

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI**

**GAIL MCCANN BEATTY, in her official  
Capacity as Assessor, Jackson County, Missouri**

**FRANK WHITE, JR., in his official capacity as  
Jackson County Executive, Jackson County,  
Missouri,**

**JACKSON COUNTY BOARD OF EQUALIZATION,  
Through its members in their official capacities,**

**JACKSON COUNTY, MISSOURI,**

**Petitioners/Relators**

**v.**

**STATE TAX COMMISSION OF MISSOURI,**

**Respondent.**

**Case No. 2416-CV25478**

**JUDGMENT**

Now on the 21<sup>st</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> of January, 2025, the Court takes up for trial Petitioner/Relators Gail McCann Beatty in her official capacity, Frank White, Jr., in his official capacity, the Jackson County Board of Equalization and Jackson County, Missouri's Third Amended Petition. Petitioners appear through attorneys of record, Jackson County Counselors. Respondent State Tax Commission of Missouri appears through counsel of record. Parties announce ready for trial. The parties present opening statements. Petitioners present case in chief. Petitioners rest. Court takes up Respondent's Motion for Directed Verdict at the Close of Petitioner's Case. After arguments by counsel the Court denies the motion. Respondent presents case in chief. Respondent rests. Court takes up Motion for Directed Verdict at the Close of All Evidence. After arguments by counsel, the Court denies the motion. The parties give closing arguments. Following closing arguments, the parties request up to and including February 17, 2025 to provide the Court with proposed findings of fact, conclusions of law and judgment. The

Court grants the parties' request. The Court states it will take the case under advisement upon receipt of the parties' proposed judgments.

Now on this 31st day of March, 2025, the Court having been fully advised of the premises and after hearing the evidence submitted, and upon the pleadings and proof, finds as follows:

**I. FINDINGS OF FACT**

The Court has considered the testimony of each witness and has made judgments regarding the credibility of each witness. The Court has accepted as true some of the testimony of each witness and has rejected other parts of the testimony of each witness as not credible. The findings of fact and conclusions of law made by the Court in this case are consistent with the Court's determination of the credibility of the evidence and the witnesses.

**A. Procedural**

On September 4, 2024, Petitioner/Relators Gail McCann Beatty in her official capacity, Frank White, Jr., in his official capacity, the Jackson County Board of Equalization and Jackson County, Missouri (hereinafter "Jackson County Petitioners") filed their 7 count Petition seeking judicial review under Chapter 138 and 536 RSMo., declaratory judgment, injunction, writ of mandamus, writ of prohibition, writ of quo warranto, and writ of certiorari. This Court was assigned to the case on September 26, 2024. The State Tax Commission of Missouri (hereinafter "Commission") filed its Motion to Dismiss on September 27, 2024. The Court entered its Preliminary Orders in Prohibition, Mandamus, Quo Warranto and Certiorari on September 30, 2024. On October 3, 2024, the Court held a telephone hearing with counsel of record at which time it set time frames for briefing on the Commission's Motion to Dismiss and scheduled a case management hearing on November 13, 2024. During the telephone hearing, the attorneys for the

Commission advised the Court they were withdrawing their motion to dismiss to the extend it argued there was no remedy under section 536.150.

Following briefing by the parties, the Court entered its Order Granting in Part and Denying in Part the Commission's Motion to Dismiss. The Court held that it did not have statutory authority to conduct judicial review pursuant to sections 536.100 through 536.140. *St. Louis v. State Tax Comm'n*, 608 S.W. 2d 413,414 (Mo. banc 1980). The Court held in abeyance its determination as to judicial review under section 536.150 pending further briefing by the parties. As plead, the Court found that Jackson County Petitioners failed to bring a justiciable controversy, and granted the motion to dismiss without prejudice as to counts 2 and 3, declaratory relief and injunction. The Court denied the motion to dismiss as to the writs, counts 4-7. *State ex rel. School Dist. of City of Independence v. Jones*, 653 S.W. 2d 178, 179 (Mo. banc 1983); *In re St. Joseph Lead Co. v. State Tax Commission*, 352 S.W. 2d 656, 659-60 (Mo. 1961).

The Tax Commission filed a Motion to Expediate the proceedings. During the case management conference on November 13, 2024, the parties agreed to expediate the proceedings and set the case for trial on January 6-8, 2024. The Court granted leave for Jackson County Petitioners to file a Second Amended Petition, which Jackson County, in fact, filed on December 11, 2024. The Second Amended Petition was in 8 counts and alleged in count 1, judicial review under Chapters 138 and 536, count 2, declaratory judgment, count 3, injunction, count 4, writ of mandamus, count 5, writ of prohibition, count 6, quo warranto, count 7, certiorari, and count 8, violations of Missouri Sunshine Law. Following pleadings and argument, the Court took up the question of whether judicial review existed under section 536.150. The Court found that no judicial authority existed for review of Jackson County Petitioners' claim for review under Section

536.150. *May Dept. Stores Co. v. State Tax Comm'n*, 308 S.W. 2d 748,756 (Mo. 1958); *Missouri Nat. Educ. Ass'n v. Missouri State Bd. Of Educ.*, 34 S.W. 3d 266, 275-76 (Mo. App. 2000).

On January 9, 2025, with leave of Court and without objection, Jackson County Petitioners filed their Third Amended Petition, which continued, despite the Court's previous rulings, to include a claim for relief under sections 536.100 through 536.140 or alternatively 536.150.<sup>1</sup> The Petition contained in count 2 a claim for common law declaratory judgment arising out of the issuance of the Commission's August 6, 2024 Order, count 3, injunction, count 4, writ of mandamus, count 5, writ of prohibition, count 6, quo warranto, count 7, certiorari, and count 8, violations of Missouri Sunshine Law. Subsequently, without objection, the Court dismissed count 6, quo warranto. Jackson County Petitioners filed a revised Third Amended Petition which alleged count 1, judicial review under Chapters 138 and 536, count 2, declaratory judgment, count 3, injunction, count 4, writ of mandamus, count 5, writ of prohibition, count 6, certiorari, and count 7, violations of Missouri Sunshine Law. The parties agreed to continue the three-day trial to commence on January 21, 2025. On January 21, 2025 prior to trial the Court took up the Commission's Motion to Dismiss the revised Third Amended Petition. The Court had previously addressed count 1 of Jackson County Petitioners' Petition and Second Amended Petition. The Court maintained its ruling as to Count 1 but denied the motion as to remaining counts. Thereafter, trial commenced.

B. Factual Findings

1. Gail McCann Beatty is the appointed Director of the Jackson County Assessment Office.
2. Frank White, Jr. serves as the County Executive of Jackson County and as such is

---

<sup>1</sup> Jackson County Petitioners argued that they continued to maintain count 1 of its Third Amended Petition in order to ensure preservation for the issue on appeal. The Jackson County Petitioners did, however, recognize the Court's previous rulings on the count.

responsible for the performance of the Jackson County Assessment Office.

3. Jackson County, Missouri is a First Class County with a Charter form of government.

4. The Commission is an administrative agency which has among other statutory duties, the duty of overseeing the assessment and taxation of real and personal property; correcting any errors found on the assessment roll; making recommendations to the County Legislature regarding subjects of revenue and taxation; to classify and equalize property, certain powers of original assessment; receiving appeals of owners of real or personal property from final actions of local boards of equalization; and general supervisory authority over all assessing officers of the state, including county boards of equalization.

5. The Commission is made up of three members who are appointed by the Governor. The Commission is assisted in its duties by various staff members.

6. In order to assist counties in the assessment process, the Commission assigns local assistance representatives to provide support to county assessors and monitor levels of assessment and assessment uniformity. Prior to 2019, no local assistance representative was assigned to Jackson County. From 2019 to 2023 a local assistance representative was assigned to the County. Beginning sometime in 2023 and forward, the position in Jackson County was staffed by the Commission's Manager of Local Assistance.

7. Assessment of real property for tax rolls occurs biennial, every odd numbered year.

8. The Court heard testimony that pursuant to the Missouri Constitution, all assessments of real property tax must be based upon market value and be uniform within the same class or subclass of property. Chairman of the Commission, [REDACTED], testified that despite constitutional requirements, the Commission generally finds a county in compliance if it is within 90%-110% of market value. If a county is within 80%-90% of market value, the Commission will transmit a

letter of concern. When a county assessment is more than 80% “off” the Commission will enter into a memorandum of understanding (hereinafter “MOU”) with that county.

9. Commission [REDACTED] testified that in 2021 Jackson County was in compliance.

10. In addition to a MOU, the Commission, from time to time through its local liaisons, also entered into maintenance plans with local counties. The maintenance plan generally addressed any deficiencies and set out how upcoming assessments would proceed.

11. In April, 2021, the Commission and Jackson County entered into a MOU. In the MOU, the signatories acknowledged that the Jackson County 2019 residential sales study statistics were below minimum standards.<sup>2</sup> To address assessment issues, Jackson County agreed to move from a “mass assessment” methodology to a less labor intensive “ratio trend” method. An attachment to the MOU defined the ratio trend method as a mass assessment valuation methodology where a factor was applied to a group of properties to reflect either increases or decreases in property value since the last revaluation. Market values were then compared to sale prices to develop the “market trend factor.” In order to facilitate compliance, Jackson County agreed to work towards a parcel-by-parcel review of all properties in the county for 2021; implementation of a new computer assisted mass appraisal system (hereinafter “CAMA”) through Tyler Technologies with the goal that the new CAMA would be implemented for the 2023 Jackson County assessment roll; for Jackson County to hire more staff; and that the Commission would continue to monitor Jackson County’s progress. The County agreed to “taking the steps necessary to make progress towards fair market value for all properties.”

---

<sup>2</sup> [REDACTED], Deputy Director of the Jackson County Assessment Department, who previously worked for the Commission for ten years and had served at one point as Chief Counsel, testified that the Commission used ratio studies as the main tool in determining deficiencies and whether a county’s assessment was in compliance.

As part of the MOU, the Commission reviewed whatever forms were to be used as part of the assessment. However, the Commission doesn't have a specific form as to physical inspections.

12. Jackson County retained Tyler Technologies to perform parcel-by-parcel reviews of properties for the 2023 assessment as well as implementing and utilizing CAMA. Deputy Director [REDACTED] stated that CAMA collection was ongoing and that information was constantly put into the system. Utilization of CAMA commenced well before the date of the 2023 assessment.

13. Deputy Director [REDACTED] testified that leadership in the assessment department were aware that property valuations would increase in 2023 and that Jackson County had been lagging in market value. However, the leadership believed that certain factors might limit increases including the Covid-19 pandemic as well as then higher interest rates for mortgages.

14. The Jackson County assessment rolls were required to be certified by the Director of Assessment by July 1, 2023. The Assessment Department generally ran a preliminary report in April or May and reviewed for errors. The Assessment Department ran a final report in June prior to the certification of the assessment rolls.

15. Deputy Director [REDACTED] testified that in 2023 physical inspections occurred prior to notices being sent out to property owners whose real property assessment increased 15% or more. The notices advised the property owner of his or her right to an interior inspection. Interior inspections were only conducted if requested.

16. Deputy Director [REDACTED] testified that physical inspections included taking a photograph of the front of the residence. Tape measurements were also made of at least 2 sides. Outbuildings and pools were also included in the physical inspection if available. She estimated that each physical inspection took approximately 15-20 minutes. It was not sufficient to merely observe the property via a drive by inspection or some similar method.

17. In 2023, there were approximately 300,000 parcels in Jackson County. Commission ██████ testified that physical inspections were to be done as close to January 1, 2023 as possible. However, a report prepared by then Commission local assistant to Jackson County, ██████, stated that as of January 30, 2023, approximately 97% parcel to parcel review or re-assessment was completed.

18. The 2023 biennial assessment in 2023 resulted in increased valuations of approximately 238,000 parcels. Of the 238,000 parcels, approximately 200,000 received increases over 15%. Commission local assistant to Jackson County, ██████ reported to the Commission Office<sup>3</sup> on February 23, 2023 that the Assessment Department anticipated sending out approximately 260,000 impact notices in the first part of April, 2023.

19. Commission local assistant to Jackson County, ██████ reported to the Commission on May 24, 2023 that Jackson County had sent only 25,000 impact notices to date. She reported that the remaining approximately 140,000 notices were to be sent out in batches beginning “in approximately one week to 10 days.” The credible evidence supports a finding that only a portion of those property owners who received a 15% or more increase in property valuation received statutorily required notification of their rights in April, 2023. The remaining real property owners who received a 15% or more increase in property valuation received notification in June, 2023. This time frame made it virtually impossible for the Assessment Department to timely conduct interior inspections if requested.

20. As a result of the 2023 property assessment, over 54,000 real property owners, including residential, commercial and agricultural, appealed their assessments. Property owners have a right to appeal assessments to the County Board of Equalization (hereinafter “BOE”). On occasion, the

---

<sup>3</sup> Commissioner ██████ testified that Jones oversaw the various liaisons for the counties and that the Commissioners did not typically receive the liaison reports.



county and the property owner would informally handle and resolve the property owners concerns regarding the assessment (“informal hearing process.”)

21. Pursuant to statute, property owners had a July 10, 2023 deadline to file an appeal of their property assessment.

22. Jackson County, as a First Class, Chartered County, was statutorily required to hear all appeals by the 4<sup>th</sup> Saturday in August of each year. The late notification of the increase of 15% of more in real property valuation impaired property owners’ ability to timely appeal their assessments.

23. Commissioner [REDACTED] testified that the Commission began to become concerned about Jackson County property assessment when, in the summer of 2023, the County Legislation of Jackson County began passing resolutions expressing its intent that the 2023 property valuations be set aside, that the appeal process should continue, and that the BOE review and equalize market value of all 2023 residential real property calculated and distributed to Jackson County taxpayers. The Commission became aware that various municipalities within the county were suing Jackson County over the 2023 real property assessment, and the Commission began hearing media reports addressing problems and concerns with the 2023 property assessment.

24. In October, 2023, at the behest of the Commission, Commission staff conducted a preliminary investigation regarding the 2023 Jackson County real property assessment and reported preliminary conclusions. The preliminary report concluded that (1) the Jackson County Assessment Department performed at least some physical inspections of residential real property; (2) that the Assessment Department provided proper notice regarding the right to physical inspection to at least some of the property owners; (3) that the Assessment Department “probably correctly and timely accounted for new construction”; and (4) that the Assessment Department had

taken some steps to ensure its assessed values were the result of properly conducted assessments instead of data or other types of errors. The Commission's preliminary investigation relied on information provided by the Jackson County Assessment Department. The Commission asked its Manager of Local Assistance, [REDACTED], to reach out to Jackson County, including Director Beatty to request additional information. The local assistant liaison requested that Director Beatty provide documentation of physical inspections conducted of real property. Ultimately representatives of the Commission spoke with Director Beatty and Deputy Director [REDACTED]. The Deputy Director described the physical inspections, which included inspectors utilizing I-Pads to track data, to view parcels and take photographs which were date stamped. The data was then uploaded using Mobile Assessor by Data Cloud Solutions. Deputy Director [REDACTED] stated that the photos showed the actual date of inspections but that system log data might show a later date due to a lag in uploading data.

25. Commissioner [REDACTED] testified that he, personally, had concerns that the Commission had received "cherry picked" documentation and data from the Jackson County Assessment Department.<sup>4</sup> The Commission began to receive a substantial number of appeals from the Jackson County BOE as well as numerous complaints from Jackson County real property owners. The Commission also became aware of substantial media attention on the 2023 Jackson County real property assessment. The Commission ultimately requested the assistance of the Missouri Attorney General's Office.

26. In December, 2023, the Missouri State Auditor issued an initial review of the Jackson

---

<sup>4</sup> This finding is contrary to the assertion in Jackson County Defendants' proposed judgment wherein they claim that Commissioner [REDACTED] "admitted he 'cherry picked' information when reviewing Jackson County's 2023 assessment process." See Jackson County Defendants' proposed judgment at 8. This Court specifically finds that Commissioner [REDACTED] did not state that he "cherry picked" information when reviewing the Jackson County 2023 assessment process.

County 2023 assessment. After the initial review, the Auditor concluded that the Assessment Department did not notify most real property owners whose assessed valuations increased more than 15%, in writing, that a physical inspection was required and did not provide “clear written notice of the owner’s right to physical inspection” when conducting its parcel-by-parcel exterior review as required by statute; the notices sent by the Assessment Department included inaccurate and untimely notice of the right to interior inspection. The April notice advised the real property owner that “you have a right to request an interior inspection if . . . .” The June notice stated that the taxpayer “may” have a right to inspection. Each notice advised the real property owners that they were not entitled to an inspection if improvements had been made. The Auditor found that improvements alone would not nullify the right to inspection as long as the value increase of 15% or more did not include the improvements. Property owners who received notices in June, 2023 were advised that they had to request a BOE appeal by July 10, 2023. The Auditor found that these property owners had little to no time to request an interior inspection and to properly file an appeal.

27. On February 5, 2024, the Commission received a letter from the Jackson County BOE dated February 5, 2024 wherein members of the BOE complained (1) that the Chairman of the Board had retired on December 31, 2023 but had not been replaced; (2) that members of the Board were compensated in the months of September, October, November, and December, 2023 in the amount of \$1,500 each although in 2023 over 54,000 appeals had been filed; (3) that in 2024, Jackson County and members of the Assessment Department, had dismissed specific hearing officers because the officers were “confrontational with the assessment staff.” The BOE members complained that the hiring and firing of hearing officers was within the purview of the BOE rather than the County; and (4) that members of the assessment team had been issuing letters utilizing BOE letterhead without the approval of the BOE.

28. On December 19, 2023, the State of Missouri, ex rel. Attorney General Andrew Bailey and the Commission filed a Petition in the Circuit Court of Jackson County, Case No. 2316-CV33643, wherein they specifically alleged that Jackson County, the Jackson County Legislature, Frank White, Jr., in his official capacity, Gail McCann Beatty in her official capacity, and the Jackson County Board of Equalization, failed to comply with the law in conducting the 2023 assessment of real property in Jackson County.<sup>5</sup> The petition set forth certain violations of §§ 137.115.1, 137.115.10-.12, 137.180 and .275, 138.030 and 130.060, failing to provide proper notice of physical inspection, failing to perform required physical inspections, denial of access to administrative remedies, dysfunctional administrative review process and various negligence claims premised on the alleged statutory violations. The Attorney General and Commission sought mandamus against the Jackson County parties, and specially an order declaring any increase in the 2023 assessed valuation of implicated real properties void; injunctive relief against the County parties in collecting and/or levying any real property tax based upon the increase in assessed value; limiting the County parties' real property assessed valuation to values arrived at through previous assessments; a limitation of the assessed valuation increase of residential real properties in 2023 to fifteen percent; injunctive relief limiting assessed valuation of residential real properties from the 2023 assessment to no more than fifteen percent; and an order declaring the County parties' duties under applicable statutes. The Attorney General and Commission also asked the Court to award the taxpayers who did not pay their tax bills under protest or by December 31, 2023, a refund of overpayment and penalties and interest applied to late or nonpayment; and order compelling the County Defendants to execute their ministerial duties with respect to assessments of real property.

---

<sup>5</sup> The case also named Tyle Technologies, Inc. as a defendant for claims under the Missouri Merchandising Practices Act and negligence

Commissioner ██████ testified that the Commission brought suit in order to correct the errors in the 2023 real property assessment.

29. During the pendency of Case No. 2316-CV33643 and while trial had already commenced, the Commission met on July 23, 2024 and August 6, 2024, to consider the 2023 Jackson County real property assessment and to discuss whether it wished to issue an order pursuant to its general supervisory authority rather than continue the case. Commissioner ██████ testified that the Commission became concerned about the delays in the pending case, that the case was not proceeding in a timely manner, and potential complications with the assessor's books due to the pending litigation. The Commissioner stated that the issue of an Order was a two-step process: the July meeting was to receive information and the August meeting was to conduct a vote.

30. The Commission posted notice of the meeting, scheduled for 10 a.m. on July 23, 2024, on July 22, 2024 at 9:07 a.m. on the doors of its building and at 9:05 a.m. on the Commission website. The notices were posted within the time frames required by the Missouri Sunshine Law. The agenda, attached to the notice of meeting, was as set forth below:

MEETING OF THE STATE COMMISSION OF MISSOURI  
AGENDA  
Tuesday, July 23, 2024  
10:00 a.m.

- I. Attorney General Presentation
- II. Adjournment

The notice also stated that “[p]ortions of this meeting may be closed to the public to discuss litigation and personnel matters pursuant to Section 610.021 RSMo. 2004.

31. Commissioner ██████ testified that at the July 23, 2024 meeting the Commission received evidence presented by members of the Missouri Attorney General's Office, information from the pending trial in Jackson County and media reports. Specifically, on July 23, 2024 the

Commission received (1) the Missouri State Auditors Report of December 28, 2023; (2) the Jackson County Legislature's resolutions from the summer of 2023; (3) the BOE letter dated February 4, 2024 (4) various resolutions of the Jackson County Legislature; (5) a Judgment entered by the Hon. Derrick Spencer, in Case No. 2315-CV24947 in the Circuit Court of Jackson County, Missouri dated February 26, 2024, Judge Spencer made *dicta* findings critical of the procedures used by the Jackson County Assessment Department. He found significant issues surrounding the 2023 Jackson County real property assessment and appeal process. Judge Spencer concluded that numerous statutory violations had occurred;<sup>6</sup> (6) numerous media reports both written and video; (7) testimony from [REDACTED] and presentation of [REDACTED] power point of data and conclusions; (8) testimony from [REDACTED], a BOE hearing officer; (9) statements of Director Beatty; (10) numerous taxpayer complaints filed with the Commission; (11) KCTV reports; and (12) evidence and facts adduced during the trial in Case No. 2316-CV33643. There was no closed meeting during the July 23, 2024 meeting.

32. Commissioner [REDACTED] testified that a proposed Order began to be drafted by the Commission's General Counsel between the July 23, 2024 and August 6, 2024 meeting.

33. The Commission posted notice of the meeting, scheduled for 1:30 p.m. on August 6, 2024, on August 5, 2025 at 12:33 p.m. on the doors of its building and at 12:31 p.m. on the Commission website. The notices were posted within the time frames required by the Missouri Sunshine Law.

34. The agenda, attached to the notice of meeting, was as set forth below:

---

<sup>6</sup> *State of Missouri ex rel. City of Independence, Missouri and City of Blue Springs, Missouri v. Jackson County, Missouri et al.*, Case No. 2316-CV24947. Petitioners sought a writ of mandamus asking the Court to order the county respondents to meet their ministerial duty to provide accurate, timely and certified property assessments to taxing authorities within Jackson County. Despite making detailed findings of fact, the Court found it was without jurisdiction to entertain the mandamus request and therefore entered a judgment denying the writ of mandamus.

MEETING OF THE STATE COMMISSION OF MISSOURI  
AGENDA  
Tuesday, August 6, 2024  
1:30 p.m.

- I. Administration
  - A. PLDA Award for Wilson
- II. Original Assessment
  - A. 2024 Tentative Centrally Assessed Private Car Companies Values
  - B. Discussion Regarding Amended CARUC Certification
- III. Closed Session
  - A. Legal – Section 610.021(1\_)
  - B. Personnel – Section 610.021(3) and (13)
- III. Open Session
- IV. Adjournment

The notice also stated that “[p]ortions of this meeting may be closed to the public to discuss litigation and personnel matters pursuant to Section 610.021 RSMo. 2004.

35. On cross-examination, Commissioner [REDACTED] was asked how members of the public would know from the July 23, 2024 notice which stated “Attorney General Presentation” that the presentation was about the 2023 Jackson County real property assessment or that the Commission was going to discuss the 2023 real property assessment. The Commissioner testified that he believed the public would know because that was the only matter in which the Attorney General’s Office was provided representation. However, when asked how the public would know what matters or cases the Attorney General’s Office represented the Commission, the Commissioner did not know; he knew of nowhere that such information was disseminated or posted by the Commission. Likewise, Commissione [REDACTED] acknowledged that the August 6, 2024 notice did not contain information that would have advised the public that the Commission was voting on an Order regarding the 2023 Jackson County real property assessment.

Commissioner [REDACTED] testified that the administrative assistant prepared the notices and agenda. She conceded that neither notice referenced the 2023 Jackson County real property assessment. Commissioner [REDACTED] responded when asked about the adequacy of the notices, that he was unsure how the public would know that the Commission was discussing the 2023 Jackson County real property assessment.

[REDACTED], the administrative assistant to the Commission, testified that she prepared the notices and agendas for the July 23, 2024 and August 6, 2024 meetings. She stated that both she and the Commissioners knew that the Attorney General's Office was going to make a presentation regarding the 2023 Jackson County real property assessment on July 23, 2024. When shown the notices and agendas for the July 23, 2024 and August 6, 2024, [REDACTED] stated she now could see where there is some question about the adequacy of the notices. However, at the time the notices and agendas were completed, she believed them compliant with the Sunshine Law.

36. Commissioner [REDACTED], a Jackson County resident and property owner, concluded during the July 23, 2024 meeting that he would recuse from voting on any proposed Order. However, he testified that during the August 6, 2024 meeting the Order was discussed by all Commissioners, that he seconded the motion to adopt the proposed Order and initially voted in favor of its issuance. He then recused and made a motion to reconsider. Commissioner [REDACTED] then recused from the reconsideration vote. None of this process is accurately documented in the Commission's minutes for the August 6, 2024 meeting. Commission Secretary [REDACTED] confirmed the sequence of events but asserted the minute errors were clerical in nature and not intentional.

37. The Commission issued its Order on August 6, 2024 wherein it found that Jackson County assessing official committed violations of Missouri statutes, including those involving required notices, physical inspections and appeals. The Commission ordered Jackson County to take a



variety of actions to ensure compliance with Missouri law, including correcting the 2023 Assessment Roll as to 2023 property assessments, to correct real property assessments on pending appeals consistent with the Order, to take certain action with respect to stipulations on 2023 subclass (1) real property assessments previously submitted to the Commission; requiring the 2024 subclass (1) real property valuations remain the same as 2023 as corrected by the Order; and to take all actions necessary to ensure future compliance.

38. Jackson County Petitioners refused to comply with the Order and filed the present lawsuit.<sup>7</sup>

## **II. CONCLUSIONS OF LAW**

### **A. Judicial Review Pursuant to Sections 536.100-.140 and 536.150**

The Missouri Administrative Procedure Act provides for two types of cases: contested and non-contested. The MAPA defines a “contested case” as a “proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing. Section 536.010(4) RSMo MAPA does not explicitly define a “non-contested case” but courts have defined it as a decision that is not required to be determined after a hearing. *Furlong Companies, Inc. v. City of Kansas City*, 189 S.W. 3d 157, 165 (Mo. 2006).

Under Missouri law, section 138.410 RSMo places general supervision over all the assessing officers of this state and over county boards of equalization in the State Tax Commission. *See State ex rel. Cassilly v. Riney*, 576 S.W. 2d 325, 328 (Mo. banc 1979). Section 138.410.1 states

The commission shall exercise general supervision over all the assessing officers of this state, over county boards of equalization and appeal in the performance of their duties under this chapter and all other laws concerning the general property tax and shall institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this chapter, and of all laws relating to the general property tax.

---

<sup>7</sup> Based upon Jackson County’s failure to comply with the Order, the Commission sought a writ of mandamus in Case No. 2416-CV25759, Circuit Court of Jackson County, Missouri. A Judgment granting Summary Judgment on the basis of *res judicata* was entered. The case is currently on appeal.

*See also*, 12 CSR 30-1.010(1)(A). The Missouri Supreme Court has recognized that the General Assembly intended that the Commission be given first opportunity to enforce the “laws relating to the general property tax” and should be given the first opportunity to resolve assessment problems. *See Cassilly*, 576 S.W. 2d at 328, 330.

As to Count I, Judicial Review, the Jackson County Petitioners seek review under sections 536.100-.14 RSMo (MAPA contested cases) or alternatively under section 536.150 RSMo (MAPA non-contested cases). This Court has previously found that the Jackson County Petitioners have no standing under either avenue of review under MAPA

After reviewing Chapter 138, and in particular, section 138.410, there is no statutory requirement that the Commission hold a hearing in order to exercise its general supervisory power. In the present case, the Commission did not hold a contested hearing before issuing its Order and therefore the Court does not have statutory authority to conduct judicial review pursuant to 536.100 through 536.140. *See St. Louis v. State Tax Comm’n*, 608 S.W. 2d 413, 414 (Mo. banc 1980); *May Dept. Stores Co. v. State Tax Comm’n*, 308 S.W. 2d 748 (Mo. 1958).

Section 536.150 RSMo likewise does not provide the Jackson County Petitioners with a right to appeal the Commission’s Order. Article V, Section 18 of the Missouri Constitution provides for judicial review of actions of administrative agencies that affect private rights. MO.CONST., art. V, § 18; section 536.150 RSMo. Section 536.150 furthers the constitutional purpose and affords judicial review of a non-contested case when the agency action determines the “legal rights, duties or privileges of any person.” Section 536.150.1; *Missouri Nat. Educ. Ass’n v. Missouri State Bd. Of Educ.*, 34 S.W. 3d 266, 275 (Mo. App. 2000). Chapter 536 does not define the word “person.” However, section 1.020(12) provides that “[a]s used in the statutory laws of this state, unless otherwise specifically provided or unless plainly repugnant to the intent

of the legislature or context thereof” . . . . the word ‘person’ may extend and be applied to bodies politic and corporate . . . .” Arguably, the Jackson County Petitioners fall within the definition of “person” as set forth above. However, section 536.150 comprehends only decisions involving individual rights and interests. *May Dep’t Stores Co. v. State Tax Comm’n*, 308 S.W. 2d at 756. Thus, to have standing for review under section 536.150, the agency action must affect private rights of the person seeking judicial review. *Shawnee Bend Special Road Dist. “D” v. Camden County Comm’n*, 800 S.W.2d 452,457 (Mo. App. 1990); *Missouri Health Care Ass’n v. Missouri Health Facilities Review Comm.*, 777 S.W. 2d 241, 244 (Mo. App. 1989). In this case, no such private rights have been asserted by the Jackson County Petitioners, including the individual Petitioners who are bringing suit in their official capacity and no evidence was presented at trial as to such private rights.

As the Jackson County Petitioners have no standing to bring an action under the MAPA, either sections 536.100-.140 or 536.150, the Court finds in favor of Respondent and against the Jackson County Petitioners as to Count I.

## **B. Declaratory Judgment, Injunction and Common Law Writs**

In Counts 2-6 of the Petition, the Jackson County Petitioners seek in the alternative declaratory judgment, injunction, writ of mandamus, writ of prohibition and writ of certiorari. Respondent asserts that the Jackson County Petitioners do not have standing to bring such claim, alleging that because the Commission issued the Order utilizing its supervisory authority, no remedy exists for Jackson County Petitioners under the law. Alternatively, the Respondents argue that the Jackson County Petitioners lack standing in that they have no legally protectible interest and that they are not “aggrieved parties.”

### **1. Standing**

The Commission has the primary duty to exercise supervising authority over all assessing officers and boards of equalization. *Cassilly*, 576 S.W. 2d at 130. Missouri Courts have held that a petitioner challenging an assessment as discriminatory must exhaust the remedies set forth in chapters 137 and 138 prior to seeking court review. *Sperry Corp. v. Wiles*, 695 S.W. 2d 471, 473 (Mo. banc 1985). *Westglen Vill. Assocs. v. Leachman*, 654 S.W.2d 897, 899 (Mo. banc 1983) (“This statutory system for administrative review of assessments may not be pre-empted by the courts”). *Devinki v. Takacs*, 875 S.W.2d 648, 651 (Mo. App. W.D. 1994) (“[T]he statutory scheme for redress of grievances associated with tax assessments [is] exclusive and sounding a claim on the basis of § 1983 [does] not change that.”).

While chapters 137 and 138 address taxpayer redress, the statutes are silent as to the ability of a political subdivision, to seek redress from an administrative decision or order. In *In re St. Joseph Lead Co.*, 352 S.W. 2d at 659-60, the Missouri Supreme Court held that a county has a vital interest in all questions relating to the levy and assessment of taxes. As such a county could appeal a decision of the Commission as to an individual taxpayer appeal under the theory of a public right.<sup>8</sup> However, to date the Jackson County Petitioners have no ability to appeal a taxpayer

---

<sup>8</sup> The Court has some concern regarding the Commission’s claim that the Order may only be considered supervisory and that no review exists when the Commission uses its supervisory authority. The Court heard testimony from the Commissioners that the voluminous Jackson County taxpayer appeals from the 2023 real property assessment, brought under section 138.430 RSMo., were still pending with no action taken while the Commission awaited the resolution of this case and Case No. 2416-25759. Due to the number of appeals, the Commission ultimately intended to rely on the Order as the resolution of the taxpayer appeals. No hearings or individual orders would be made as to each case. Deputy Director Monaghan testified that even appeals pending before the Commission wherein Jackson County and the taxpayer had reached a stipulation were stayed. Had the Commission decided any taxpayer appeals in favor of the taxpayers, the Jackson County Petitioners would have had the opportunity to appeal such a decision and, in the end, the Order. See e.g., *In re St. Joseph Lead Co.*, 352 S.W. 2d at, 661. By not finalizing any 2023 Jackson County real property tax appeals, the Commission effectively cut off at least one of the Jackson County Petitioners’ avenues of review. The Court notes that while troubled by the Commission’s lack of action on the pending taxpayer appeals, it appreciated the candor of Respondent’s counsel and the Commissioners as to the status of the taxpayer appeals and the intended use of the Order.

decision by the Commission as the Commission has stayed the appeals. As noted above, the Jackson County Petitioners have no redress through sections 536.100-.140 or 536.150.

In their Third Revised Amended Petition, the Jackson County Petitioners seek relief from what they claim is an unlawful Order through common law writ or declaratory judgment action in equity. Missouri Supreme Court opined that a county has a vital interest in all questions relating to the levy and assessment of taxes. *In re St. Joseph Lead Co.*, 352 S.W. 2d at 659-660. In *State ex rel. Sch. Dist. of City of Indep. v. Jones*, 653 S.W. 2d 178, 189 (Mo. 1983), the Court held that “public policy favoring judicial review of administrative decisions at the request of those aggrieved is firmly established in this state and extends to political subdivisions.” *Id.*, citing *In re St. Joseph Lead Co.*, 352 S.W. 2d at 659-660. The Court found in *Jones* that a school district, as a political subdivision that was imminently threatened with the alleged unlawful deprivation of their statutorily mandated share of state school funds, had standing via common law writ or action in equity, declaratory judgment, to challenge the administrative decision. *Jones*, 653 S.W. 2d at 189 (“Section 536.150.3 expressly provides, “nothing in this section shall be construed to . . . limit the jurisdiction of any court or the scope of any remedy available in the absence of this section.”).

The Respondent argues that Jackson County Petitioners have no standing pursuant to *State ex rel. St. Francois County School District R-III v. Lalumondier*, 518 S.W. 2d 638 (Mo. 1975) where the school district sought to challenge an underassessment of privately owned property by a county board of equalization. The Missouri Supreme Court inferred in the case a legislative intent to preclude a school district for obtaining judicial review of an alleged underassessment. *Id.* The Missouri Supreme Court reached a similar conclusion in *City of Richmond Heights v. Board of Equalization of St. Louis County*, 586 S.W. 2d 338 (Mo. banc 1979). This Court finds these cases inapposite. Here, the Jackson County Petitioners are not seeking review of an alleged

underassessment. Rather they are contesting the legality of the Order, i.e., whether the Commission had the authority to enter such an order. In both *Jones* and *Cuivre River Elec. v State Tax Commission*, 769 S.W. 2d 431, (Mo. 1989), the Supreme Court of Missouri found that an action for declaratory judgment was an appropriate method of seeking review as to whether an administrative order exceeded the agency’s authority or the construction of statutes and powers and duties of government agencies. The Court finds that the Jackson County Petitioners may seek redress under common law remedies as to the lawfulness of the Commission’s Order.<sup>9</sup>

The Court next addresses Respondent’s arguments as to whether the Jackson County Petitioners have a legally protectable interest or are “aggrieved parties.” Standing generally means that the parties seeking relief must have some personal interest at stake in the dispute, even if that interest is attenuated, slight or remote. A legally protectable interest exists only if the plaintiff is affected directly and adversely by the challenged action or if the plaintiff’s interest is conferred statutorily. *St. Louis Ass’n of Realtors v. City of Ferguson*, 354 S.W. 3d 620, 622-623 (Mo. 2011); *Roark v. KC Pet Project*, 2024 WL 5130914 at \*7 (Mo. App. W.D. Dec. 17, 2024); *Ste. Genevieve School District RII v. Board of Alderman of City of Ste. Genevieve*, 66 S.W. 3d 6, (Mo banc 2002). A party is “aggrieved” by a judgment or administrative decision when the judgment or administrative decision operates prejudicially and directly on his personal or property rights or interests, and such must be immediate and not merely a possible remote consequence. *See Treasurer of State-Custodian of Second Injury Fund v. Mickelberry*, 606 S.W. 3d 150, 158 (Mo.

---

<sup>9</sup> In *Cassilly*, 576 S.W. 2d at 328, the Supreme Court of Missouri found that the Commission had general supervisory authority over all assessing officers of the state, all county BOEs and the authority to institute proceedings to enforce penalties and liabilities upon public officials, officers of corporations and individuals who failed to comply with the law. While the Court held that the Commission should be given the first opportunity to resolve assessment problems in St. Louis County, it noted that if the situation was not remedied within a reasonable time, “mandamus against the Commission may be sought.” This language suggests that common law writs may be available under certain circumstances.

App. 2020); *Nexegen Silica, LLC v. Missouri Department of Natural Resources*, 677 S.W. 3d 594, 607 (Mo. App. 2017). The interest must be a specific and legally cognizable interest in the subject matter of the administrative decision. *See e.g., Fledderman v. Camden County, Missouri Bd. Of Adjustment*, 294 S.W. 3d 121, 124 (Mo. App 2009).

The Court, when taking up this issue in the Respondent's multiple Motions to Dismiss, reviewed the allegations in the Petition in the light most favorable to the Petitioners, accepted all of their averments as true and all reasonable inferences are liberally construed in favor of the plaintiff. *Smith v. Humane Soc'y*, 519 S.W. 3d 789, 797 (Mo. banc 2017). In the Petition, the Petitioners averred facts regarding the actions taken to accomplish the 2023 real property assessment; the effort, time and resources expended for the 2023 assessment process including the cost of hiring a company to assist with the 2023 reassessment process; that the Order demanded that all previously stipulated parcels be reexamined and returned to values as set forth in the Order; that the Order required parcels wherein the assessment did not increase by 15% or more to be returned to values as set forth in the Order; what the Petitioners believed to be their constitutional and statutory responsibilities; how the Commission's Order impacted those constitutional and statutory responsibilities; and that compliance with the Order would compel the Jackson County Petitioners to both violate the Missouri Constitution and Missouri law. The Court found, and still finds, that viewing the allegations in the Third Amended Revised Petition in the light most favorable to the Petitioners, assuming the facts alleged as true and giving all reasonable inferences to such facts, that while thin, the Petitioners sufficiently plead facts as to a legally protected interest and an aggrieved party. *See e.g., In re St. Joseph Lead Co.*, 352 S. Wd 2d at 661 ("Counties have indeed a vital interest in all questions relating to the levy and assessment of taxes.")

At trial, the Court heard evidence that Jackson County receives approximately 19% of the monies raised through real property assessments. The County would lose some of the monies previously raised by the 2023 assessment as well as monies collected due to the 2024 property tax period. The Order effected not only the monies the County had already received but would require the County to expend time, monies and resources to reexamine property; to refund taxpayers monies collected over the values required by the Order; that the County had already disbursed funds from the 2023 assessment and the Order would implicate those disbursements; and that the County would have to determine recoupment amounts which would be added to each taxpayers' next property assessment and implement collection of those monies. All of this evidence supports the conclusion that the Jackson County Petitioners had a legally protectable interest and were aggrieved by the Order.

## 2. Common Law Writs of Mandamus, Prohibition and Certiorari

### a. Mandamus and Prohibition

Prohibition is a means of restraint on judicial personnel to prevent usurpation of power, and its essential function is to confine inferior courts or administrative agencies to their proper jurisdiction and to prevent them from acting without or in excess of their jurisdiction. *State ex rel. Director of Revenue v. Gaertner*, 32 S.W. 3d 564, 566 (Mo. 2000); *State ex rel. Allen v. Yeaman*, 440 S.W.2d 138, 145 (Mo.App.1969). It is preventive in nature rather than corrective. Generally, the writ issues to restrain the commission of a future act and not to undo one that has already been committed. *State ex rel. Hamilton v. Dalton*, 652 S.W. 2d 237,239 (Mo. App. 1983). *State ex rel. Ellis v. Creech*, 364 Mo. 92, 259 S.W.2d 372, 375 (banc 1953). The Missouri Supreme Court has recognized three situations in which prohibition may be appropriate: to prevent a usurpation of



judicial power, to remedy an excess of jurisdiction or to prevent an absolute irreparable harm to a party. *Gaertner*, 32 S.W. 3d at 566.

The purpose of the extraordinary writ of mandamus is to compel the performance of a ministerial duty that one charged with the duty has refused to perform. *Furlong Companies, Inc. v. City of Kansas City*, 189 S.W.3d 157, 165-66 (Mo. banc 2006); *State ex rel. Phillip v. Public School Retirement System*, 364 Mo. 395, 262 S.W.2d 569, 574 (1953). The writ can only be issued to compel a party to act when it was his duty to act without it. *Id.* It confers upon the party against whom it may be issued no new authority, and from its very nature can confer none. *Id.* A litigant asking relief by mandamus must allege and prove that he has a clear, unequivocal, specific right to a thing claimed; the litigant must possess of a clear and legal right to the remedy. *Id.* Mandamus does not issue except in cases where the ministerial duty sought to be coerced is definite, arising under conditions admitted or proved and imposed by law. *State ex rel. Bunker Resource Recycling and Reclamation, Inc. v. Mehan*, 782 S.W.2d 381, 389 (Mo. banc 1990).

In this case, the Jackson County Petitioners allege that the Order, already entered by the Commission, is unlawful. The only future act alleged is that of enforcement of the Order, which has already been adjudicated in Case No. 2416-CV25759 in the Circuit Court of Jackson County. The Court recognizes that “the distinction between mandamus and prohibition is at best blurred, at worst nonexistent, and the subject matter to which the two writs apply overlap to a great extent.” *State ex rel. Todd v. Romines*, 806 S.W. 2d 690, 691 (Mo. App. 1991). While the writ of mandamus is more appropriate in this case, the Court will dispose of both writs in its ruling.

Both prohibition and mandamus are discretionary writs and there is no right to have the writs issued. *State ex rel. Missouri Growth Ass’n v. State Tax Comm’n*, 998 S.W. 2d 786, 787 (Mo. banc 1999); *State ex rel. Baldwin v. Dandurand*, 785 S.W. 2d 547, 549 (Mo. banc 1990). Neither

prohibition or mandamus will lie unless there is a clear, unequivocal, specific right to be enforced. *Id.* Generally, prohibition is not used to prevent or control the manner in which a court or agency exercises its discretion so long as it has authority or jurisdiction to do so. *See State ex rel. Mississippi Lime Co. v. Missouri Air Conservation Com'n*, 159 S.W. 3d 376, 382 (Mo. App. 2004). The purpose of mandamus is to execute, not adjudicate. *Missouri Growth Ass'n*, 998 S.W. 2d at 787. It cannot be used to control the judgment or discretion of a public official. It may only be used to compel the performance of mere ministerial acts or duties. *Id.*; *State ex rel. Bd. Of Health Center Trustees of Clay County v. County Commission of Clay County*, 896 S.W. 2d 627, 631 (Mo. banc 1995); *State ex rel. Lane v. Kirkpatrick*, 485 S.W. 2d 62,64 (Mo. 1972).

Both prohibition and mandamus are to be used only as a last resort and only when no other adequate alternative remedy exists. The decision by the Commission to enter the Order was a discretionary decision, not a ministerial act. Mandamus cannot be used to control the discretion of the Commission and prohibition may only look to see if the Commission had the authority to issue such an Order. Here an alternative remedy exists as the Jackson County Petitioners have filed an action seeking a writ of certiorari or declaratory judgment. *See State ex rel. Cohen v. Riley*, 994 S.W. 2d 546, 549 (Mo. 1999); *Dandurand*, 785 S.W. 2d at 549; *State ex rel. Kelley v. Mitchell*, 595 S. W. 2d 261, 267 (Mo. banc 1980). The Court therefore finds in favor of Respondents and against Petitioners as to Counts 4 and 5 and quashes the preliminary writs.

b. Writ of Certiorari

The common law writ of certiorari is used to “confine an inferior tribunal within its jurisdictional limits.” *State ex rel. Reorganized Sch. Dist. R-9 v. Windes*, 513 S.W.2d 385, 390 (Mo.1974). *See also State ex rel. St. Louis Union Trust Co. v. Neaf*, 139 S.W. 2d 958, 92 (Mo. 1940) (“The Chief purpose of the writ is to confine inferior tribunals within the limits of their

respective jurisdictions, and to give relief to the injured party where the inferior tribunal had no jurisdiction.”); *State ex rel. Public Counsel v. Public Service Comm’n.*, 210 S.W. 3d 344, 351 (Mo. App. 2006). It “presents only questions of law on the record brought up by the return and does not permit consideration of issues of fact.” *Windes*, 513 S.W.2d at 390. “At common law, certiorari proceedings are not heard *de novo* and the reviewing court does not weigh the evidence, but deals only with questions of law that appear on the face of the record.” *Public Counsel v. Public Service Comm’n.*, 210 S.W. 3d at 351-352. In *State ex rel. St. Louis County v. Evans*, 139 S.W. 2d 967, 968 (Mo. banc 1940) the Supreme Court of Missouri took up an original proceeding by certiorari to review proceedings by the State Tax Commission and the State Board of Equalization as to the assessment of taxes of various railroad entities which had tracks in both St. Louis County and St. Louis City. The Court held that in certiorari, it was limited to the inspection of the records of the respondents to determine the question of lack of jurisdiction or abuse of jurisdiction or whether the tribunal exercised excess jurisdiction or any other error as a matter of law. Based upon this authority, the Court looks to the record of the proceedings before the State Tax Commission to determine whether it acted without authority, or exceeded or abused its authority.

Article X, Section 14 of the Missouri Constitution of 1945 created the State Tax Commission of Missouri in its current form. Pursuant to the constitution the General Assembly was to create the Commission to (1) equalize assessments between counties; (2) to hear appeals from local boards of equalization in individual cases; and (3) perform other duties as may be prescribed by law. Section 138.410 RSMo places general supervision over all the assessing officers of this state and over county boards of equalization in the Commission in the performance of their duties “and all other laws concerning the general property tax”. The Commission has the authority to bring enforcement through penalties and liabilities for those “failing to comply with the

provisions of this chapter, and of all laws relating to the general property tax.” As found by this State’s Supreme Court, the statute gives the Commission broad powers of supervision. *Cassilly*, 576 S.W. 2d at 330.

The Jackson County Petitioners bring a multitude of allegation as to how the Commission acted unlawfully and without authority including that (1) it did not differentiate between properties subject to appeal or not subject to appeal when entering its Order; (2) it did not hold individual hearings on the pending Jackson County taxpayer appeals before entering its Order; (3) that the Commission did not convene a hearing prior to issuing its Order or provide the Jackson County Petitioners notice and an opportunity to be heard; (3) that the Order is not an equalization order and therefore violates Article X, Section 14; (4) that the Commission did not have authority to engage in intra-county equalization; (5) that the Commission only has jurisdiction over individual appeals over local boards of equalization; (6) that the Order violated the equal protection clauses of the Missouri and federal constitutions; and (7) that the Commission violated Article X, Section 3 of the Missouri Constitution which requires that taxes levied be uniform upon the same class or subclass of subjects within the territorial limits of the authority levying the tax.

The Missouri Supreme Court has held that the Commission has not only general supervisory authority but also authority to enforce the “laws relating to the general property tax.” *Cassilly*, 576 S.W. 2d at 328; *Cuivre River*, 769 S.W. 2d at 435. This includes both intra-county and inter-county. *Cassilly*, 576 S.W. 2d at 330. The Commission’s authority clearly extends well beyond issues of appeal or equalization. In this case, the Commission entered an Order based on its findings and conclusions of statutory violations as well as assessment errors and miscalculations by the Jackson County Petitioners. This Court finds that it was within the Commission’s authority under section 138.410 to do so.

A plain reading of section 138.410 as well as any other provisions of Chapter 138 demonstrates that the Commission is not required to hold a hearing prior to invoking its authority or enforcing the laws relating to general property tax. It is not required to address taxpayer appeals before it utilizes its supervisory authority. The Court further finds that the Order was issued during the pendency of a Jackson County trial, Case No. 2316-CV33643, between the Jackson County Petitioners and the Commission wherein these very issues were being litigated and the Commission were seeking the same relief as the requirements set forth in the Order. Petitioners neither can argue that they were unaware of the Commission's position regarding the 2023 Jackson County property assessment, what remedies the Commission sought nor that the Commission was unaware of the Jackson County Petitioner's position. The Commission, in fact, considered the evidence from Case No. 2316-CV33643 in rendering its Order.

The Commission has the authority and duty to make the taxing scheme constitutionally valid under Article X, Section 3 of the Missouri Constitution. *Cassilly*, 576 S.W. 2d at 325. From the record below, the Court cannot find that the Commission has violated Article X, Section 3. The Court further notes that in *Cassilly* it was recognized that numerous processes are required to facilitate the general property assessment and continuing assessment process. *Id.* The courts have recognized the complexities off the property tax law and that the General Assembly intended that the Commission be given first opportunity to resolve technical problems. *Id.* Here, the Commission identified assessment problems in Jackson County and entered an Order to begin addressing the issues presented. It is for the Commission to have the first opportunity to address the errors in the 2023 Jackson County property tax assessment and the process to cure those errors to satisfy constitutional and statutory requirements. *Cassilly*, 576 S.W. 2d at 328 (the General Assembly provided an administrative agency to deal with this specialized area); *C & D Investment Co. v.*

*Bestor*, 624 S.W. 2d 835, 838 (Mo. banc 1981) (the proper methods of evaluation and assessment of property are delegated to the Commission).

In order to prove a constitutional violation of equal protection, the nature and constitutionally required evidence is as follows:

A mere overvaluation of a specific property does not establish a discrimination in the absence of a showing of an intentional plan of discrimination or a showing that there is an undervaluation in the average assessment, or that other property generally is undervalued. It is sometimes stated that the assessment of [the taxpayer's] property must, *in the absence of an intentional plan or design of discrimination*, be so grossly excessive “as to be entirely inconsistent with an honest exercise of judgment.

*Cupples Hesse Corp. v. State Tax Comm’n*, 329 S.W. 2d 696, 700 (Mo. 1959); *Savage v. State Tax Comm’n*, 722 S.W. 2d 72, 77 (Mo. banc 1986). *See also*, *Crown Diversified Industries Corp. v. Zimmerman*, 683 S.W. 3d 273, 277 (Mo. banc 2024). The evidence from the record below is insufficient to conclude that Article X, Section 3 or the equal protection clause of either state or federal constitutions were violated.

The Jackson County Petitioners claim that the Commission only has authority to change real property tax assessments from an appeal of the local BOE by a taxpayer under section 138.430 or from taxpayer complaints and subsequent review under section 138.460. This Court does not agree. Section 138.410 specifically states that the Commission “shall institute proper proceedings to enforce the penalties and liabilities provided by law for public officers, officers of corporations and individuals failing to comply with the provisions of this chapter, and of all laws relating to the general property tax.” The Commission not only has the statutory duty to inquire into the methods of assessment and taxation and determine whether the assessing officers are discharging their duties as required by law, but also has the power to issue orders to enforce the law. *Bravo v. Jackson County Board of Equalization*, 638 S.W. 3d 913, 921 (Mo. App. 2021). The Commission’s power is broad and is not confined by the statutes set forth by Petitioners.

This Court having reviewed all claims set forth in the Petition and considering the record below, finds and concludes that the Commission acted within its lawful authority when it entered the Order; that it neither abused or exceeded its constitutional or statutory authority. The writ of certiorari is herein quashed.

### 3. Declaratory Judgment and Injunction

Section 527.010, Missouri's Declaratory Judgment Act, affords Missouri courts the "power to declare rights, status and other legal relations whether or not further relief is or could be claimed." While the Jackson County Petitioner's do not specifically seek to invoke Chapter 527 in their Third Amended Revised Petition, the Court will review under that statute as it has previously held that no remedies existed under the Missouri Administrative Procedures Act.

Injunction is also an equitable remedy usually brought in conjunction with a claim for declaratory judgment. *Ballard v. City of Creve Coeur*, 419 S.W. 3d 109, 117 (Mo. App. 2013). In order to be entitled to an injunction, a party must demonstrate (1) no adequate remedy at law and (2) irreparable harm will result if the injunction is not awarded. *State ex rel Gardner v. Stelzer*, 568 S.W. 3d 48 (Mo. App. 2019).

In order that the Court may grant declaratory relief, the Court must be presented with (1) a justiciable controversy that presents a real, substantial, presently-existing controversy admitting of specific relief; (2) a plaintiff with a legally protectable interest at stake; (3) a controversy ripe for judicial determination; and (4) an inadequate remedy at law. *Missouri Soybean Assoc. v. Missouri Clean Water Commission*, 102 S.W. 3d 10, 25 (Mo. banc 2003).<sup>10</sup> A justiciable controversy exists where the plaintiff has a legally protectable interest at stake, a substantial controversy exists between parties with genuinely adverse interests and the controversy is ripe for judicial

---

<sup>10</sup> A claim for injunction does not lie if there is an adequate remedy at law. *Ballard*, 419 S.W. 3d at 117.

determination. *Missouri Health Care Assn v. Attorney Gen.*, 953 S.W. 2d 617, 620 (Mo. 1997). The Court finds that the first three elements have been met by the Jackson County Petitioners. However, with respect to the fourth factor, an inadequate remedy at law, the Court recognizes that a common law writ of certiorari does not bring the whole record and does not permit the reviewing court to consider evidence or issues of fact. Some courts have noted that concerns may exist as to whether a review under a common law writ is compatible with constitutional standards. *See State ex rel. Swoboda v. Missouri Comm'n on Human Rights*, 651 S.W. 3d 800, 805-06 (Mo. banc 2022) (review pursuant to Administrative Procedures Act); *Swoboda*, 651 S.W. 3d 800, 815 (Wilson, dissenting); *State ex rel. Police Ret. Sys. of City of St. Louis v. Murphy*, 224 S.W. 2d 68, 73 (Mo. banc 1949). While this Court believes that the writ of certiorari is sufficient to determine the lawfulness of the Commission's Order or whether the Commission acted within its authority, *see Harris v. State Bank & Trust Co. of Wellston*, 484 S.W. 2d 177, 178-79 (Mo. 1972) (relief by way of declaratory judgment will be denied where an adequate remedy already exists in law) in an abundance of caution the Court will review the Jackson County Petitioner's request for declaratory judgment and injunction.

The Jackson County Petitioners allege that the Commission acted unlawfully and without authority. The Court has already addressed its conclusion that the Commission acted within its lawful authority and did not exceed or abuse its discretion in entering its Order pursuant to the provisions of section 138.410. *See supra*. The Court reaches this conclusion even under the applicable standard of review for declaratory judgment and/or injunction and based upon the evidence presented at trial.

The Jackson County Petitioners allege that the Commission exceeded its authority entering its Order which directed the BOE to violate section 137.115.1 and 138.030.2; that it requires the



Assessment Office and BOE to assess at something less than true money value. That the Order violates Article X, Section 3 of the Missouri Constitution. The Court finds from the evidence presented at trial that the Jackson County Petitioners improperly used some parcel by parcel reviews that were attenuated from the 2023 real property assessments; that Petitioners failed to comply with the requirements of physical inspection as set forth in section 137.115 as to certain Jackson County real property owners who were facing assessment increases of 15% or more; that the Jackson County Petitioners failed to provide adequate notice to approximately 75% Jackson County real property owners who faced increases of 15% or more; that the Jackson County Petitioners sent notices to property owners about interior inspections which misstated the applicable law; that notices were sent out in a time frame in June, 2023, and that provided affected real property owners insufficient time to timely request an interior inspection or file appeals to the BOE. These errors compounded to create a 2023 Jackson County real property tax assessment which resulted in mistaken or erroneous assessments and taxes levied or paid in 2023. The Court further finds from the evidence presented at trial that the Commission acted upon substantial and competent evidence in determining that the errors had occurred in the 2023 real property assessment and did not act arbitrarily, capriciously or unreasonably in entering its Order. As noted, *supra*, the Commission identified assessment problems in Jackson County and entered an Order to begin addressing the issues presented. It is for the Commission to have the first opportunity to address the errors in the 2023 Jackson County property tax assessment and the process to cure those errors to satisfy constitutional and statutory requirements. *Cassilly*, 576 S.W. 2d at 328.

The Court has reviewed all the allegations set forth in counts 2 and 3 of the Petition. Based upon the evidence presented at trial, the Court finds that the Commission acted lawfully and within its authority; that the Commission issued its Order upon substantial and competent evidence; and

that the Commission did not act arbitrarily, capriciously or unreasonably in reaching its conclusions or entering its Order. The Court finds in favor of Respondent and against the Jackson County Petitioners as to counts 2 and 3 of the Third Amended Revised Petition.

**C. Sunshine Law Violations**

The Jackson County Petitioners allege in count 7 of its Petition violations of the Missouri Sunshine Law. In particular, the Petitioners allege that the commission violated the notice requirements under section 610.022.2 as to the July 23, 2023 and August 6, 2024 meetings; that the Commission held closed meetings on July 23, 2023 and August 6, 2024 without proper notice; and that the Commission took actions and votes in violation of the Sunshine Law. The Petitioners ask this Court to void the Order as a consequence of the alleged violations.

Under section 610.011 RSMo “it is the public policy of this state that meetings, records, votes and deliberations of public governmental bodies be open to the public unless otherwise provided by law.” The purpose of the Sunshine Law is one of open government and transparency. *Laut v. City of Arnold*, 417 S.W. 3d 315, 318 (Mo. App. 2013). The Sunshine law applies to public governmental bodies and quasi-public government bodies. Section 610.010(4) RSMo. The term public governmental body includes any legislative or administrative governmental entity created by the constitution or the statutes of the state of Missouri. *Charlier v. Corum*, 774 S.W. 2d 518, 519 (Mo. App. 1989). There is no dispute between the parties as to whether the Commission comes within the dictates of the Sunshine Law.

Section 610.020.1 provides that “[a]ll public governmental bodies shall give notice of the time, date and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered . . . .” The purpose of this provision is to provide the public with a reasonable opportunity to attend meetings of governmental bodies.

*Fitzgerald v. City of Maryland Heights*, 796 S.W. 2d 52, 62 (Mo. App. 1990). Little Missouri caselaw exists as to the issue of what is notice “*reasonably calculated* to advise the public of the matters to be considered.” Iowa has notice provisions as part of its Sunshine Law which is similar to the Missouri statute. In *KCOB/KLVN, Inc. v. Jasper County Board of Supervisors*, 473 S.W. 3d 171 (Iowa 1991), the court that the purpose of notice requirements may be thwarted “if a governmental body misleads the public by preparing an agenda that is calculated to mislead the public by deception or omission of items to be discussed.” *Id.* at 174. Thus, if the public does not have adequate notice of the meeting itself or the matters to be discussed, the public governmental body has violated both the plain text and the spirit of the Sunshine Law.

The Commissioners and staff responsible for the notice and agenda testified that they knew of the Sunshine Law requirements and understood the Law’s requirements as to notice. Yet these individuals testified that, in hindsight, they did not know how the public would know that the presentation and/or meetings had anything to do with the 2023 Jackson County property tax assessment from the notices and agendas of July 23, 2024 and August 6, 2024. The July 23, 2024 agenda made no reference to the 2023 Jackson property tax assessment and merely stated “Attorney General Presentation.” The August 6, 2024 meeting makes no reference to the property tax assessment but rather only references an “Open Session.” In order to find a knowing violation of the Sunshine Law, there must be proof that the public governmental body had “*actual* knowledge that its conduct violated a statutory provision.” *Laut v. City of Arnold*, 491 S.W. 3d 191, 198 (Mo. banc 2016) (emphasis added). Here, while this Court finds that that the notice and agendas for July 23, 2024 and August 6, 2024 were in violation of section 610.020.1, based upon the evidence adduced at trial, the Court does not find that it was a knowing or purposeful violation. *Laut*, 491 S.W. 3d at 198. The Court notes that even if, *arguendo*, it found a knowing violation of

the notice requirements of the Sunshine Law, it does not find that the public interest in the enforcement of the Sunshine Law policies outweighs the public interest in sustaining the validity of the action taken. Section 610.027.5 RSMo.

The Court having heard the evidence and reviewed the record, does not find that the Commission knowingly or purposefully violated the Sunshine Law by holding closed meetings without proper and required notices, or that it knowingly and purposely took actions and votes which violated the Sunshine Law.

The Court finds in favor of Respondents and against the Jackson County Petitioners as to Count 7.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that as to Count One, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri;

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Two, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri;

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Three, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County

Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri;

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Four, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri;

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Five, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri;

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Six, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri; and

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to Count Seven, the Court enters judgment in favor of Respondent State Tax Commission of Missouri and against Petitioners Gail McCann Beatty, Assessor, Jackson County, Missouri, Frank White, Jr., County Executive of Jackson County, Missouri, Jackson County, Missouri Board of Equalization and Jackson County, Missouri.

Each party is to bear their own costs.

A handwritten signature in blue ink, reading "Jacqueline Cook". The signature is fluid and cursive, with the first name "Jacqueline" written in a larger, more prominent script than the last name "Cook".

March 31, 2025

Date

---

Hon. Jacqueline A. Cook