



State of Tennessee
Department of State
Administrative Procedures Division
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April 2, 2024

J Zayas
c/o Jonathan Zayas
126 Pennsauken Court
Murfreesboro, TN 37128
Sent via email only to: acehew@gmail.com

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

Rutherford County Assessor of Property
c/o Rob Mitchell
319 N. Maple Street, Suite 200
Murfreesboro, TN 37130
Sent via email only to:
rmitchell@rutherfordcountytn.gov

RE: J ZAYAS V. RUTHERFORD COUNTY ASSESSOR OF PROPERTY, APD Case No.
53.01-241059J

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:

J ZAYAS,
Petitioner,

v.

**RUTHERFORD COUNTY ASSESSOR
OF PROPERTY,**
Respondent.

APD Case No. 53.01-241059J

**No./Parcel: 142565 / 101B D 01100
Tax Year 2022**

ORDER

The Rutherford County Board of Equalization (“local board”)¹ valued the subject property for tax year 2022 as follows:

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$55,000	\$769,300	\$824,300	\$206,075

The taxpayer, Jonathan J. Zayas, Ph.D., MND., who prefers to be addressed as Bishop J, timely filed an appeal with the State Board of Equalization (“State Board”) for tax year 2022.

The undersigned judge conducted a hearing via WebEx on April 1, 2024. The taxpayer represented himself. The Rutherford County Assessor’s Office (Assessor) was represented by Chance Baker, Residential Appraiser, and Barry Jones, Commercial Valuation Manager, who was present but did not testify.

ISSUE AND DETERMINATION

The issue to be determined is whether the taxpayer has proven, by a preponderance of the evidence, that the valuation of the subject property should be lower than that adopted by the local board. Based upon the following findings of fact and conclusions of law, it is determined that,

¹ The Notice of Hearing received from the State Board of Equalization indicated there was no local board involvement. Both parties testified that there was a hearing that resulted in a no change order.

although the taxpayer did not meet the burden of proof, the Assessor identified additional circumstances that affect the value of the subject property, and the local board valuation should be reduced to \$678,200.

FINDINGS OF FACT

1. The subject property is a site that is less than one acre located at 126 Pennsauken Court in Rutherford County, Tennessee.

2. The property is improved with a 7,219 square foot house.

3. Taxpayer contends that the total value of the property is \$550,000 based on the coverage limits stated on the declaration pages of homeowner's insurance policies placed with Auto Owners and Liberty Mutual.

4. Tax year 2022 was a reappraisal year in Rutherford County.

5. In preparing for the reappraisal, the Assessor became aware of additions made to the residence which resulted in the 2,522 square foot house being expanded to 7,219 square feet.² Based on this increase in size, the Assessor increased the valuation to \$824,300.

6. The taxpayer contacted the Assessor about the increased valuation both before and after the appeal to the local board.

7. The local board issued a no change decision.

8. The Assessor was able to make an on-site inspection but not permitted to enter the structure as the taxpayer was not available at the time of the inspection.

9. Based on information gathered through the inspection process, the Assessor revised the appraised value for tax year 2023 to a total value of \$678,200 inclusive of the land value of

² The Assessor initially believe the addition brought the square footage to 6,522 square feet. More accurate measurements during a site visit provided the 7,219 results. On cross-examination by the taxpayer, Mr. Baker clarified that the unfinished attic space was not included in the final total.

\$55,000. The changes resulted from a determination that the property was overbuilt for the neighborhood and that the quality of construction was not good.

10. The Assessor changed the valuation of the property for tax year 2023 to \$678,200, as of January 1, 2023.

11. The conditions that warranted the downward adjustment existed as of January 1, 2022.

12. The Assessor's valuation analysis was reasonable and supported the reduction in the valuation of the local board.

APPLICABLE LAW

A party challenging the current assessment of a property bears the burden of proof. STATE BOARD RULE 0600-1-11(1). 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 TENNESSEE CODE ANNOTATED § 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).

ANALYSIS and CONCLUSIONS OF LAW

Upon a thorough review of the evidence submitted in this matter, the undersigned judge finds that the taxpayer has not met the burden of proof to establish a more credible value than that adopted by the local board. The taxpayer relied on his homeowner's insurance policy limits of

coverage. The taxpayer argued that the insurance companies were both very large and reputable. The taxpayer confused the coverage limits with the value of the property. Those coverage limits do not address land value. Additionally, the dates on the declaration pages did not relate to the tax year in question. Further, the taxpayer did not offer any testimony or affidavit from anyone with the insurance companies. Thus, there was no one available to testify about the actual value of the subject property and the methodology used to develop a value for the property if that was in fact the purpose of any of the process of issuing insurance. Although the insurance documents were admitted into evidence without objection,³ they could be given no weight.

The taxpayer stated that he had been in the real estate business and had been an appraiser and had taught those subject matters at a college. However, the taxpayer did not present evidence from an appraisal or evidence from a sales comparison approach to support his contention that the value of the property should be \$550,000. Instead, taxpayer argued that requiring him to collect and present evidence to satisfy the burden of proof was unfair and amounted to finding him guilty before a hearing.

The Assessor presented evidence through the testimony of Chance Baker. Mr. Baker had several contacts with the taxpayer over time after the reappraisal of the property. Based on information from the taxpayer, Mr. Baker determined to supplement the mass appraisal tools by an onsite visit.

Mr. Baker had previously identified building permits that brought to the attention of the Assessor a significant enlargement of the house that had occurred in years prior to the re-assessment year. The additions had more than doubled the size of the house. This increase in size

³ The documents were not submitted timely or in the manner prescribed by the scheduling order issued in this matter. The taxpayer contended that he did not receive the scheduling order which were sent to the email address designated by the taxpayer. In response to a question regarding how the taxpayer knew to connect to the Webex, the taxpayer acknowledged that he received an email from the undersigned judge that was sent to the same email address as the scheduling order.

led to the higher valuation more than the factor of market increase in the four years since reappraisal had last been done. Mr. Baker's on-site visit led to his value reduction based on his opinion that the property was overbuilt compared to the neighborhood and that the quality of the construction was below expectations for good construction.

“The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value...” *E.B. Kissell, Jr.* (Final Decision & Order, Shelby County, Tax Years 1991 and 1992, issued June 29, 1993). Here, Mr. Baker presented comparable sales data of homes that were adjusted appropriately for condition and location.

Based on the problems with the construction and the fit in the neighborhood, the Assessor made a final downward adjustment to the value of the subject property to reflect comparability. The Assessor testified that those conditions, though not known prior to January 1, 2022, were, nonetheless, present at that time. For *ad valorem* tax purposes, the only relevant value is fair market value of the subject property as of January 1st of the tax year at issue. The amount or percentage of increase in the appraised value of a property is irrelevant to a determination of its present market value. *Victor R. Burk* (Initial Decision and Order, Greene Co., Tax Year 2013, issued January 3, 2014) (acknowledging the imperfections of mass appraisal systems and citing *E.B. Kissell, Jr.* (Final Decision and Order, Shelby Co., Tax Years 1991 and 1992, issued June 29, 1993) for the proposition that values can change dramatically even over a short period of time). *See also Edmond Ray Wilkerson* (Initial Decision and Order, Knox Co., Tax Year 2013, issued January 3, 2014).

Respectfully, the administrative judge finds that the taxpayer has not met the burden of proof to reduce the valuation of the subject property. Here, however, the Assessor produced evidence that was neither known at the time the assessment was made nor learned prior to the presentation before the local board. In the interest of fairness, that information is sufficient to reduce the assessment for tax year 2022.

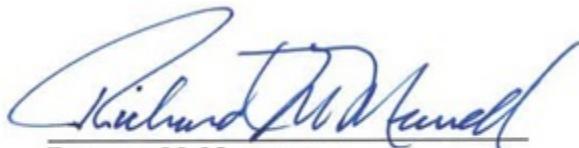
DETERMINATION

It is ORDERED that the following values are adopted for tax year 2022:

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$55,000	\$623,200	\$678,200	\$169,550

It is so ORDERED.

This INITIAL ORDER entered and effective this the **2nd day of April, 2024**.



RICHARD M. MURRELL
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
2nd day of April, 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 **April 2, 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 **April 17, 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.**

**J ZAYAS V. RUTHERFORD COUNTY ASSESSOR OF
PROPERTY****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 **April 9, 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