residential rather than 1 acre as Complainant contends?

The STC, is a quasi-judicial agency with limited authority under the Missouri Constitution and the Revised Statutes of Missouri and not a court sitting in equity; therefore, it is constrained to apply current Missouri law to the facts as established by the evidence in the record. The testimony of Complainant is that almost all of the property is used for agricultural purposes. However, Respondent argues that disregarding the “safe harbor” created by the statute and STC Assessor manual would lead to people grazing animals in their front yard and claiming all of their property as agricultural, spurring confusion and uncertainty in the law. To find that the Assessor abused his discretion while staying within the parameters of the applicable statute and assessor manual, would be to act in equity which is unavailable to the STC. The assessor acted within the limitations of the applicable statute and the STC Assessor Manual, therefore, applying the current Missouri law, the Assessor did not abuse his discretion in determining that 5 acres of the subject property is residential.

CONCLUSION AND ORDER

Complainant did not produce substantial and persuasive evidence of misclassification. The BOE decision is affirmed. Five acres of the subject property is residential, 15.5 acres is agricultural. The TVM of the subject property as of January 1, 2023, was \$101,700 and Assessed value of \$19,020.

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 Greene 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 November 14th, 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 November 15th, 2024, to:

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

Stacy Ingle
Legal Assistant