



State of Tennessee
Department of State
Administrative Procedures Division
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Nashville, Tennessee 37243-1102
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March 1, 2024

Marla Sellers
251 Eastern Shores Drive
Lexington, TN 38351
Sent via email only to: mcnamarc2@aol.com

Henderson County Assessor's Office
17 Monroe Street, 2nd Floor
Lexington, TN 38351
Sent via email only to: gary.pope@cot.tn.gov

Robin Pope
Executive Director, State Board of
Equalization
Cordell Hull Building
425 Rep. John Lewis Way North
Nashville, TN 37243
Sent via email only to: Address on File

**RE: MARLA SELLERS V. HENDERSON COUNTY ASSESSOR'S OFFICE, APD Case
No. 53.01-240363J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

**BEFORE THE ADMINISTRATIVE JUDGE ON BEHALF OF
THE TENNESSEE BOARD OF EQUALIZATION**

IN THE MATTER OF:

MARLA SELLERS,
Petitioner,

v.

**HENDERSON COUNTY ASSESSOR'S
OFFICE,**
Respondent.

APD Case No. 53.01-240363J

No./Parcel:

143542 / 071A A 09200 000

143543 / 071A A09300 000

143544 / 071A A 12600 000

143545 / 071A A 12800 000

143546 / 071A A 12700 000

Tax Year 2023

INITIAL DECISION AND ORDER

The Henderson County Board of Equalization (“local board”) valued the subject properties for tax year 2023 as follows:

Parcel 071A A 09200 000 (Appeal 143542)

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$15,000	\$0	\$15,000	\$3,750

Parcel 071A A 09300 000 (Appeal 143543)

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$12,800	\$0	\$12,800	\$3,200

Parcel 071A A 12600 000 (Appeal 143544)

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$40,000	\$0	\$40,000	\$10,000

Parcel 071A A 12800 000 (Appeal 143545)

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$15,000	\$0	\$15,000	\$3,750

Parcel 071A A 12700 000 (Appeal 143546)

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$15,000	\$0	\$15,000	\$3,750

The Taxpayer, Ms. Marla Sellers, timely filed an appeal with the State Board of Equalization (“State Board”) for tax year 2023. On February 22, 2024, the undersigned administrative judge conducted a telephone hearing with the parties. The Taxpayer, Ms. Marla Sellers, appeared and testified on his own behalf. Taxpayer’s father, Mr. Cecil McNatt, also testified on Taxpayer’s behalf. No one appeared on behalf of the Henderson County Assessor’s Office (“the Assessor”). Two (2) exhibits were entered into evidence by the Taxpayer. Collectively, the exhibits consisted of letters, local board notices, and other relevant documents.

ISSUE FOR DETERMINATION

The issue to be determined is whether Taxpayer has proven, by a preponderance of the evidence, that the valuation of the subject properties should be lowered from the value adopted by the local board. Based upon the following findings of fact and conclusions of law, it is determined that Taxpayer met her burden of proof for a lower valuation for parcel 12600 but failed to meet her burden of proof for a lower valuation for the remaining four parcels.¹

FINDINGS OF FACT

1. All five of the parcels at issue are undeveloped residential lots located in section three of the Beasley Place Subdivision in the City of Lexington, Henderson County, Tennessee.
2. Taxpayer purchased all five parcels for \$4,000 each (\$20,000 total) in 2014 at a bank foreclosure sale. Following foreclosure, the developer never completed the subdivision.

¹ Taxpayer also raised issues regarding the validity of the city’s annexation of property at issue and a refund of taxes paid to the city. While some annexation issues can be addressed in other proceedings with the Administrative Procedures Division under Tenn. Code Ann. § 8-3-102, those issues fall outside the scope of this property tax appeal.

3. The subdivision's restrictive covenants state that the parcels at issue may only be used for single family residential purposes.

4. All five parcels lack sewer access and are only accessible by a gravel road. For these reasons and others, the City of Lexington refuses to issue Taxpayer any building permits.²

5. Mr. McNatt testified that all of the parcels are approximately the same size but noted that parcels 9200 and 9300 have more of a drop-off in the back.

6. No comparable sales of similarly situated lots were presented for consideration.

APPLICABLE LAW

A party challenging the current assessment of a property bears the burden of proof. STATE BOARD RULE 0600-1-.11(l). To meet the burden of proof, the party seeking to change the assessed value must show that a preponderance of the evidence supports that change. A preponderance of the evidence means that, considering all relevant evidence, a party's contention of value is more likely than not.

Pursuant to TENN. CODE ANN. § 67-5-601(a) “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values” Merely disproving assumptions underlying the current valuation or pointing out “the likelihood that a more accurate value is possible” - without more – neither invalidates the levy or judgment under appeal nor constitutes a *prima facie* case for a change. *Coal Creek Company* (Final Decision & Order, Anderson, Campbell, and Morgan counties, Tax Years 2009-2013, issued June 25, 2015).

² See Letter from City of Lexington dated January 20, 2023, contained in Exhibit 2.

Pursuant to TENN. CODE ANN. § 67-5-504(a), “[a]ll assessments of real property and of personal property shall be made annually and as of January 1 for the year to which the assessment applies....” Accordingly, the value at issue is the property’s value “as of January 1 for the year to which the assessment applies.” *Id.*

ANALYSIS and CONCLUSIONS OF LAW

The lack of any evidence from the Assessor and the lack of any relevant comparable sales make valuation of the parcels at issue difficult. However, based on the evidence presented, the undersigned administrative judge finds that Taxpayer met her burden of proof to justify a decrease in the local board’s value as to parcel 12600 but not as to the other four parcels.

Taxpayer purchased the parcels at issue at a foreclosure sale in 2014 for \$4,000 each. Because it was a foreclosure sale, the purchase price did not reflect market value at that time, and it is undisputed that land values have increased since 2014, especially in recent years. However, the city’s refusal to issue a building permit combined with the fact that the parcels are restricted to residential use, prevent the parcels from being used for their intended purpose. Considering these factors and the valuations given to these parcels, which are similar in size and location, the undersigned finds that the evidence does not support a valuation of \$40,000 for parcel 12600. Rather, the undersigned finds that evidence supports a value of \$15,000 for parcel 12600, which brings it in line with the other similarly situated parcels. Regarding the other four parcels, the undersigned finds that the evidence does not support a reduction in the value set by the local board. Accordingly, the values set by the local board for the remaining four parcels are affirmed.

DETERMINATION

It is, therefore, ORDERED that the following valuations be and adopted for tax year 2023:

Parcel 071A A 09200 000 (Appeal 143542)

<u>Land Value</u> \$15,000	<u>Improvement Value</u> \$0	<u>Total Value</u> \$15,000	<u>Assessment</u> \$3,750
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Parcel 071A A 09300 000 (Appeal 143543)

<u>Land Value</u> \$12,800	<u>Improvement Value</u> \$0	<u>Total Value</u> \$12,800	<u>Assessment</u> \$3,200
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Parcel 071A A 12600 000 (Appeal 143544)

<u>Land Value</u> \$15,000	<u>Improvement Value</u> \$0	<u>Total Value</u> \$15,000	<u>Assessment</u> \$3,750
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Parcel 071A A 12800 000 (Appeal 143545)

<u>Land Value</u> \$15,000	<u>Improvement Value</u> \$0	<u>Total Value</u> \$15,000	<u>Assessment</u> \$3,750
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Parcel 071A A 12700 000 (Appeal 143546)

<u>Land Value</u> \$15,000	<u>Improvement Value</u> \$0	<u>Total Value</u> \$15,000	<u>Assessment</u> \$3,750
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It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **1st day of March, 2024**.


MARK GARLAND
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the
1st day of March, 2024.

NOTICE OF APPEAL PROCEDURES**REVIEW OF INITIAL ORDER**

The Administrative Judge's decision in your case **BEFORE THE ADMINISTRATIVE JUDGE ON BEHALF OF THE TENNESSEE BOARD OF EQUALIZATION (the State Board)**, called an Initial Order, was entered on **March 1, 2024**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A party files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). Your Petition should include your name, the above APD case number, and state the specific reasons why you think the decision is incorrect. APD must receive your written Petition no later than 15 days after entry of the Initial Order, which is **March 18, 2024**. A new 15 day period for the filing of an appeal to the State Board of Equalization (the State Board) (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling on a Petition for Reconsideration, or from the twentieth day after filing the Petition if no order is issued. Filing instructions are included at the end of this document.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal of the Initial Order within 30 days after an Order denying the Petition for Reconsideration is sent or 30 days after the 20th day after the Petition is filed if no Order has issued, whichever comes first. *See* TENN. CODE ANN. § 4-5-317.

2. **A party files an appeal to the State Board:** A party may appeal the Administrative Judge's decision to the State Board pursuant to TENN. CODE ANN. §§ 67-5-1501 and 67-5-1506, and TENN. COMP. R. & REGS. 0600-01-12. TENN. CODE ANN. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." TENN. COMP. R. & REGS. 0600-01-12(2) provides that the appeal be filed with the Executive Secretary of the State Board at the address indicated below and that the appeal must "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order; and identify how the rights of the petitioner have allegedly been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) in violation of constitutional or statutory provisions; (2) made upon unlawful procedure; (3) arbitrary and capricious or characterized by abuse of discretion; or (4) unsupported by evidence that is both substantial and material in light of the entire record." Any appeal to the State Board should also be filed with APD.
3. **The State Board of Equalization may decide on its own motion to review the Initial Order:** The State Board may affirm, reverse, or modify the Initial Order. The State Board may also remand the case to the Administrative Judge for further proceedings.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the State Board renders a Final Order.

If none of the actions set forth in paragraphs (1), or (2) or (3), are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

NOTICE OF APPEAL PROCEDURES**STAY**

In addition to the above actions, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for stay must be received by the APD within 7 days of the date of entry of the Initial Order, which is no later than **March 8, 2024**. *See* TENN. CODE ANN. § 4-5-316. A reviewing court may also order a stay of the Initial Order upon appropriate terms. *See* TENN. CODE ANN. § 4-5-322 and 4-5-317.

REVIEW OF A FINAL ORDER

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order may seek judicial review of the Final Order by filing a Petition for Review in the chancery court where the disputed assessment was made or in the chancery court of Davidson, Washington, Knox, Hamilton, Madison or Shelby Counties, whichever county is closest in mileage to the situs of the property. If the property is located in Knox, Hamilton or Shelby County, the Petition for Review may alternatively be filed in the chancery court of Davidson County. *See* TENN. CODE ANN. § 67-5-1511(b). The Petition for Review must be filed within 60 days of (a) the date of entry of a Final Order; (b) the date the Initial Order becomes a Final Order; or (c) the date of a notice or certificate sent by the State Board when it has taken a final action, whichever date is latest. *See* TENN. CODE ANN. §§ 4-5-322 and 67-5-1506(b). A Petition for Review of the final decision of the State Board in a contested case involving centrally assessed utility property assessed in accordance with title 67, chapter 5, part 13, shall be filed with the middle division of the Tennessee court of appeals.

The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.Filings@tn.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue, 6th Floor
Nashville, TN 37243-1102

Documents to be filed with the Executive Secretary of the State Board of Equalization should be filed by email *or* regular mail:

Email: sb.web@cot.tn.gov

Executive Secretary of the State Board of Equalization
State Board of Equalization
425 Rep. John Lewis Way N.
Nashville, TN 37243