

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ROBERT AND DONNA BATEMAN**

**APPELLANTS,**

**v.  
CATHY RINEHART, ASSESSOR**

**RESPONDENT.**

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DOCKET NUMBER WD73947

DATE: February 21, 2012

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Appeal From:

Clay County Circuit Court  
The Honorable Larry D. Harman, Judge

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Appellate Judges:

Special Division: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt,  
Judge

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Attorneys:

Jonathan Sternberg, Kansas City, MO, for appellants.

Patricia L. Hughes, Liberty, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ROBERT AND DONNA BATEMAN,**

**APPELLANTS,**

**v.**

**CATHY RINEHART, ASSESSOR,**

**RESPONDENT.**

No. WD73947

Clay County

Before Special Division: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

Robert and Donna Bateman appeal from the judgment of the trial court affirming the State Tax Commission's classification of their vacant and unused property. For their sole point on appeal, the Batemans contend that the State Tax Commission erred in determining that the immediate most suitable economic use of the Bateman's property required its classification as commercial rather than residential.

**Affirmed.**

(1) The parties agree that the property is vacant and unused, and that its classification cannot be determined by the definitions set forth in section 137.016.1, requiring its classification to be determined by its "immediate most suitable economic use" pursuant to section 137.016.5, a fact driven, case by case inquiry.

(2) The State Tax Commission considered the eight factors described in section 137.016.5 for determining the classification of vacant and unused property based on its immediate most suitable economic use and found that the property should be classified as commercial, a factual determination supported by the record as a whole.

(3) The legislature did not intend the word "immediate" as used in the phrase "immediate most suitable economic use" to imply a temporal requirement that the use anticipated be either immediately possible or possible within the current assessment cycle. Rather, "immediate" was intended to convey an expectation that reasonably contemporaneous information should be evaluated in determining the "immediate most suitable economic use" of property in light of the particular facts or circumstances of the property, including the presence or absence of significant legal or economic impediments to use of the property as classified by the assessor.

(4) The legislature clearly anticipated that property subject to classification under section 137.016.5 may well be classified for a use which cannot be undertaken without a change in zoning.

(5) Consistent with the Missouri Constitution, the legislature has established assessment rates for each subclassification of real property. Section 137.115.5 provides that property classified as commercial is to be assessed at a rate of 32% of its true value in money, while residential property is to be assessed at 19% and agricultural property is to be assessed at 12%. Section 137.115.5 makes no allowance for classifying property within one subclassification while assessing the property at a rate applicable to a separate subclassification.

Opinion by Cynthia L. Martin, Judge

February 21, 2012

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