



OFFICE OF THE COUNTY COUNSELOR

JACKSON COUNTY COURTHOUSE

415 E. 12TH STREET
KANSAS CITY, MO 64106

816-881-3355
FAX 816-881-3398

TO: Frank White, County Executive
FROM: Bryan Covinsky, County Counselor
DATE: August 8, 2024
RE: State Tax Commission Order concerning the 2023 Assessment

This memorandum is written in response to the State Tax Commission Order dated August 6 and sent to Jackson County on August 7, 2024. The State Tax Commission (STC) at the time of the order was a plaintiff in a lawsuit filed against Jackson County. This lawsuit was filed on behalf of the STC by the Missouri Attorney General and requested a writ of mandamus to force Jackson County to roll back the 2023 Assessment, which is, it appears, what the new order from the STC seeks to do in lieu of that litigation.

The August Order lacks the clarity and specificity to be lawful. This order specifically countermands—in excess of the authority of the STC—the statutory mandates and the STC's own July 9th Order regarding the functions of the Jackson County Board of Equalization and Jackson County Assessment Department.

This order does not provide specific information as to what Jackson County is required to do or what properties the vague directions included should be applied to. At points it describes alleged failures of the 2023 Assessment cycle and cites to a 75% error number without any basis or provenance. The August Order then goes on to state that “all” real property must be reassessed at a 15% increase over 2022 values or the real values as assessed. This contradicts the 75% error number. The Order remains entirely silent as to what is to be done with commercial or personal property, or for properties that have been demolished or destroyed.

Here, the August Order directly conflicts with the Missouri Constitution Article X Section 14 and Attorney General Opinion NO. 88. Specifically, Article X Section 14 of the Missouri Constitution states in full that:

The general assembly shall establish a commission, to be appointed by the governor by and with the advice and consent of the senate, to equalize assessments as between counties and, under such rules as may be prescribed by law, to hear appeals from local boards in individual cases and, upon such appeal, to correct any assessment which is shown to be unlawful, unfair, arbitrary or capricious. Such commission shall perform all other duties prescribed by law (emphasis added).

Attorney General Opinion NO. 88 approved by Senator Danforth states that “the State Tax Commission has no authority to equalize the assessments among various parcels of property within a county as such, but individual assessments can be raised or lowered...” Clearly, the August Order does not comply with Article X Section 14 of the Missouri Constitution which dictates the power and limitations of the STC and also directly contradicts previous legal opinions issued publicly by the Missouri Attorney General’s Office in regard to the same subject.

Similarly, the August Order directs the Jackson County Board of Equalization to ignore the statutory mandate of RSMo §138.030.2 which states “The board shall hear complaints and equalize the valuation... so that all the property shall be entered on the tax book at its true value.” This mandatory statute requires the Board to hear appeals and determine the true market value of the properties before it. The August Order directs the Board to find the true market value and then, regardless of the true value of the property, enter a value not to exceed a 15% increase from the previous year. The August Order exceeds the power of the STC to direct the Board by explicitly directing the Board to ignore controlling and mandatory state statutes and enter decisions in explicit non-compliance with the law.

Additionally, the August Order’s “factual” conclusions have no basis in reality. The same commissioners of the STC that signed this order previously provided sworn testimony that they were not aware of any studies or evidence to prove systemic issues within the 2023 Assessment. Nor could they provide any information or competent evidence based on their specialized knowledge as commissioners for the STC that would have supported such a drastic order. There appears to be no factual underpinning to the conclusions in the Order and no meeting minutes to show that new or additional evidence was presented to the STC prior to the issuance of this order.

The August Order also infringes on the due process rights of taxpayers to have their appeals heard and decided impartially by the Board. It also intrudes on an individual’s right to contract by seemingly requiring Jackson County to change stipulated values without the knowledge or consent of the taxpayer. Further, it directly contradicts, but does not specifically countermand, the July Order issued by the same body regarding the 2024 valuation appeals, leaving Jackson County in an impossible situation. These questions were all part of the previous litigation and a decision in that case could have prevented such confusion and contradiction.

The litigation surrounding the 2023 Assessment has been pending before the courts since December of 2023. In fact, the bench trial portion of the bifurcated hearings was set to resume on August 9th so that Jackson County could begin to present its defense.

Instead of continuing with the trial, which this Office is confident would have resulted in a decision to uphold the 2023 Assessment, the STC chose to issue this order and dismiss its lawsuit with prejudice. These decisions were made nearly 9 months after the lawsuit began. Instead of pursuing what the STC alleged in its lawsuit was its only option to “fix” the 2023 Assessment and continue with the litigation, it instead issued this unlawful and unenforceable order.

The STC approved Jackson County’s 2023 Assessment plan prior to the commencement of this assessment cycle and had every opportunity during 2023 to issue lawful orders to manage problems it believed had arisen within the assessment. Instead, it entered costly and lengthy litigation, and allowed 2023 taxes to be paid, levy rates to go into effect, and for taxing jurisdictions to rely upon this revenue for budgeting. Taxpayers paid their taxes at the end of 2023 and school boards and cities have developed and implemented their 2024 budgets based on the money collected. Now the STC seeks to sidestep its own voluntary dismissal and unilaterally slash budgets that fund schools, fire and police departments, public roads and utilities nearly a year after the fact. This would not only be disastrous for these municipalities but would very likely cause future sizable tax increases in an attempt to make up the shortfall.

Due to all of the failings in the August Order, its explicit violation of the Missouri Constitution and otherwise non-compliance with state law and its probable and foreseeable unfair and disastrous effects, this Office is now engaged in the process of determining next steps in response. This Office will survey all options for pursuing legal opposition to the August Order, up to and including initiating suit for injunction or declaratory judgment regarding the validity and legality of this Order. Additionally, this Office will communicate and work with affected taxing jurisdictions in order to ensure an equitable and just resolution to this situation.

As no government entity is required to comply with an unlawful order, and knowingly complying with an order that is unlawful could open up Jackson County to further extensive litigation, it is the current recommendation of this Office that all Jackson County departments and boards continue operating as they were on August 5, 2024 unless and until such time that a court of competent jurisdiction orders otherwise.