OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DRURY CHESTERFIELD, INC.,	)	No. ED93686
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Tom W. DePriest, Jr.
PHILIP MUEHLHEAUSLER,	)	
ASSESSOR ST. LOUIS COUNTY,	)	
	)	
Appellant,	)	FILED: August 16, 2011

Respondent Drury Chesterfield, Inc. (Drury) challenged the assessment of its real property and improvements in St. Louis County for the 2006 tax year. The State Tax Commission (Commission) issued an order on October 15, 2008, sustaining its hearing officer's decision and affirming the St. Louis County Board of Equalization's decision, finding the assessed valuation for the two parcels of property owned by Drury, as determined by the county assessor for the tax year 2006, was $23,175,400. Drury filed a timely petition for judicial review in the Circuit Court of St. Louis County. The circuit court reversed the Commission's order, finding the Commission's order was unauthorized by law in considering the total development cost in concluding that the cost approach to valuation was the most appropriate appraisal method for valuing the subject property. The circuit court ordered the Commission to set aside the 2006 tax year assessment and find that the true value in money of Drury's real property as of January 1, 2006, is $13,900,000. St. Louis County Assessor, Philip Muehlheausler (Assessor) filed his timely notice of appeal to this Court. We review the decision of the Commission, rather than that of the circuit court, pursuant to Sections 138.432, 138.470, and 536.100 through 536.140, RSMo.

REVERSED.

Division Four holds: Drury failed to meet its burden of proof because it failed to overcome the presumption that Assessor's valuation is correct. Drury argues that the income method of valuation is appropriate, but has failed to demonstrate and persuade this Court that Assessor's cost approach is an inappropriate means of valuation. Because Drury was under construction at the time of the appraisal, there was no actual net operating income to discount or capitalize, and Drury's hypothetical discounted cash flow analysis result was not supported by its cost approach. We compare the property appraisal of the Drury, a unique property because it is a hotel under construction, to the appraisal of a unique or special purpose property such as a casino, for which there were no comparables in the market. See Snider v. Casino Aztar/Aztar Mo. Gaming Corp., 156 S.W.3d 341, 347 (Mo. banc 2005). Accordingly, we find the cost approach to valuation is the most appropriate method because the Drury was recently improved with structures that conform to the highest and best use of the property, and the Drury, under construction, has unique or specialized improvements for which there are no comparables in the market. Id. We find that the Commission did not abuse its discretion in sustaining the hearing officer's decision of July 18, 2008 and affirm the decision of the Commission. Therefore, the decision of the trial court reversing the Commission is reversed.

Opinion by: Daniel G. Pelikan, Sp. J., Kurt S. Odenwald, C.J., and Robert G. Dowd, Jr., J., Concur.

Attorney for Appellant: Patricia Redington

Attorney for Respondent: Thomas L. Caradonna and Derick C. Albers

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.