

IN THE CIRCUIT COURT OF JACKSON COUNTY
STATE OF MISSOURI

STATE OF MISSOURI *ex rel.*
CITY OF INDEPENDENCE, MISSOURI,
and
CITY OF BLUE SPRINGS, MISSOURI,

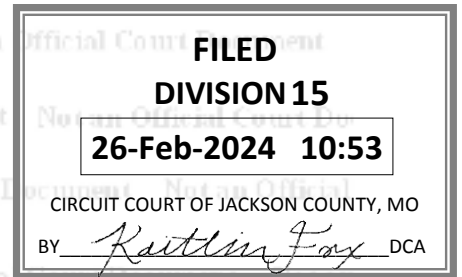
Relators,

v.

JACKSON COUNTY, MISSOURI, et al.,

Respondents.

Case No. 2316-CV24947



FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL JUDGMENT

A hearing on a Petition for Writ of Mandamus, filed by the City of Independence and City of Blue Springs (“Relators”) was held on Friday, January 5th, 2024. Relators were represented by Mr. Chuck Hatfield and Ms. Emily Carney of Stinson LLP. Respondents were represented by Mr. Ryan Taylor, Mr. Joshua Haner, and Ms. Joyce Johnson of the Jackson County Counselor’s Office. Relators presented the testimony of two witnesses, Ms. Christine Cates and Mr. Zachary Walker, along with exhibits before resting their case. Respondents did not present any evidence.

Based on the evidence, arguments of counsel, and consideration of all relevant law, the Court makes the following findings of fact and conclusions of law:

Summary of Findings

1. Gail McCann Beatty, Director of the Jackson County Assessment Department, is appointed, rather than elected. Assessors in every other county in Missouri are elected. *See* MO Const. art. VI § 18(b).

2. Frank White Jr., the County Executive of Jackson County, is ultimately responsible for the performance of the Assessment Department (“AD”) and the Director of Assessment. The County Executive has the power to correct errors in assessment and tax records, appoint department directors, coordinate and supervise the work of the departments, officers and agencies subject to his control, and “shall assign all duties and functions prescribed by law or this charter for the county assessor.” Jackson Co. Charter, art. III, § 6.1, 3, 9, art. IV, § 5.
3. The Jackson County Assessment Department failed the citizens of Jackson County in conducting the 2023 biennial assessment due to producing inaccurate property assessments¹. The Assessment Department also failed to timely and adequately notify property owners of certain statutory rights. See Relators’ Ex. 3 Missouri State Auditor’s Preliminary Report.
4. The Assessment Department, and the Jackson County Board of Equalization (“BOE”), both failed to process appeals in a timely manner.²
5. The Jackson County Board of Equalization operates under Chapter 91 of the Jackson County Code, Article XI of the Jackson County Charter, and under Chapter 138 of the Revised Statutes of Missouri. The BOE is separate from the AD, and is responsible for hearing complaints of the valuations and assessments on all real property and all tangible personal property taxable by Jackson County.
6. Frank White Jr., as County Executive appoints certain members of the BOE and the Jackson County Legislature may confer powers and duties upon the board by passing ordinances. Jackson Co. Charter, art. XI, § 1.

¹ At trial, Christine Cates, the City Administrator for the City of Blue Springs, testified that a thin strip of land was assessed at \$283,000. It was a vacant lot. The value was ultimately adjusted to \$4,000. This adjustment was reflected in Relators’ Ex. 1 “Parcel 36-520-19-15-00-0-00-000.” Further review of Ex. 1 shows that most BOE decisions have resulted in decreased assessments, indicating the AD’s initial assessments were too high, and therefore inaccurate.

² In September of 2023 the Blue Springs City Council was required to set their tax levy for the coming year. At that time 46.4% of all the appeals filed by Blue Springs property owners were still pending, which was over 2,000 parcels. This was against the statutory direction that the Jackson County BOE shall hear and finalize all appeals by the 4th Saturday in August.

7. The AD may resolve informal appeals, and the BOE handles formal appeals. The AD and BOE are separate entities, and have separate staffs.
8. The Court does not believe the BOE's failure to process appeals in a timely manner is the result of the BOE staff failing to work, but rather the lack in leadership and preparation of Jackson County officials, including Frank White Jr., Gail McCann Beatty, and the Jackson County Legislature. (Emphasis added).
9. The Court also finds that the delay in processing appeals is the natural consequence of Gail McCann Beatty's decision to increase property values at such a high rate and a failure of Jackson County officials to prepare for tens of thousands of appeals.
10. In September of 2020, the County Administrator for Jackson County informed City Manager Zach Walker of Independence, Missouri, that officials with Jackson County expected Jackson County property values to face increases in their assessed valuations of 50%-100% in the 2023 biennial reassessments. Relators' Ex. 9 E-mail from Zach Walker.
11. Therefore, Jackson County officials knew years in advance that they would raise assessments substantially come 2023, and failed to take the necessary steps to prepare for such a high increase, such as: (1) a way to timely inform property owners of their rights (such as the right to an interior inspection of a residence or building if the assessment increased by more than 15%)³; (2) a way to actually perform a large number of interior inspections of properties if requested by property owners; and (3) a way to timely hear and decide a large number of appeals so as to not cause uncertainty for taxing jurisdictions, such as Relators.

³ The Assessment Department did not send letters in April of 2023 to approximately 75% of property owners who faced increases by more than 15% notifying them of the increase and their right to request interior inspections for the following reason: if all the owners requested interior inspections the AD would not be able to accommodate the "excessive demand it would have put on department officials and resources." Relators' Ex. 3, page 2.

12. The AD and BOE's failure with regards to hearing and deciding appeals left taxing jurisdictions within Jackson County with uncertainty regarding their final property valuations, and thereby the amount of tax revenue they would receive in the upcoming fiscal year. This uncertainty complicates the budget process for taxing jurisdictions.

13. Hearings on appeals before a Board of Equalization within a county with a charter form of government shall end by the 4th Saturday in August each year. Section 138.100.2 RSMo. However, this statute is interpreted by higher Courts to be *directory* to the BOE, but not *mandatory*. (Emphasis added). *State ex rel. 401 N. Lindbergh Assocs. v. Ciarleglio*, 807 S.W.2d 100, 103 (Mo. App. E.D. 1990).

14. The process of setting tax levies by taxing jurisdictions is a complicated process, in part due to Missouri's "Hancock Amendment"⁴. Taxing jurisdictions must set their levies by October 1st of each year pursuant to Section 67.110.1 RSMo. Taxing jurisdictions, such as school districts, fire districts, and municipalities, must have finalized numbers when they set their levies, and that is why it is imperative that appeals be finalized by the statutory deadline. Finalizing appeals on time gives the taxing jurisdictions time to plan their budgets with accurate data, hold a meeting with notice to the public, and set their tax levies prior to their October 1st deadline.

15. Having appeals finalized by the statutory deadline also helps taxing jurisdictions avoid recognizing lower revenues and going through a complicated recoupment process.

⁴ The Hancock Amendment was passed by Missouri voters on November 4, 1980. Counties and political subdivisions ("taxing jurisdictions") are prohibited from increasing their revenue collected from property taxes beyond revenue for the increase in the general price level of the previous year and increases due to new construction and improvements. MO Const. art. X § 22(a). When property assessments are raised, a taxing jurisdiction's current levy of taxation should be reduced to yield the same gross revenue as on the prior base (subject to permitted increases discussed in the prior sentence). *Id.* Christine Cates testified at trial that the Missouri State Auditor's office helps taxing jurisdictions determine what their tax levy for the upcoming year may be so as to not violate the Hancock Amendment. When property values decrease after the levy has been configured, due to unresolved appeals being resolved in favor of property owners, this can create complications and means the tax levy set by October 1st may have been set too low to ensure that the taxing jurisdiction will yield the appropriate amount of revenue to continue providing essential services. The only remedy is a recoupment process that can take one to two years. When a significant amount of money needs to be recouped, it causes more disruption to taxing jurisdictions.

16. While the statute addressing when appeals should be finalized is not mandatory as noted in Paragraph 13, Jackson County appears to be disregarding the directory nature of the statute, as tens of thousands of appeals were not finalized by the 4th Saturday of August 2023, and many appeals were still pending and unresolved by trial in January of 2024.

17. The Court finds that 2023 was not the first time the AD and BOE have failed to process appeals in a timely manner. In the biennial reassessments of 2019, the BOE had appeals pending well in to the following year of 2020. Relators' Ex. 9 E-mail from Zach Walker. The appeals for 2019 should have been completed by August 24, 2019.

18. **The manner in which Jackson County conducted biennial assessments in 2019 and 2023 under the leadership of Director Gail McCann Beatty, the County Legislature, and County Executive Frank White Jr. appear to this Court to demonstrate a clear disregard for the rights of Jackson Countians, a disregard for the budget process that taxing jurisdictions must undertake each fiscal year, and gross incompetence.** The Court, after hearing evidence in this case, understands why Relators sought relief in the Court.

19. Despite these failures, this Court cannot provide relief to Relators in the form of a permanent writ of mandamus.⁵ This Court is without power to mandate that Jackson County resolve all pending appeals upon a certain deadline as the relevant statute that determines when appeals should be finalized is not mandatory. *State ex rel. 401 N. Lindbergh Assocs. v. Ciarleglio*, 807 S.W.2d 100 (Mo. App. E.D. 1990).

⁵ Relators requested a general type of relief in the form of accurate property assessment figures for their particular taxing jurisdiction—the specific action that could be undertaken to achieve accurate property assessment figures at this stage is that the BOE would finalize all pending appeals on an expedited basis. At trial, Relators specifically requested that the appeals be resolved as soon as possible as appropriate relief. The Court does not find any other specific actions that could provide Relators relief, and therefore does not consider alternative remedies.

20. This Court will not act outside of the authority granted to this Court by the Constitution of Missouri, the Revised Statutes of Missouri, or case law by higher courts. The Court finds the statutory interpretation by the Court of Appeals for the Eastern District of Missouri in *Ciarleglio* as well as the Missouri Supreme Court's opinion in *St. Louis County v. State Tax Commission*⁶, 529 S.W.2d 384 (Mo. S.Ct. 1975) to be legal authority that should not be disregarded by this Court.
21. Frustrations with the delay in finalizing appeals during the 2023 biennial reassessments in Jackson County are best addressed by the state legislature and the State Tax Commission. What occurred in 2023, and to an extent in 2019, should not be an acceptable practice for future biennial reassessments.

Jurisdiction and Venue

22. Jurisdiction is proper in this Court pursuant to Sections 139.300.4, 478.080 RSMo., and Rule 94.01.
23. Venue is proper in Jackson County, Missouri, pursuant to Section 508.060 RSMo.

Parties

24. Relators (the Cities of Blue Springs and Independence) are taxing jurisdictions located within Jackson County, Missouri.
25. Ms. Christine Cates is the City Administrator for Blue Springs, Missouri.
26. Mr. Zach Walker is the City Manager for Independence, Missouri.
27. Respondents include: Jackson County, Missouri, a county with a charter form of government; the Jackson County Legislature; the Jackson County Board of Equalization; Frank White Jr., the County Executive; and Gail McCann Beatty, the Director of Assessment for Jackson County.

⁶ St. Louis County Board of Equalization hearing permitted a month after original deadline.

Procedural History

28. Relators filed the above captioned cause on September 22, 2023, against Respondents as well as Tyler Technologies, Inc. (“Defendant Tyler”). Relators’ Petition for Writ of Mandamus, Declaratory Relief (In the Alternative), and Damages contained the following three counts:

COUNT I: Mandamus against County Respondents;

COUNT II: Declaratory Judgment against County Respondents;

COUNT III: Breach of Contract against Defendant Tyler.

29. The only claim Relators pursued at trial was Count I: Mandamus against County Respondents.

Counts II and III were voluntarily dismissed by Relators prior to trial, which dismissed Defendant Tyler as a party to this action.

30. Relators’ prayer for relief under its Count I is directed at the County Respondents “...to compel County [Respondents] to meet their ministerial duty to provide an accurate, timely, and certified property assessment to taxing authorities within Jackson County...” Relators’ Petition p. 9

“Wherefore clause”.⁷

31. County Respondents filed a Motion to Dismiss Counts I and II on October 15, 2023.

32. On December 20, 2023, this Court heard oral arguments on County Respondents’ Motion to Dismiss for lack of standing and failure to exhaust administrative remedies, which was subsequently denied by this Court.

33. On December 20, 2023, this Court set a bench trial for a permanent writ hearing for January 5, 2024.

⁷ As discussed in footnote 5, this Court’s consideration of relief is confined to the issue of the Board of Equalization hearing appeals on an expedited basis and reporting such findings to Relators. The AD was responsible for the initial assessment figures in 2023 and tens of thousands of property owners pursued (and some are still pursuing) administrative remedies in the form of appeals. Only the property owners have standing to challenge the increased assessments on properties. *See City of Richmond Heights v. Bd. Of Equalization of St. Louis Cnty.*, 586 S.W.2d 338, 343 (Mo. S.Ct. 1979).

34. On December 29, 2023, County Respondents moved to join necessary parties to this action, including 42 taxing jurisdictions in Jackson County, Missouri.
35. On January 5, 2024, County Respondents made an oral motion to add the State Tax Commission to its motion to join necessary parties.
36. This Court denied County Respondents' motions to add additional parties on January 5, 2024, and proceeded to hear evidence on the merits of Count I of Relators' Petition.

The 2023 Jackson County Assessments

37. Respondent Gail McCann Beatty, as the Jackson County Director of Assessment ("Assessor") must assess all real and personal property every two-years (the "Assessment Cycle" or "biennial reassessments") and maintain the updated valuations in the Assessor's Book, a term that refers to the Assessor's own internal record-keeping system (the "Assessor's Book"). Section 137.115 RSMo.
38. The Assessor must submit its updated Assessor's Book to the Jackson County Legislature by July 1st of every Assessment Cycle, accompanied with a verifying affidavit that states, under oath, that the Assessor has made "diligent efforts" to assess property values and that they are "correctly" set forth in the Assessor's Book. Sections 137.245, 137.275 RSMo.
39. Pursuant to Section 137.245 RSMo., the Clerk of the County Legislature must send an "abstract," or summary, of the Assessor's Book to taxing jurisdictions such as Relators by July 20th of every Assessment Cycle. The "abstract" that Relators received in 2023 are contained in Relators' Ex. 4 & 5.
40. The 2023 biennial reassessments resulted in increased valuations of 238,000 parcels totaling over \$2.6 billion in value. Relators' Ex. 3, page 1.

41. The Assessor should notify property owner of increases in their property assessments. Section 137.180 RSMo. Examples of notices sent by mail by the Jackson County Assessment Department in 2023 are contained in Relators' Ex. 3, Attachments A & B. The State Auditor found notices were sent out by Jackson County from April through June of 2023. Ex. 3, page 2.
42. If property is to be increased by more than 15% in value, then the assessor shall conduct a physical inspection of the property and shall notify the property owner of the property owner's rights relating to the physical inspection. Including the right of the property owner to request an interior inspection. Section 137.115.10-11 RSMo.
43. A "physical inspection" pursuant to Section 137.115.12 RSMo. requires an on-site personal observation of the property. Mere observation of the property via a drive-by inspection or the like shall not be considered sufficient to constitute physical inspection.⁸
44. Of the 238,000 parcels that received increased valuations, approximately 200,000 received increases in over 15%. Relators' Ex. 3, page 2.
45. From review of Ex. 3, it appears that Jackson County failed to adequately notify 75% of property owners who faced increases of 15% or greater of their rights to request interior inspections in April of 2023⁹. Approximately 50,000 of the 200,000 parcels (25%) were notified of their rights in April and provided an online link, to the AD website, to request an interior inspection. *Id.*
46. The remaining 75% were notified in June, and some of the letters likely arrived just days before the initial July 10th deadline to file appeals with the Board of Equalization. The link for interior inspections in the June letters were actually a link to the Board of Equalization website,

⁸ This Court does not analyze the manner in which the AD performed physical inspections in 2023, as there was no evidence presented on that issue, and analysis of that issue is not consequential to the specific relief considered, which is whether or not the Board of Equalization must resolve all pending appeals by a date certain.

⁹ The Court's analysis of the AD's failure with regards to sending adequate notice for property owners that faced increases over 15% is relevant, because Relator's evidence presented a theory that Jackson County officials disregard statutory duties and deadlines.

www.jacksongov.org/boeappeals. Ex. 3, Attachment B. The Court is perplexed why the AD would use a BOE link in their notices when it was the AD's responsibility to perform the interior inspection. The AD and the BOE are separate entities. In the April letters, which only 25% of affected property owners received, the AD provided a link for interior inspections that was to the AD's website, <https://jacksongov.org/Government/Departments/Assessment>. *Id.* The April letter was superior to the June letter, and all property owners who faced increases in their assessments by more than 15% should have received the April letter.

47. The delay in which the June letters were sent lead the Court to believe that the AD was not prepared to conduct a large number of interior inspections in Spring of 2023, as the office did not have the resources. (For additional context see Page 3, Footnote 3).

48. It is important to note this case is brought by taxing jurisdictions, and not ordinary citizens who may have had their rights violated. This Court is not in a position to provide relief to property owners, as this case solely focuses on potential relief for taxing jurisdictions.

49. Each year property owners have the right to appeal an assessment. The Assessment Department may handle the appeal informally, or the Board of Equalization may hear the appeal.

50. The Jackson County Board of Equalization shall end all hearings by the 4th Saturday in August each year. Section 138.100.2 RSMo. However, this statute is interpreted by higher Courts to be directory to the BOE, but not mandatory. *State ex rel. 401 N. Lindbergh Assocs. v. Ciarleglio*, 807 S.W.2d 100, 103 (Mo. App. E.D. 1990).

51. Gail McCann Beatty held a call with taxing jurisdictions on September 15, 2023 and invited all taxing jurisdictions. The meeting was titled "Taxing Jurisdictions – Final Valuations". Relators'

Ex. 6. In this call Ms. McCann Beatty informed the representatives of the taxing jurisdictions that there were many appeals still outstanding, so there were no "final numbers."

52. Ms. Cates testified that this call was unusual. In past biennial reassessments the Assessment Department has not needed a call to inform taxing jurisdictions that there was an issue with finalizing the numbers due to so many outstanding appeals.

Taxing Jurisdictions

53. Relators (and all taxing jurisdictions) depend on final numbers of their assessed property values and accurate predictions of tax revenue to the establish their budgets for operations.

54. Relators can only rely on the numbers provided by Jackson County's Assessment Department to determine their tax levies each year.

55. Relators' budgets include such things as police protection, fire protection, and other essential city services.

56. Relators are provided numbers in July and September of the biennial reassessment years. The numbers in September are more accurate, and those values are used to calculate the appropriate tax levy with the assistance of the State Auditors office. This is required by Missouri Hancock's Amendment. *See Page 4, Footnote 4.*

57. The September numbers are more accurate, or "final" because the appeals process should be completed by September. As appeals are finalized the Assessor's Book is adjusted.

58. For the 2023 assessments, Relators faced many unresolved appeals in September. For example, Blue Springs had 2,044 appeals pending out of the 21,839 total parcels in Blue Springs as of September 13, 2023. Relators' Ex. 7.

59. The amount of appeals during the 2023 biennial reassessments, and the amount of appeals pending when Relators set their tax levies was uncommon compared to past years.

60. This caused most, if not all, taxing jurisdictions in Jackson County to set their tax levies based on incomplete and inaccurate information.

61. After October 1st, if the appeals are resolved in favor of the property owners, then a taxing jurisdiction will recognize lower revenue because the levy was set based on the pre-appeal assessment of the property, as the post-appeal assessment figure was yet to be determined.
62. Relators can set a recoupment rate for the following year to capture this lost revenue, but it is a fairly complex practice and should not be the norm.
63. Since 2003 Blue Springs has only had to seek a recoupment rate once. Blue Springs will likely have to seek this remedy next year due to Jackson County's failure to timely resolve appeals for the 2023 biennial reassessments.
64. The overwhelming majority of the appeals that are reflected in Relators' Ex. 1 reflect that property owners are receiving lower assessments from the BOE. This indicates the AD's assessments in 2023 were too high.

Conclusions of Law

Relators have sought an extraordinary remedy of a permanent writ of mandamus. Mandamus is a remedy to enforce an existing right and cannot be used to establish a right. *State ex rel. Sayad v. Zych*, 642 S.W.2d 907, 911 (Mo. S.Ct. 1982). The Court believes that Relators have a right to receive an "abstract" of their assessed property values by July 20th of every Assessment Cycle. Section 137.245 RSMo. The central question is do they have a clear and unequivocal right to receive an "abstract" or summary of the Assessor's Book, after the 4th Saturday in August (or sooner if all appeals are finalized prior to the deadline in Section 138.100.2 RSMo.) that is free of any pending appeals, or a very small, insignificant amount of pending appeals? While such an abstract would be helpful for the reasons the Court has previously stated, the Court is not persuaded that such a right currently exists under Missouri law, as Courts have permitted boards of equalization to finalize appeals after the statutory deadline. This Court cannot impose a new right through a writ of mandamus.

The Court of Appeals for the Eastern District of Missouri held in *State ex rel. 401 North Lindbergh Associates v. Ciarleglio* that a Board of Equalization is not mandated to finalize all appeals by the statutory deadline. Instead the statute, Section 138.100.2 RSMo., is merely directory. “In determining whether a statute is mandatory or directory, the general rule is that when a statute provides what results shall follow a failure to comply with its terms, it is mandatory and must be obeyed; however, if it merely requires certain things to be done and nowhere prescribes results that follow, such a statute is merely directory.” *State ex rel. 401 North Lindbergh Associates v. Ciarleglio*, 807 S.W.2d 100, 104 (Mo. App. E.D. 1990) (quoting *State v. Conz*, 756 S.W.2d 543, 546 (Mo. App. W.D. 1988). “Section 138.100.2 RSMo 1986 does not contain consequences for failure of the board to hold [timely hearings].” *Id.*

Relators have invited this Court to not apply *Ciarleglio* to the facts presented in this case, as *Ciarleglio* dealt with a Board of Equalization hearing an appeal one day after the statutory deadline. While the Court agrees with Relators that the facts here are much more egregious, this Court follows the statutory analysis of *Ciarleglio*, not the consequences of the statutory interpretation to a particular set of facts.

Relators are free to promote legislation that revises Section 138.100 RSMo. to require results that will follow when a Board of Equalization fails to hear appeals by the statutory deadline. Such a legislative fix would result in this Court finding the statute to be mandatory and Relators’ possessing a clear, unequivocal right that could be enforced by a permanent writ of mandamus.

Relators have raised another statutory violation by Respondent Gail McCann Beatty that may give rise to a writ of mandamus. Relators point to Section 137.245 RSMo., which requires that the Assessor deliver the Assessor’s Book to the County Legislature by July 1st and state under oath that “diligent efforts” were made and assessments are “correctly” set forth. The Court notes that this statute requires delivery of the Assessor’s Book before the deadline for appeals. Every year there will be appeals, and every county in the State of Missouri likely experiences property owners filing appeals, albeit not at the

rate Jackson County experienced in 2023. The Court does not conclude that just because appeals follow an assessment that Section 137.245 RSMo. was thereby violated and the Assessor's Book was "incorrect" when delivered by July 1st, or diligent efforts were not made. Furthermore, whether or not the initial assessment figures sent to property owners from April through June of 2023 were "correct" figures (as in they accurately reflected the true property value) is a challenge that individual property owners must make, and administrative remedies are available for those individuals. Determining an assessment figure is also a highly discretionary task by the Assessor.

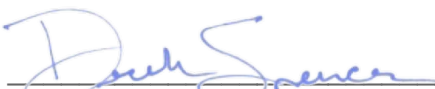
It was not contested at trial that Relators received an "abstract" by the July 20th deadline in Section 137.245 RSMo. Relators' Ex. 4 and Ex. 5 indicate that these abstracts were sent on July 3, 2023.

Conclusion

This Court does not deny Relators relief as a stamp of approval for the performance of Jackson County officials with regard to the 2023 biennial reassessments. Jackson County's failure to process appeals in a timely manner, and thereby their failure to provide accurate numbers to taxing jurisdictions is a serious concern to this Court. County Respondents have violated statutes, but a writ of mandamus is not an appropriate remedy.

Taxing jurisdictions within Jackson County deserve better public service from the officials of Jackson County. Especially when Jackson County officials knew years in advance they would increase property assessments at substantial rates in 2023 and had ample time to prepare. However, the Court is constrained by the statutes as written and the prior cases analyzing similar issues.

Permanent Writ of Mandamus is **Denied**.

 2/26/2024
Honorable Derek M. Spencer
Associate Circuit Judge, 17th Judicial Circuit (Cass County)