



STATE TAX COMMISSION OF MISSOURI

Frank Long,)	Appeal No. 23-89507
)	
)	
Complainant(s),)	Parcel #18-2.0-10-002-0001-019.001
)	
v.)	
)	
)	
DAVY WILSON, ASSESSOR,)	
TANEY, COUNTY, MISSOURI,)	
)	
Respondent.)	

DECISION AND ORDER

Frank Long, (Complainant) appeals the Taney County Board of Equalization's (BOE) decision finding the subject property is classified as a commercial property. Complainant claims that the property is misclassified and proposes that the property is a residential property. The BOE's decision is affirmed.¹

BACKGROUND

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.

The parties waived their opportunity for an evidentiary hearing and agreed to submit the appeals on the record with both parties ordered to submit briefs in support of their positions on or before 5:00 p.m. on September 12, 2025.² Complainant, represented by counsel, Timothy Davis, and Respondent, represented by counsel, Travis Elliot, each submitted their respective evidence for appeal on the record. Both parties submitted their briefs on September 12, 2025, however, Complainant's brief was not submitted until approximately 10 p.m. Respondent has filed a Motion to Strike Complainant's Hearing Brief for filing it out of time. While the Commission understands the position of Respondent and does not appreciate parties who ignore the deadlines set by the Commission, in this particular instance, it is difficult to see any prejudice that would arise from accepting a brief filed 5 hours delinquent. The Motion is overruled.

FINDINGS OF FACT

1. Stipulated Facts Submitted by the Parties.

The facts are set out in Respondent's Brief and accepted by Complainant except that the property is a stand-alone, single-family structure. The property is part of a condominium complex, but it is not part of another, larger building. The property is located at 119 Lenhart in Branson, Missouri. The property includes a kitchen, living room, and several bedrooms and bathrooms. The bedrooms are just bedrooms; they do not have

² Section 138.431.5 provides the "hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying, or reversing the determination of the BOE, and correcting any assessment which is unlawful, unfair, improper, arbitrary, or capricious."

kitchen or cooking facilities in them. The property is available for rent for periods of less than 30 days. It can be rented for longer periods of time, but that would be unusual. The owner stays at the property for a few days in the year, and for the remaining days, the property is available for rent. The property was rented for a total of between less than 100 nights to 125 nights per year.

The property is not used as the primary residence for the owner. The property is advertised and rented online. The property is listed for rent to one tenant group at a time, meaning that the bedrooms are not rented separately. The owner carries his own hazard insurance and liability insurance. The property is not operated as a bed and breakfast. The owner does not sell any tangible merchandise, tickets or tours, or food, alcohol or other drinks at the property. The owner does not provide any laundry or cleaning services during the term of the short-term lease. The owner or a third-party hired by the owner maintains the property and landscaping. After a tenant leaves the property, either the owner or a third-party cleaner hired by owner will clean the property and refresh the linens prior to the arrival of the next tenant. The property is in an area zoned as NR-1, Nightly Rental Single Family Residence by Taney County.

2. Stipulated Exhibits.

The following exhibits were submitted by the parties. Although the parties did not specifically stipulate to the admission of these exhibits, it appears to the Hearing Officer that they include information necessary to decide this appeal. The exhibits are incorporated into the record and received into evidence.

Exhibit #	Description
1	Taney County Assessor's Work Card 2023
2	Taney County Assessor's Work Card 2022
3	BOE Appeal Form
4	2023 RE Value Change Notice
5	Printout of Previous Values of the property
6	BOE Decision Form
7	Photos of front and back of house
8	WDT of Susan Chapman
9	WDT of Frank Long
10	Branson Zoning Code, relevant parts
11	BOE Decision Letter dated 7/19/23

3. Respondent and the BOE finding:

Respondent in this matter found the subject property's true value in money (TVM) on January 1, 2023³, was \$391,812 all of which was commercial with no residential value, resulting in an assessed value of \$125,380. The BOE found the TVM of the property to be \$391,812 and classified it as commercial.

4. Overvaluation. In its Complaint for Review filed with the STC, Complainant alleges Misclassification as the only grounds for appeal. Complainant proposes an assessed value of \$74,443. No evidence was presented regarding overvaluation and it was not identified as a ground for the appeal; therefore, Complainant has failed to produce substantial and persuasive evidence establishing overvaluation and that possible claim is denied.

³ Missouri operates on a two-year reassessment cycle for valuing real property. *See* Section 137.115.1. Absent new construction or improvements to a parcel of real property, the assessment as of January 1 of the odd year remains the assessment as of January 1 of the following even year. *Id.*

CONCLUSIONS OF LAW

1. Jurisdiction. The STC has jurisdiction to hear this appeal and shall correct any assessment or valuation that is shown to be unlawful, unfair, improper, arbitrary, or capricious. Section 138.430.1. The hearing officer shall issue a decision and order which may affirm, modify, or reverse the determination of the BOE. Section 138.431.5. The STC may make its decision regarding the assessment or valuation of the property based solely upon its inquiry and any evidence presented by the parties to the STC or based solely upon evidence presented by the parties to the STC. Section 138.430.2.

2. Assessment, Valuation, and Classification. Real property is assessed at set percentages of its TVM as of January first of each odd-numbered year. Section 137.115.1. Residential real property is assessed at 19% of its TVM. Section 137.115.5(1)(a). Commercial real property is assessed at 32% of its TVM. Section 137.115.5(1)(c). In this case, the relevant date for determining classification is January 1, 2023.

Under Missouri law, “residential property” is defined as:

all real property improved by a structure which is used or intended to be used for residential living by human occupants, vacant land in connection with an airport, land used as a golf course, manufactured home parks, bed and breakfast inns in which the owner resides and uses as a primary residence with six or fewer rooms for rent, and time-share units as defined in section [407.600](#), except to the extent such units are actually rented and subject to sales tax under subdivision (6) of subsection 1 of section [144.020](#), but residential property shall not include other similar facilities used primarily for transient housing. For the purposes of this section, "transient housing" means all rooms available for rent or lease for which the receipts from the rent or lease of such rooms are subject to state sales tax pursuant to subdivision (6) of subsection 1 of section [144.020](#)[.]

Section 137.016.1(1).

“Commercial property” is defined as:

all real property used directly or indirectly for any commercial, mining, industrial, manufacturing, trade, professional, business, or similar purpose, including all property centrally assessed by the state tax commission but shall not include floating docks, portions of which are separately owned and the remainder of which is designated for common ownership and in which no one person business entity owns more than five individual units. All other real property not included in the property listed in subclasses (1) and (2) of Section 4(b) of Article X of the Missouri Constitution, as such property is defined in this section, shall be deemed to be included in the term “utility, industrial, commercial, railroad and other real property”.

Section 144.020(6)

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public. . .

Missouri Department of Revenue, Vacation Home Rentals Industry Guidance⁴

Charges for nightly room rentals for homes, condominiums, cabins and similar establishments available to the general public are subject to sales tax.

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). 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

⁴ The first page of the Tax Matrix published by the Missouri Department of Revenue is attached to this Decision as Appendix A.

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.*

4. 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. *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). "Substantial and persuasive controverting evidence is required to rebut the presumption, with the burden of proof resting on the taxpayer." *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 a "party's duty to convince the fact-finder to view the facts in a way that favors that party"). "Determining whether a property's use falls within one of the subclassification definitions set forth in section 137.016.1 is an issue of fact for the STC." *Rinehart*, 363 S.W.3d at 366.

5. Complainants Did Not Prove Misclassification. In this appeal, Complainants failed to produce substantial and persuasive evidence that the subject properties should

have been classified as residential. Complainant used the subject property as income-producing property for all of the year except the few days that Complainant used the property. The property was rented to generate income.

Complainant contends that the property is Residential and does not meet the definition of “transient housing” as it should not be subject to sales tax pursuant to subdivision (6) of subsection 1 of section 144.020. Complainant has two arguments. The first is that Complainant does not rent rooms, he rents the entire house. Complainant further contends that the language “rooms, meals and drinks” because of the lack of a comma separating the word “meals” from the following “and”, the three words must be read together and that the statute requires the provision of all three, rooms, meals and drinks for it to be subject to sales tax.

Complainant’s interpretation that renting rooms does not include his property as he rents the entire property and not just individual rooms would exempt every motel or hotel rental that contains more than one room. This would exempt every motel or hotel rental as they have separate restrooms within the rental and many have separate bedrooms or dining areas. The proposed interpretation by Complainant is not consistent with the use of the term and its application in this instance.

Complainant’s other contention is that the language “rooms, meals and drinks” because of the lack of a comma separating the word “meals” from the following “and” the three words must be read together and that the statute requires the provision of all three,

rooms and meals and drinks before sales tax applies. The alternative interpretation is that the statute intends to provide a list of things, any of which would trigger the application of sales tax, therefore, the provision of rooms or meals or drinks would be subject to sales tax. The Missouri Department of Revenue has determined that it will interpret the statute and therefore sales tax will apply if any of the items on the list are provided. Nightly rentals of homes, condominiums, cabins and similar establishments available to the general public are subject to sales tax according to the Missouri Department of Revenue. (Appendix A). If the rental is subject to sales tax, it is considered “transient housing” in accordance with the definition of residential property in Section 137.016. If the rental is “transient housing” then it is not residential property and it is commercial property. The subject property qualifies as transient housing as it is subject to sales tax, therefore, the property should be classified as commercial property.

Consequently, the evidence established that the BOE’s determination of classification regarding the subject properties in the instant case was not unfair, improper, and arbitrary.

CONCLUSION AND ORDER

The BOE decision is affirmed. The classification of the subject property as of January 1, 2023 is commercial with TVM of \$391,810 and Assessed value of \$125,380.

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 Taney 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 ON January 8th, 2026

STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson
Senior Hearing Officer

Appendix A

INDUSTRY GUIDANCE

Category:	Vacation Home Rentals	Tax Type:	Sales & Use Tax
Brief Description:	Vacation Home Rentals Tax Matrix	Issuance Date:	12-01-2022
		Revision Date:	03-28-2025

The taxability of sales and purchases of tangible personal property and labor services by vacation home rentals are summarized below. While this document provides general information as to the taxability of sales and purchases of tangible personal property and labor services by businesses in the vacation rental industry, it may not necessarily cover every situation as the taxability may depend on facts and circumstances around the specific transaction. Should a more definitive determination be desired, businesses may request a letter ruling from the Department. [MODOR Letter Ruling Page](#)

This list is not all-inclusive.

Missouri sales or use tax applies to those purchases identified or designated as taxable in the chart below. The applicable Missouri sales or Missouri consumer's use tax must be paid to the vendor or accrued and remitted directly to the Missouri Department of Revenue. Purchases from Missouri vendors should be reported using the retailer's sales tax return. Purchases from outside this state which are delivered to this state are to be reported on the Missouri consumer's use tax return.

Sales by Vacation Home Rental Businesses:	Taxable/Exempt
Sale of timeshares for a given period each year for a number of years	Exempt
Sale of timeshares which includes an interest in the real property	Exempt
Charges for nightly room rentals for homes, condominiums, cabins, and similar establishments available to the general public	Taxable
Charges for nightly room rentals for homes, condominiums, cabins, and similar establishments, available to the general public for guests who contract for a stay of 31 or more days	Exempt
Charges for internet access	Exempt
Cleaning fees	Taxable
Service fees	Taxable

Purchases by Vacation Home Rental Businesses:	Taxable/Exempt
Furniture and fixtures, including but not limited to: desks, lamps, tables, chairs, artwork, signs, plants and planters, shelving, etc.	Taxable
Copiers, scanners, computers, printers, and fax machines	Taxable

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on January 9th, 2026, to:

Timothy Davis, Attorney for Complainant(s) at tim@davisbrotherslaw.com

Travis A. Elliott, Attorney for Respondent at telliott@eehjfirm.com

Robert E. Petrowsky, Attorney for Respondent at rpetrowsky@eehjfirm.com

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