

BOARD OF TAX APPEALS  
STATE OF LOUISIANA

PHILLIPS 66 COMPANY

Petitioner

vs.

BTA DOCKET NO. L02414

ASSESSOR WENDY AGUILLARD AND  
THE CALCASIEU PARISH BOARD OF  
REVIEW

Respondent

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JUDGMENT WITH WRITTEN REASONS  
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This matter came before the Board for hearing on the Petition for *Expedited Review of Evidentiary Decision of the Louisiana Tax Commission* filed by Phillips 66 Company (“Petitioner”) by Zoom on February 28, 2025, with then Local Tax Judge Cade R. Cole<sup>1</sup> presiding. Appearing before the Board were Jesse Adams, attorney for the Petitioner, and Brian Eddington, attorney for Assessor Wendy Aguiard (“Assessor”) and the Calcasieu Parish Board of Review (“BoR”) (collectively, “Respondents”). At Respondents’ request, the Board held the record open for Respondent to file a copy of the transcript of the LTC proceedings into the record. The record now being complete, Board issues the following Judgment in accordance with the attached reasons:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the LTC’s Order granting the Assessor’s Motion in Limine is REVERSED and the LTC is ORDERED to enter the appraisal report (identified as Taxpayer Exhibit 16, “Appraisal of Taxpayer’s Refinery Property for 2023, prepared by Stancil & Co.”) in the record of Docket No. 23-22019-009.

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<sup>1</sup> On March 10, 2025, Justice Cole resigned from the Board after being elected to the Louisiana Supreme Court, and was appointed ad hoc Local Tax Judge in this matter by order of the Court on March 11, 2025.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment is designated as a final Judgment pursuant to La. C.C.P. art. 1915(B) for purposes of an immediate appeal, as there is no just reason for delay.

Judgment Rendered and Signed at Baton Rouge, Louisiana, on this 15<sup>th</sup> day of July, 2025.

FOR THE BOARD:

A handwritten signature in blue ink, appearing to read "C. Cole", is written over a horizontal line.

JUSTICE CADE R. COLE  
LOCAL TAX JUDGE *AD HOC*  
LOUISIANA BOARD OF TAX APPEALS

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**BACKGROUND:**

Petitioner is in the midst of a correctness challenge before the LTC concerning 2023 Ad Valorem property tax assessed on Petitioner’s crude oil refinery in Lake Charles. (“LCR”). Petitioner protested the subject assessment to the BoR, and then appealed to the LTC. Petitioner’s appeal with the LTC was docketed as No. 23-22019-009 (“LTC Appeal”).

<sup>2</sup> On March 10, 2025, Justice Cole resigned from the Board after being elected to the Louisiana Supreme Court, and was appointed ad hoc Local Tax Judge in this matter by order of the Court on March 11, 2025.



The Petition before the Board was filed pursuant to La. R.S. 47:1989(C)(2)(b). That provision provides for expedited review when the LTC denies a taxpayer's request to present evidence that was not timely presented to the Assessor. Petitioner asks the Board to reverse the LTC's decision to grant a *Motion in Limine* filed by the Assessor which struck from the record an appraisal report on the LCR (identified in the LTC's Order as Taxpayer Exhibit 16, "Appraisal of Taxpayer's Refinery Property for 2023, prepared by Stancil & Co.") ("Stancil Appraisal"). The LTC signed the Order on January 30, 2025, and Petitioner timely filed the instant Petition on February 17, 2025.

Petitioner claims that it ordered the Stancil Appraisal on September 14, 2023. That date was one day after Petitioner filed its protest with the BoR, but was before the deadline for filing said protest. Before the Stancil Appraisal was completed, however, the BoR rendered its decision and the Petitioner appealed to LTC.

On June 18, 2024, the LTC entered a Case Management Scheduling Order ("Scheduling Order"), which required that Petitioner to file and serve an exhibit list on the Assessor, pre-file its exhibits with the LTC, and to serve a copy of all pre-filed exhibits on the Assessor at least sixty days prior to the hearing, on or before November 15, 2024. The Scheduling Order further provided that failure to timely file and serve copies of the exhibits would likely result in their exclusion absent a showing of good cause.

The Stancil Appraisal was not completed by November 15, 2024 deadline. Petitioner nevertheless identified the Stancil Appraisal as Exhibit 16 on its Exhibit List. Petitioner timely filed and served copies of the Exhibit List with the Assessor and the LTC. Petitioner received the final Stancil Appraisal on December 12, 2024. On the next day, December 13, 2024, Petitioner filed and served copies of the Stancil Appraisal on the Assessor and the LTC.

The Assessor filed her *Motion in Limine* to exclude the Stancil Appraisal as untimely under La. R.S. 47:1989(C)(2)(a)(i) and the Scheduling Order. The motion was heard on January 15, 2025. From the transcript of the LTC hearing, it appears that the commissioners questioned Petitioner about whether they had supplied any

of the raw data that the Stencil Appraisal was based on to the Assessor while they were waiting for the Stencil Appraisal to be completed. Counsel acknowledged that Petitioner had access to the raw data but did not provide it to the Assessor. The commissioners also expressed skepticism to Petitioner's assertion that it had no control over how long the appraiser took to finish the Stencil Appraisal. Additionally, the commissioners were concerned with the email evidencing Petitioner's purportedly timely request for the Stencil Appraisal. In particular, the commissioners believed that the qualification following the request, "pending final approval," created an issue as to whether the Stencil Appraisal was actually ordered on the date asserted by the Petitioner.

#### DISCUSSION:

La. R.S. 47:1989(C)(2)(a)(i) provides:

(a)(i) Review of the correctness of an assessment by an assessor shall be confined to review of evidence presented to the assessor prior to the close of the deadline for filing a complaint with the board of review provided for in R.S. 47:1992. If a taxpayer makes application to present additional evidence before the date set for hearing on the appeal and the Louisiana Tax Commission finds that the additional evidence is material and that there were good reasons for failure to timely present it to the assessor, the Louisiana Tax Commission may order that the additional evidence be taken by the assessor. The assessor may modify the assessment by reason of the additional evidence and shall notify the Louisiana Tax Commission of any modifications to the assessment within fifteen calendar days of receipt of the additional evidence. The Louisiana Tax Commission may then order any evidence that is otherwise admissible be admitted for the purposes of review.

The provision was enacted by 2021 Act 343. Act 343 represents a compromise between assessors and taxpayers as to how the LTC should handle late-provided evidence. That compromise, codified in the above-quoted provision, followed the Louisiana Supreme Court's decision in *D90 Energy, LLC v. Jefferson Davis Parish Bd. of Review*, 2020-00200 (La. 10/1/20), 341 So.3d 492. In enacting, La. R.S. 47:1989(C)(2) the legislature sought to protect assessors from trial by ambush while at the same time ensuring that certain critical categories of evidence are available so that the LTC can provide meaningful review of the correctness of an assessment.



As La. R.S. 47:1989(C)(2)(a)(i) states, the starting point is that evidence must be presented to the Assessor by the deadline for filing with the BoR. There are, however, statutory mechanisms providing relief for taxpayers who demonstrate legitimate a reason for not being able to provide information before the relatively short statutory deadline. The LTC further has broad discretionary authority to find that there was a good reason for the delay in providing additional evidence. Moreover, the statutorily enumerated presumptions of good cause put an additional imprimatur on certain circumstances and types of evidence that the legislature determined to be critical for the proper disposition of valuation disputes.

The statute further explains what “good reason” entails. La. R.S. 47:1989(C)(2)(a)(ii) provides:

For purposes of this Subparagraph, good reason for failure to timely present information to the assessor shall be presumed to exist for reports and related attachments of any appraiser or other expert ordered prior to the deadline for filing a complaint with the board of review if the report and attachments are submitted to the assessor within thirty days of receipt of the reports and attachments by the taxpayer and at least twenty-five days prior to a hearing before the Louisiana Tax Commission. Nothing in this Item shall be construed to limit the ability of the Louisiana Tax Commission to find good reason to admit other expert reports pursuant to the other provisions of this Subparagraph.

As stated above, the LTC expressed reservations about whether Petitioner actually “ordered” the Stancil Appraisal on September 13, 2024. However, the LTC has not promulgated a specific regulation defining what it will consider to constitute an “order.” In applying the law, courts are bound to construe the words and phrases of a statute according to their common usage. La. R.S. 1:3; *Catahoula Par. Sch. Bd. v. Louisiana Mach. Rentals, LLC*, 2012-2504, p. 15 (La. 10/15/13), 124 So.3d 1065, 1075. The communication at issue expressly told Stancil to “go ahead” with the appraisal. The Board finds that this command would normally be understood as an “order” in common parlance. Accordingly, we find that Petitioner did order the Stancil Appraisal on September 13, 2024, which was before the deadline for filing with the BoR.

In addition, the statute specifies certain circumstances under which good reason is automatically presumed to exist. La. R.S. 47:1989(C)(2)(a)(iii), (aa) provide:

(iii) Nothing in this Item shall be construed to limit the ability of the Louisiana Tax Commission to find good reason to admit otherwise admissible documents or evidence pursuant to this Subparagraph. For purposes of this Subparagraph, good reason for failure to timely present documents or evidence shall always be presumed to exist when the otherwise admissible document or evidence is either of the following:

(aa) Not available to the taxpayer at the time of the deadline for submission to the assessor but is provided to the assessor within fifteen days of availability including but not limited to financial or accounting documents, financial statements, information regarding the useful life of property, depreciation schedules, other records of income data, or environmental assessments or reports relating to the property.

The Stencil Appraisal was provided to the Assessor within fifteen days of availability. As stated in the foregoing reasons, the Stencil Appraisal is "otherwise admissible" under La. R.S. 47:1989(C)(2)(a)(v), which defines that term as "evidence admissible pursuant to any provision of this Subsection and admissible pursuant to relevant provisions of the Administrative Procedure Act and Code of Evidence." Thus, the good reason is automatically presumed to exist with respect to the Stencil Appraisal.

Nevertheless, the Assessor maintains that non-compliance with the Scheduling Order is an independent and alternative basis for excluding the Stencil Appraisal. The Assessor points to La. R.S. 47:1989(C)(2)(d), which states:

(d) The Louisiana Tax Commission may promulgate rules related to the disclosure of evidence to the opposing party and the consideration of evidentiary disputes, and no provision of this Paragraph shall extend any deadline beyond the date that would be applicable pursuant to Louisiana Tax Commission rules.

LTC regulations provide, in relevant part that a taxpayer "shall pre-file all documentary evidence with the commission in accordance with these rules, or any case management scheduling order adopted by the commission." LAC 61:V.3103(D)(2). The regulations provide a process for enforcing evidentiary deadlines. LAC 61:V.3103(3) - (6) provide:

3. If a taxpayer pre-files evidence which the assessor contends was not presented prior to the deadline for filing a complaint with the Board of Review, then the assessor shall file a written objection into the record. If maintained, the assessor's written objection should include a complete copy of the individual file/log as recommended in Section 213.G. The failure by the assessor to timely file a written objection shall be deemed a waiver. Such waiver shall be deemed to be good reason and shall operate to permit consideration of all evidence timely pre-filed by the taxpayer.



4. If the assessor timely objects to the pre-filed evidence by a taxpayer, the taxpayer may
  - a. respond to the objection on the basis that the evidence is deemed to have been submitted pursuant to the commission's rules,
  - b. respond to the objection on the basis that the evidence was timely submitted to the assessor,
  - c. respond to the objection on the basis that there are good reason(s) for the failure to timely submit such evidence, and/or
  - d. respond to the objection on the basis that the evidence is otherwise admissible and permitted under these rules or R.S. 47:1989.
5. The commission may order that a hearing be held regarding the assessor's objection(s) to the taxpayer's pre-filed exhibits.
6. If the assessor's objection is overruled on the basis that there are good reason(s) for the failure to timely submit such evidence, the commission may order that the assessor consider the additional evidence. Within 15 days of the commission's order to consider additional evidence, the assessor may modify an assessment and shall notify the commission and taxpayer of such a modification.

The mechanisms for providing relief to taxpayers who can demonstrate good reason for failing to timely provide evidence to an assessor are not a tool for delaying the LTC's resolution of disputes.<sup>3</sup> However, the LTC's Regulations allow evidence to come in if the taxpayer can demonstrate good cause for an untimely submission. Furthermore, the Scheduling Order itself says that untimely exhibits will "likely" be excluded "absent a showing of good cause." Based on the facts presented, the Petitioner is presumed to have a good reason for the delay, and under LAC 61:V.3103(6). Such "good reason" supplies a basis for overruling the Assessor's *Motion in Limine* whether it is based on statute or the Scheduling Order.

#### CONCLUSION:

The Board finds that there are good reasons for Petitioner's failure to timely submit the Stancil Appraisal.<sup>4</sup> The Petitioner ordered the Stancil Appraisal prior to the deadline for filing with the BoR and provided copies to the Assessor and the LTC

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<sup>3</sup> Notably, La. R.S. 47:1989(C)(2)(b) does not allow LTC proceedings to be stayed by an appeal from the LTC's decision to exclude evidence, except when ordered by a court of appeal.

<sup>4</sup> This would not, however, preclude the LTC from weighing the delay against the Taxpayer when considering the quantum of evidence.



within one day of receipt. The Board finds that these facts show that the Stancil Appraisal is the type of evidence that the legislature viewed as essential to the meaningful resolution of valuation disputes before the LTC. Moreover, in the absence of a clear regulation or rule to the contrary, the Board finds that the Petitioner has demonstrated that the Stancil Appraisal was timely "ordered" and promptly distributed it upon receipt. Accordingly, the Board holds that LTC erred in excluding the Stancil Appraisal from the record. The Board will note, however, that it might reach a different conclusion if the LTC were to adopt a rule clarifying what qualifies as ordering an appraisal as contemplated by La. R.S. 47:1989(C)(2)(a)(ii). In addition the LTC could consider revising its scheduling order to make clear the enforcement mechanism for its respective deadlines.

BATON ROUGE, LOUISIANA, THIS 15<sup>th</sup> DAY OF JULY, 2025.

FOR THE BOARD:



JUSTICE CADE R. COLE  
LOCAL TAX JUDGE *AD HOC*  
LOUISIANA BOARD OF TAX APPEALS