



STATE TAX COMMISSION OF MISSOURI

FOURGS INVESTMENTS,)	
)	
Complainant,)	
)	Appeal No. 23-33008
v.)	Parcel No. 1202200047
)	
BRENT JOHNSON, ASSESSOR,)	
GREENE COUNTY, MISSOURI,)	
)	
Respondent.)	

DECISION AND ORDER

FOURGS Investments, (Complainant) appeals the Greene County Board of Equalization's (BOE) decision classifying the subject property as commercial with a value of \$150,400 as of January 1, 2023.¹ Complainant alleges misclassification. Complainant asserts the property should be classified as agricultural and the value returned to the 2022 value of \$56,400.

The BOE decision is set aside. The property is agricultural and its TVM as of January 1, 2023, was \$56,400.

Complainant is represented by counsel Richard Walters and Henry Sivils. Respondent is represented by counsel, Austin Fax. An evidentiary hearing was held via WebEx on April 16, 2025 before Senior Hearing Officer (SHO) Todd D. Wilson. The parties knowingly waived their rights to submit briefs at the end of the hearing and submitted the appeal for decision on the

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.

evidence as presented.

FINDINGS OF FACT

1. The Subject Property. The subject property consists of 7 acres of land located on E Mustard Way in Springfield, Green County, Missouri with a parcel number of 1202200047. The property has been owned by Ernest W. Giddens, his Trust or an entity he controls since 1996. The property is in a developed, industrial area of Springfield, surrounded by commercial/industrial properties, is on a paved street and has access to all utilities. The property is zoned for heavy manufacturing.

2. Assessment and Valuation. The BOE classified the subject property as commercial with an appraised value of \$150,400. Complainant's contention is that the property is misclassified and should be agricultural and valued at \$56,400 as it was in 2022.

3. Complainant's Evidence. Complainant presented the following Exhibits which were received without objection:

Exhibit	Description
A	Photo of Hay Baled
B	2020 Tax Statement
C	2021 Tax Statement
D	2022 Tax Statement
E	2023 Tax Statement
F	2024 Tax Statement
G	Payment under protest letter
H	Written Direct Testimony of Ernest W. Giddens

Complainant presented the testimony of Ernest W. Giddens. Mr. Giddens, individually or through an entity that he owns or controls has owned the property since 1996. Mr. Giddens stated that initially, the property did not have a very good stand of fescue grass on it, so it was interseeded to improve the stand. Mr. Giddens stated that every year since 1996, hay has been harvested from the property although some years the fescue was allowed to go to head before

being cut for hay to allow the fescue to seed itself and improve the stand. Mr. Giddens stated that he had caused fertilizer to be applied to the property. Mr. Giddens testified that he would expect to have 1 ½ to 2 bales of fescue hay per acre off the property each year, depending upon the amount of rain received. Mr. Giddens did not remember who had cut the hay on the property in 2023 or 2024, how many bales of hay were harvested then or how the hay was used or sold. Mr. Giddens admitted that there is access to all utilities on or in close proximity to the property and that it is zoned for heavy manufacturing by the City of Springfield. Mr. Giddens stated that the property has not been listed with a real estate broker, but he has caused a sign to be posted on the property listing his contact information and the phrase, “Build to Suit” on the sign. Mr. Giddens stated that he did not recall ever receiving a notice of zoning violation from the City of Springfield for the use of the property or the length of the grass on the property.

4. Respondent’s Evidence. Respondent presented the following Exhibits, all of which were admitted without objection:

Exhibit	Description
1	Appraisal Report by Sherwin Montejo
2	Commercial Justification
3	WDT of Sherwin Montejo

Respondent presented the testimony of Sherwin Montejo, a commercial appraiser with the Greene County Assessor’s Office. Mr. Montejo prepared Exhibit 1 the appraisal of the property that found the value of the property as commercial to be \$1,253,000. Mr. Montejo also prepared Exhibit 2, the justification for the commercial designation. The property is clearly surrounded by industrial properties as shown in the aerial photo on Page 10 of Exhibit 2. Mr. Montejo showed that the property was part of a platted subdivision in 1994 and has been zoned Heavy Manufacturing since that time. (Exhibit 2 at 11). Mr. Montejo also included the

provisions of Chapter 36, Land Development Code of the City of Springfield, Missouri in Exhibit 2 on pages 12 – 21. He stated that there is no allowance in this part of the Municipal Code for agricultural production in area zoned for Heavy Manufacturing.

5. Classification and Value. The subject property is agricultural. The TVM as of January 1, 2023, was \$56,400.

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. Definition of Agricultural Property.

Section 137.016.2 states that all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; . . . is to be classified as agricultural land. This definition has been examined by the Western District Court of Appeals in *Rinehart v. Bateman*, 363 S.W.3d 357 in which case it was found that the production of hay can, based upon the facts of each individual case, be considered raising and harvesting of crops. The Court further went on to say that if that definition is satisfied, there is no need to examine the factors in Section 137.016.5.

5. Complainant presented substantial and persuasive evidence of misclassification.

The property is used solely for agricultural purposes. The hay on the property is fertilized, cut, baled and interseeded as necessary to maintain a healthy stand. Although this is not intensive use agriculture as compared to growing row crops, it is producing a product that is used to feed livestock. The subject property is 7 acres, the property in *Rinehart v. Bateman*, *infra.* was only 3

acres, so the size of the field is not determinative. While the zoning ordinance may not allow harvesting hay, it does not alter the fact that hay has been harvested from the subject property every year. Classification is determined by the actual use put to the property. There is no provision in the assessment statutes that establishes that classification is to be denied based upon an allegation of ordinance violation. Consequently, the proper classification of the property is agricultural in accordance with the 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 is agricultural.

CONCLUSION AND ORDER

The BOE's decision classifying the subject property as commercial is set aside. The subject property is agricultural with a TVM of \$56,400 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 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 July 10, 2025.

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 July 11th, 2025, 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