

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MISSOURI RETIRED TEACHERS  
FOUNDATION**

**v.**

**CHRIS ESTES, COLE COUNTY  
ASSESSOR**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD72129  
DATE: October 26, 2010

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Appeal From:

Cole County Circuit Court  
The Honorable Richard G. Callahan, Judge

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Appellate Judges:

Division Three: Alok Ahuja, Presiding Judge, Victor C. Howard, and Cynthia L. Martin, Judges

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Attorneys:

John W. Kuebler, Jefferson City, MO, for respondent.

Pamela Q. Henrickson, Jefferson City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MISSOURI RETIRED TEACHERS  
FOUNDATION,**

**RESPONDENT,**

**v.**

**CHRIS ESTES, COLE COUNTY ASSESSOR,**

**APPELLANT.**

No. WD72129

Cole County

Before Division Three Judges: Alok Ahuja, Presiding Judge, Victor C. Howard and Cynthia L. Martin, Judges

This case involves a claim of exemption under section 137.100(5) from the assessment of ad valorem taxes on real property (Property) owned by the Missouri Retired Teachers Foundation. In March, 2009, the Cole County Assessor notified the Foundation that because the Property was vacant it could not be exempt under section 137.100(5) as it was not being used for charitable purposes. The Assessor advised the Property would be listed on the 2009 tax rolls as vacant. The Foundation appealed the Assessor's determination to the Board of Equalization, which upheld the determination. The Foundation then successfully appealed to the circuit court.

The Assessor appeals from the trial court's judgment finding that the Property owned by the Foundation is exempt from taxation under section 137.100(5), and enjoining the Assessor from reporting the Property on the tax rolls.

**AFFIRMED IN PART; REVERSED IN PART; REMANDED.**

**Division Three holds:**

- (1) Real property is assessed annually as of the first day of January.
- (2) On appeal, the Assessor failed to assert any claim that the judgment was in error with respect to the Property in its vacant condition as of January 1, 2009. This argument is deemed abandoned.
- (3) The only argument asserted by the Assessor on appeal is that the Property was not exempt under section 137.100(5) in its improved condition because it was largely occupied by a tenant, the Missouri Retired Teacher's Association.
- (4) The Assessor's assessment of the Property in March, 2009 was expressly limited to the Property in its vacant condition on January 1, 2009. Whether the Property is eligible for exemption under section 137.100(5) as of January 1, 2010, in its improved condition was not an issue that was ripe for the trial court's determination as there had been no assessment of the Property as of January 1, 2010.

(5) The judgment of the trial court is affirmed with respect to the Foundation's eligibility for exemption for tax year 2009. The judgment is reversed with respect to findings that the Foundation was eligible for exemption for any tax year beyond 2009.

The matter is remanded with instructions to the trial court to enter an amended judgment consistent with this opinion.

**Opinion by: Cynthia L. Martin, Judge**

October 26, 2010

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