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IN THE SUPREME COURT OF MISSOURI

CASE NO. SC101131

DAVID COX, PLATTE COUNTY ASSESSOR, ET AL.

Appellants

v.

GRADY HOTEL INVESTMENTS, LLC, ET AL.

Respondents

APPEAL FROM THE CIRCUIT COURT OF PLATTE COUNTY, MISSOURI – CASE NO. 23AE-CC00292

THE HONORABLE MEGAN B. BENTON

CIRCUIT JUDGE

APPELLANT DAVID COX, PLATTE COUNTY ASSESSOR'S BRIEF

ORAL ARGUMENT REQUESTED

/s/ Stephen E. Magers
Stephen E. Magers, Bar No. 69204
415 Third Street, Room 114
Platte City, MO 64079
(816) 826-1303
Fax (816) 858-3314
stephen.magers@co.platte.mo.us
Attorney for Appellant, David Cox,
Platte County Assessor

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

TABLE OF CONTENTS

TABLE OF CONTENTS……2

TABLE OF AUTHORITIES…..……..3

JURISDICTIONAL STATEMENT……5

STATEMENT OF FACTS……..6

POINT RELIED ON I……9

POINT RELIED ON II……..10

POINT RELIED ON III……11

POINT RELIED ON IV……12

ARGUMENT – POINT RELIED ON I……13

ARGUMENT – POINT RELIED ON II……...20

ARGUMENT – POINT RELIED ON III……..28

ARGUMENT – POINT RELIED ON IV……..33

CONCLUSION AND REQUEST FOR ORAL ARGUMENT……40

CERTIFICATE OF SERVICE……..41

CERTIFICATION OF COUNSEL……42

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

TABLE OF AUTHORITIES

Cases **Page No.**

Bd of Education of St. Louis v. State, 47 S.W.3d 366 (Mo. 2001)……...… 9, 16, 18, 19

Cock v. Stewart, 85 Mo. 575 (1885)……..10, 11, 23, 24, 31

Cox v. Grady Hotel Invs., LLC, 605 S.W.3d 575 (Mo. App. 2020)…….. 6, 14, 21, 29, 35

Doe v. Dept. of Social Services, 71 S.W.3d 648 (Mo. App. 2002)……...….9, 17

Elk Grove Engineering Co. v. Korzen, 304 N.E.2d 65 (Ill. 1973)……...…10, 26

Johnson v. March, 376 S.W.3d 26 (Mo. App. 2012)……...14, 21, 29, 35

Johnson v. Springfield Solar 1, LLC, 648 S.W.3d 101 (Mo. 2022)……... 15, 22, 30, 36

Michael Jaudes Fitness Edge, Inc. v. Dir. of Revenue, 248 S.W.3d 606 (Mo. 2008)……..11, 30, 31

Phillips v. Edmundson, 240 S.W.3d 691 (Mo. 2007)……. 15, 22, 30, 35

Planned Indus. Expansion Authority of City of St. Louis v. Southwestern Bell Tel. Co., 612 S.W.2d 772 (Mo. 1981)……...….12, 36, 37, 38

Prince Wooster Corp. v. Tax Com'n of City of New York, 453 N.Y.S.2d 547 (N.Y. Sup. Ct. 1982)…….….25, 26

Psychiatric Healthcare v. Dept. Soc. Serv., 100 S.W.3d 891 (Mo. App. 2003)……15

Rinehart v. Bateman, 363 S.W.3d 357 (Mo. App. 2012)……..14, 15, 21, 22, 29, 30, 35

Winslow v. Warren Cnty. Bd. of Review, No. 1-996 / 11-0680 (Iowa App. Jan 19, 2012)……. 25

Statutes

Section 137.115.1, RSMo…….....5, 7, 9, 10, 11, 12, 13, 16, 17, 18, 20, 24, 25, 26, 27, 28, 31, 32, 33, 34, 39, 40

Section 138.190, RSMo……...…14, 21, 29, 35

Section 536.140, RSMo…….15, 22, 30, 35, 36

Constitutional Provisions

Mo. Const. Art. I, Sec. 10……5, 9, 13, 40

Mo. Const. Art. I, Sec. 13……...……..5, 12, 33, 34 36, 39, 40

Mo. Const. Art. III, Sec. 40(28)……...……...….5, 12, 33, 34, 38, 39, 40

Mo. Const. Art. X, Sec. 3……..…….…….5, 11, 28, 30, 40

Mo. Const. Art X, Sec. 6……..…..5, 10, 20, 22, 23, 25, 27, 40

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

JURISDICTIONAL STATEMENT

This case comprises an appeal taken from the Circuit Court of Platte County, Missouri, whose decision analyzed a Decision and Order from the Missouri State Tax Commission (hereafter referred to as the "Commission") issued on September 22, 2023. As stated in Appellant-Assessor's Notice of Appeal, the Supreme Court of Missouri has exclusive appellate jurisdiction over this appeal, as this appeal involves the construction of the revenue laws of Missouri (namely, Section 137.115.1, RSMo.) and the constitutional validity of said statute and said statute's application pursuant to Article I, Sections 10 and 13; Article III, Section 40(28); and Article X, Sections 3 and 6 of the Missouri Constitution. Appellant-Assessor contends that the Commission's utilization of an unconstitutional provision of Section 137.115.1 in their Decision and Order results in an unconstitutional assessment of the property subject to this appeal, thereby giving this Court exclusive jurisdictional review pursuant to the authority vested in Article V, Section 3 of the Missouri Constitution. Additionally, Because Section 137.115.1, RSMo. is a revenue law (affecting the valuation of property in Missouri), this Court also has exclusive jurisdictional review, pursuant to the same constitutional authority.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

STATEMENT OF FACTS

On April 29, 2015, Grady Hotel Investments (hereafter referred to as "Grady") purchased the Marriott Hotel at KCI (hereafter referred to as the "Property") for $8,500,000. (D400 p. 28; App 22). Said hotel lays within the boundaries of the Kansas City International Airport. (D400 p. 12; App 6). The Commission determined that $1,160,495 of the $8,500,000 purchase price for the hotel was personal property and not the real estate comprising the hotel improvements purchased. (D400 pp. 36-37; App 30-31).

David Cox, Platte County Assessor (hereafter referred to as "Assessor") valued the Property in tax year 2016, which Grady appealed in June of 2016 to the Platte County Board of Equalization (hereafter referred to as the "Board"). (D395 p. 4). The Board valued the Property at $13,447,000 for tax year 2016. (D400 p. 12; App 6). Subsequent to this decision from the Board, Grady appealed to the Commission in 2016, who ultimately assigned a $0 valuation to the Property "because there was no bonus value." *Id.* Assessor appealed said decision of the Commission before the Honorable Thomas C. Fincham of the Platte County Circuit Court, who reversed the Commission's decision and order. *Id.* Grady appealed the Platte County Circuit Court's reversal of the Commission's decision to the Missouri Western District Court of Appeals, who affirmed the Platte County Circuit Court's decision. (D400 p. 13; App 7). Said affirmation was memorialized in the decision of *Cox v. Grady Hotel Investments, LLC*, 605 S.W.3d 575 (Mo. App. W.D. 2020).

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Subsequent to the issuance of the Missouri Western District Court of Appeal's decision, a remand to the Commission was undertaken (D400 p. 13; App 7). On remand, Senior Hearing Officer Eric S. Peterson of the Commission was assigned Grady's appeal and valued the Property at $6,139,505 for tax year 2016. (D400 p. 38; App 32). This valuation undertaken by the Senior Hearing Officer was computed as the purchase price of $8,500,000, less $1,160,495 he attributed to Grady's personal property located on the hotel grounds, further less $1,200,000 which he attributed to "new construction and improvements." (D400 pp. 36-37; App 30-31). In his decision and order, the Senior Hearing Officer quoted, in pertinent part, the following excerpt from Section 137.115.1, RSMo.:

> "The true value in money of any possessory interest in real property in subclass (3), where such real property is on or lies within the ultimate airport boundary as shown by a federal airport layout plan, as defined by 14 CFR 151.5, of a commercial airport having a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise applicable true value in money of any such possessory interest in real property, less the total dollar amount of costs paid by a party, other than the political subdivision, towards any new construction or improvements on such real property completed January 1, 2008, and which are included in the above-mentioned possessory interest, regardless of the year in which such costs were incurred or whether such costs were considered in any prior year." (hereafter referred to as the "Airport Property Provision") (D400 pp. 33-34; App 27-28).

The Senior Hearing Officer further stated he believed that, "Section 137.115.1 therefore requires deducting the 'total dollar amount of costs' paid by Complainant 'towards any new construction or improvements' on the subject property completed after January 1, 2008." (D400 p. 34; App 28). In concluding his valuation, he stated,

"Deducting the $1,200,000 in new construction and improvements as required by Section 137.115.1 yields a January 1, 2016, TVM of $6,139,505." (D400 pp. 36-37; App 30-31).

Both Assessor and then-Intervenor Park Hill School District (hereafter referred to as the "School District") filed an application for review of the Senior Hearing Officer's decision to the Commission. (D400 p. 1). On September 22, 2023, the Commission issued their "Order Affirming Hearing Officer Decision Upon Application for Review" (hereafter referred to as the "Decision and Order"), upholding the valuation assigned by the Senior Hearing Officer to the Property. (D400 p. 11; App 5). Like the Senior Hearing Officer, the Commission cited to the Airport Property Provision in the Decision and Order. (D400 p. 19; App 13). In concluding their upholding of the Senior Hearing Officer's decision, the Commission stated, "The Hearing Officer did not err in finding that Section 137.115.1 applied and that the statute required the $1,200,000 deduction for new construction and improvements made after January 1, 2008, and in concluding the [true value in money] of the subject property was $6,139,505 as of January 1, 2016." (D400 p. 20; App 14).

Subsequent to the Decision and Order, both Assessor and School District filed their *Petition for Review of Decision of the Missouri State Tax Commission* (hereafter referred to as the "Petition") with the Platte County Circuit Court to review said Decision and Order (D370 p. 1). After briefing and oral argument heard on April 4, 2025, the Honorable Megan B. Benton of the Platte County Circuit Court affirmed the Decision and Order of the Commission. (D446 p. 1, A1). This appeal follows.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

POINT RELIED ON I

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS VIOLATED THE DUE PROCESS CLAUSE UNDER ARTICLE I, SECTION 10 OF THE MISSOURI CONSTITUTION BECAUSE THE AIRPORT PROPERTY PROVISION IS VOID FOR VAGUENESS AND ITS UTILIZATION IN VALUING THE PROPERTY LOWERS THE ASSESSED VALUATION THE ASSESSOR HAS LEVIED ON THE PROPERTY

Bd of Education of St. Louis v. State, 47 S.W.3d 366 (Mo. 2001)

Doe v. Dept. of Social Services, 71 S.W.3d 648 (Mo. App. 2002)

Mo. Const. Art. I, Sec. 10

Section 137.115.1, RSMo

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

POINT RELIED ON II

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS GRANTED AN IMPERMISSIBLE EXEMPTION FROM ASSESSMENT TO GRADY'S INTEREST IN THE PROPERTY IN VIOLATION OF ARTICLE X, SECTION 6 OF THE MISSOURI CONSTITUTION IN THAT BY REDUCING THE VALUE PURSUANT TO STATUTE, THE COMMISSION HAS EXEMPTED A PORTION OF THE PROPERTY'S OTHERWISE APPLICABLE TRUE VALUE IN MONEY PURSUANT TO SECTION 137.115.1 RSMo.

Cock v. Stewart, 85 Mo. 575 (1885)

Elk Grove Engineering Co. v. Korzen, 304 N.E.2d 65 (Ill. 1973).

Mo. Const. Art. X, Sec. 6

Section 137.115.1, RSMo.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

POINT RELIED ON III

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS PERFORMED A VALUATION WHICH IS NOT UNIFORM IN COMPARISON TO HOW OTHER PROPERTIES ARE VALUED BY THEIR TRUE VALUE IN MONEY UNDER MISSOURI LAW, IN VIOLATION OF ARTICLE X, SECTION 3 OF THE MISSOURI CONSTITUTION

Cock v. Stewart 85 Mo. 575 (Mo. 1885)

Michael Jaudes Fitness Edge, Inc. v. Dir. of Revenue, 248 S.W.3d 606 (Mo. 2008)

Mo. Const. Art. X, Sec. 3

Section 137.115.1, RSMo.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

POINT RELIED ON IV

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo. TO VALUE THE PROPERTY, THE COMMISSION HAS GRANTED A SPECIAL PRIVILEGE AND IMMUNITY FROM TAXATION TO GRADY'S PROPERTY, IN VIOLATION OF ARTICLE I, SECTION 13 AND ARTICLE III, SECTION 40(28) OF THE MISSOURI CONSTITUTION IN THAT GRADY'S PROPERTY IS REDUCED IN VALUE FROM ITS OTHERWISE APPLICABLE TRUE VALUE IN MONEY ASSIGNED UNDER SECTION 137.115.1, RSMo.

Planned Indus. Expansion Authority of City of St. Louis v. Southwestern Bell Tel. Co., 612 S.W.2d 772 (Mo. 1981)

Mo. Const. Art. I, Sec. 13

Mo. Const. Art. III, Sec. 40(28)

Section 137.115.1, RSMo.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

ARGUMENT - POINT RELIED ON I

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS VIOLATED THE DUE PROCESS CLAUSE UNDER ARTICLE I, SECTION 10 OF THE MISSOURI CONSTITUTION BECAUSE THE AIRPORT PROPERTY PROVISION IS VOID FOR VAGUENESS AND ITS UTILIZATION IN VALUING THE PROPERTY LOWERS THE ASSESSED VALUATION THE ASSESSOR HAS LEVIED ON THE PROPERTY

Overview

The Commission's valuation of the subject Property violates Article I, Section 10 of the Missouri Constitution, in that it alters an assessed valuation placed on the Property by the Assessor and said valuation utilizes the Airport Property Provision, which is void for vagueness on its face and as applied.

Statement of Preservation of Error

Assessor's Petition alleges a due process violation pursuant to Article I, Section 10 of the Missouri Constitution levied by the Commission's Decision and Order in Paragraph 75(d) of such Petition. (D370 p. 12). Additionally, Assessor included such argument in his *Appellant-Assessor's Brief* (D438 p. 5) and *Appellant-Assessor's Reply*

Brief (D444 p. 11), both filed in Platte County Circuit Court Case No. 23AE-CC00292. Such was also argued before the Platte County Circuit Court on April 4, 2025 in said case, as evidenced by the transcript of the oral argument before the Platte County Circuit Court, filed with this Court in this case on August 22, 2025. Hrg. Transcr. 17:5-8.

Additionally, because the Missouri Supreme Court reviews both the decisions of administrative agencies and questions of constitutionality of statutes *de novo*, Assessor properly preserves review by incorporating such argument into this brief.

Standard of Review

The Missouri State Tax Commission is an administrative agency created by the State of Missouri. Section 138.190, RSMo. "In an appeal following judicial review of an agency action by a trial court, [this Court] review[s] the decision of the agency, not the trial court." *Johnson v. March*, 376 S.W.3d 26, 28 (Mo. App. 2012) (quoting *Lajeunesse v. State*, 350 S.W.3d 842, 844 (Mo.App. W.D.2011)). When reviewing an appeal from a decision of an administrative agency like the Commission, "'[t]his court reviews the decision of the [Commission] and not the hearing officer.'" *Cox v. Grady Hotel Invs., LLC*, 605 S.W.3d 575, 580 (Mo. App. 2020) (quoting *Rinehart v. Bateman*, 363 S.W.3d 357, 362–63 (Mo. App. W. D. 2012)). "When an administrative agency decision is based on the agency's interpretation and application of the law, [the court] review[s] the administrative agency's conclusions of law and its decision de novo, and [the court] make[s] corrections to erroneous interpretations of the law." *Rinehart v. Bateman*, 363 S.W.3d 357, 363 (Mo. App. 2012) (citing *Algonquin Golf Club v. State Tax Commission*,

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

220 S.W.3d 415, 418 (Mo. App. E.D. 2007)). "The standard of review for constitutional challenges to a statute is *de novo*." *Phillips v. Edmundson*, 240 S.W.3d 691, 693 (Mo. 2007) (citing *Hodges v. City of St. Louis*, 217 S.W.3d 278, 279 (Mo. banc 2007)).

Pursuant to Section 536 of the Missouri Revised Statutes, this Court, in reviewing a decision of an administrative agency like the Missouri State Tax Commission, may extend its inquiry as to whether the action of the agency: (1) is in violation of constitutional provisions; (2) is unauthorized by law; (3) is arbitrary, capricious or unreasonable; (4) and is unsupported by competent and substantial evidence upon the whole record. Section 536.140.2, RSMo. "The question of whether a statute is constitutional is also reviewed *de novo*." *Johnson v. Springfield Solar 1, LLC*, 648 S.W.3d 101, 103 (Mo. 2022) (citing *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)). "'Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision.'" *Id.* (quoting *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)).

Argument

"'An allegation that a rule or statute is void for vagueness is grounded in the due process clauses of the Fifth and Fourteenth amendments to the U.S. Constitution, and Article I, § 10 of the Missouri Constitution.'" *Psychiatric Healthcare v. Dept. Soc. Serv.*, 100 S.W.3d 891, 903 (Mo. App. 2003) (quoting *Laubinger v. Laubinger*, 5 S.W.3d 166, 173 (Mo. App. 1999)).

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

In the case of *Board of Education of St. Louis v. State*, the Missouri Supreme Court stated, "[t]he standard for determining whether a statute is void for vagueness is whether the terms or words used are of 'common usage and are understandable by persons of ordinary intelligence.'" *Bd of Education of St. Louis v. State*, 47 S.W.3d 366, 369 (Mo. 2001) (quoting *State v. Mahurin*, 799 S.W.2d 840, 842 (Mo. banc 1990)). "'Where, however, the statutory terms are of such uncertain meaning, or so confused that the courts cannot discern with reasonable certainty what is intended, the statute is void.'" *Id.* (quoting *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 36 (Mo. banc 1982)). In this case, the Supreme Court analyzed the election process by which positions to a school board were determined. *Id.* at 368. In finding that the statute governing the election process was constitutionally void for vagueness, the Court stated, "It is clear from the language of the amended statute that section 162.601 phases in a reduction in the number of Board positions from twelve to seven. However, the election process from which individual Board members are to be elected is unclear. While subsection 6 provides that the municipality's board members will be elected to represent seven subdistricts and subsection 3 states three Board members were to be elected during the April 3, 2001 election, it is not stated which three subdistricts were to hold the elections. Without this information the Board could not determine if the potential candidates met the residency requirement in subsection 7." *Id.* at 369-370.

Just as there was no clear election process from which board members were elected in the *Board of Education* case, there is no clear process by which an assessing authority can make a determination of new construction or improvements to be deducted

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

from a possessory interest contained within an airport boundary under Section 137.115.1, RSMo. This leads to arbitrary applications of the statute, in violation of due process. "The void for vagueness doctrine ensures that laws give fair and adequate notice of proscribed conduct and protects against arbitrary and discriminatory enforcement. The test in enforcing the doctrine is whether the language conveys to a person of ordinary intelligence a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices*." Doe v. Dept. of Social Services*, 71 S.W.3d 648, 651 (Mo. App. 2002). Because the terms "new construction and improvements" are not explicitly defined in the Airport Property Provision, this will lead to an arbitrary application of this law to property interests contained within an airport boundary. For instance, there is no specific mention of whether a repair or replacement to property could constitute "new construction" or "improvement." The record is scant, in fact, of any itemization that the Commission utilized when deducting the $1,200,000 from the overall valuation of the subject Property. The hearing officer, upon remand, stated, "Complainant's proposed $6,139,505 value is based on the $8,500,000 purchase price, a deduction for the $1,200,000 in new improvements and construction pursuant to Section 137.115.1 and a $1,160,495 deduction for personal property consistent with Respondent's valuation of personal property at the hotel." (D400 p. 26; App 20). However, what is missing from the hearing officer's decision and Grady's evidence is what exactly was included in this $1,200,000 figure which was deducted from the overall valuation of $8,500,000, which was found to the be the true value in money of Grady's property interest. (D400 p. 37; App 31). The Commission concluded that "Respondent's testimony

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

also concedes Complainant expended at least $1,200,000 in new construction and improvements to the subject property." (D400 p. 30; App 24). However, even if the evidence were to establish that Assessor did, in fact, concede $1,200,000 was made to the Property in new construction and improvements (which is arguable), there is no evidence in the record that Assessor requested this amount be deducted from the property's true value in money, as the Commission has done. Neither is there any evidence in the record of how the Commission determined what was appropriately considered "new construction and improvements" to be deducted from the property's overall true value in money. Neither did Grady provide a specific itemization of deductions for the Commission to consider – rather, $1,200,000 was simply requested by Grady to be deducted by the Commission in new construction and improvements, without citation to any list the Commission could refer to. (D400 p. 26; App 20) ("Complainant deducted from the purported $7,500,000 real property value the land value ($4,000,000) and new construction and improvements ($1,200,000), resulting in a proposed value of $2,300,000.").

Because the provision "new construction and improvements", contained under Section 137.115.1, RSMo. has no specific definition regarding how each of these terms shall be construed by an assessing authority – whether that be an assessor, a local board of equalization or even the Missouri State Tax Commission – there is, in fact, an arbitrary application of this deduction by the Commission in reaching the determined true value in money for the subject property interest. As Missouri case law has made clear, where "'statutory terms are of such uncertain meaning, or so confused that the courts cannot

discern with reasonable certainty what is intended, the statute is void.'" *Bd of Education of St. Louis v. State*, 47 S.W.3d 366, 369 (Mo. 2001) (quoting *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 36 (Mo. banc 1982)). There is no reasonable certainty provided by statute which clearly directs how the deduction for new construction and improvements is to be undertaken. As such, the statute is void for vagueness, as a constitutional matter.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

ARGUMENT - POINT RELIED ON II

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS GRANTED AN IMPERMISSIBLE EXEMPTION FROM ASSESSMENT TO GRADY'S INTEREST IN THE PROPERTY IN VIOLATION OF ARTICLE X, SECTION 6 OF THE MISSOURI CONSTITUTION IN THAT BY REDUCING THE VALUE PURSUANT TO STATUTE, THE COMMISSION HAS EXEMPTED A PORTION OF THE PROPERTY'S OTHERWISE APPLICABLE TRUE VALUE IN MONEY PURSUANT TO SECTION 137.115.1 RSMo.

Overview

The Commission's valuation of the subject Property violates Article X, Section 6 of the Missouri Constitution, in that it deducts $1,200,000 from the Property's valuation by utilizing the Airport Property Provision, and such deduction is not permitted by the permissible exemptions itemized in Article X, Section 6 of the Missouri Constitution.

Statement of Preservation of Error

Assessor's Petition alleges an unauthorized exemption pursuant to Article X, Section 6 of the Missouri Constitution, levied by the Commission's Decision and Order in Paragraph 75(a) of such Petition (D370 p. 12). Additionally, Assessor included such

argument in his *Appellant-Assessor's Brief* (D438 p. 8) and *Appellant-Assessor's Reply Brief* (D444 p. 4), both filed in Platte County Circuit Court Case No. 23AE-CC00292. Such was also argued before the Platte County Circuit Court on April 4, 2025 in said case, as evidenced by the transcript of the oral argument before the Platte County Circuit Court, filed with this Court in this case on August 22, 2025. Hrg. Transcr. 11:23-25.

Additionally, because the Missouri Supreme Court reviews both the decisions of administrative agencies and questions of constitutionality of statutes *de novo*, Assessor properly preserves review by incorporating such argument into this brief.

Standard of Review

The Missouri State Tax Commission is an administrative agency created by the State of Missouri. Section 138.190, RSMo. "In an appeal following judicial review of an agency action by a trial court, [this Court] review[s] the decision of the agency, not the trial court." *Johnson v. March*, 376 S.W.3d 26, 28 (Mo. App. 2012) (quoting *Lajeunesse v. State*, 350 S.W.3d 842, 844 (Mo.App. W.D.2011)). When reviewing an appeal from a decision of an administrative agency like the Commission, "'[t]his court reviews the decision of the [Commission] and not the hearing officer.'" *Cox v. Grady Hotel Invs., LLC*, 605 S.W.3d 575, 580 (Mo. App. 2020) (quoting *Rinehart v. Bateman*, 363 S.W.3d 357, 362–63 (Mo. App. W. D. 2012)). "When an administrative agency decision is based on the agency's interpretation and application of the law, [the court] review[s] the administrative agency's conclusions of law and its decision de novo, and [the court] make[s] corrections to erroneous interpretations of the law." *Rinehart v. Bateman*, 363

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

S.W.3d 357, 363 (Mo. App. 2012) (citing *Algonquin Golf Club v. State Tax Commission*, 220 S.W.3d 415, 418 (Mo. App. E.D. 2007)). "The standard of review for constitutional challenges to a statute is *de novo*." *Phillips v. Edmundson*, 240 S.W.3d 691, 693 (Mo. 2007) (citing *Hodges v. City of St. Louis*, 217 S.W.3d 278, 279 (Mo. banc 2007)).

Pursuant to Section 536 of the Missouri Revised Statutes, this Court, in reviewing a decision of an administrative agency like the Missouri State Tax Commission, may extend its inquiry as to whether the action of the agency: (1) is in violation of constitutional provisions; (2) is unauthorized by law; (3) is arbitrary, capricious or unreasonable; (4) and is unsupported by competent and substantial evidence upon the whole record. Section 536.140.2, RSMo. "The question of whether a statute is constitutional is also reviewed de novo. *Johnson v. Springfield Solar 1, LLC*, 648 S.W.3d 101, 103 (Mo. 2022) (citing *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)). "'Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision.'" *Id.* (quoting *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)).

Argument

a. The Missouri Standard for Exemption

Missouri courts have routinely found that "'[t]he [Missouri] constitution sets out the universe of property exempt from taxation.'" *Johnson v. Springfield Solar* 1, LLC, 648 S.W.3d 101, 103 (Mo. 2022) (quoting *St. Charles Cnty. v. Curators of Univ. of Mo.*, 25 S.W.3d 159, 162 (Mo. banc 2000)). The Missouri Constitution specifically states, "All

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

laws exempting from taxation property other than the property enumerated in this article, shall be void." Mo. Const. Art X, Sec. 6.

An historical analysis of statutes amounting to exemption from taxation was illustrated early in Missouri law, albeit regards in stock certificates. The plaintiff to this action was the collector of taxes for Henry County; the County had subscribed for capital stock in a railroad company, who, in turn, issued bonds to the county. *Cock v. Stewart*, 85 Mo. 575, 576 (1885). Four other individuals, namely P. A. Ladue, R. Allen, and A. C. and J. M. Avery also subscribed for capital stock of the railroad company, and were issued stock certificates. *Id.* Said stockholders asked the collector to have the amount of their tax owed to "pay the above indebtedness of the county endorsed on the back of said certificates, which the collector did . . . ." *Id.* However, when the collector attempted to deposit receipts from the stockholders with the county court, the court refused to allow credit for the taxes assessed. *Id.*

On appeal, the collector based his right to have the receipts credited to him under Section 32 of the Revised Statutes of 1855. *Id.* at 577. The Missouri Supreme Court in referencing Section 32 of the Revised Statutes of 1855, and stated that the statute provided that, "if any taxpayers in any county in which a railroad tax shall be levied shall have subscribed in good faith to the capital stock of any railroad to which said county shall have subscribed, the said taxpayers shall be entitled to a deduction on the amount assessed against them respectively, in proportion to the amounts of their *bona fide* subscriptions until the amount of such credits shall equal the amount of their subscriptions, after which they shall be subject to pay their railroad tax as other persons."

Id. The Court further noted that Section 19 of the then-enacted Revised Statutes of 1865 re-enacted Section 32 of the Revised Statutes of 1855. *Id.* The Court, in concluding that the statute did conflict with the constitutional prohibition against exempting this class of property, stated,

> "If section 19 of the General Statutes of 1865, supra, authorizing individual subscribers to the capital stock of a railroad company to pay the railroad taxes assessed against them, by giving credits upon their stock certificates for the amount, can be upheld as constitutional the judgment must be affirmed. But that section is so manifestly unjust in its operation that we should give the constitution and the act the closest scrutiny before we declare them in harmony with each other. In the first place, the individual subscribers pay for their stock and get their certificates, and are then reimbursed by the county. In other words, the taxes legally assessed against them, they are permitted to pay by crediting the amounts on their stock certificates, until the credits equal the amount subscribed by them respectively. The manifest result is that the other taxpayers refund to them the amounts they have severally paid for their stock. It virtually authorizes one man to subscribe for stock and get a certificate for it for his own benefit, and then compels the balance of the taxpayers to pay him the amount of money he paid for his stock. If a tax to raise $50,000 is levied upon all the taxable property of the county, and the tax upon any portion of that property is not collected in money, but is credited upon stock certificates, so much of that burden is cast upon the balance of the taxable property. It amounts to an exemption of that property from taxation which 'ought to be taxed in proportion to its value.' It was a virtual exemption of that property from taxation, because levying the tax and then in effect giving it to the party against whom it is assessed, is not a compliance with the constitutional provision requiring all property to be taxed in proportion to its value."
> *Id.* at 578–79.

What *Cock v. Stewart* correctly noted was that, if the law operates so as to provide an ability to enter into some kind of transaction (in that case, the purchase of railroad stock) to avoid taxation of property, that law operates in such a manner so as to be exemption from taxation. As applied in the present instance, insofar as Grady possesses the subject hotel Property within the boundaries of the Kansas City International Airport,

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

and then makes “new construction and improvements” to their property interest, they are guaranteed the benefit of a reduction in assessed value, per the directive given in Section 137.115.1, RSMo. This kind of evasion from assessment, in effect, amounts to an allotted exemption, impermissible under Article X, Section 6 of the Missouri Constitution.

b. <u>Other States’ Equating of Reduction in Assessment Arising to Exemption</u>

A crucial point of consideration for this Court is the very nature of a statutory mandate to reduce a property’s assessed value, and whether this amounts to a type of exemption. Courts throughout the United States have considered a reduction in assessed value to be tantamount to a legal property exemption.

In Iowa, a forest reserve exemption was provided for in regard to an assessment issued by the Warren County Assessor’s Office. *Winslow v. Warren Cnty. Bd. of Review*, No. 1-996 / 11-0680, p. 3 (Iowa App. Jan 19, 2012). The Court found, in regard to the property under consideration, that the "total land value had been calculated and the forest reserve exemption deducted, resulting in the $34,500 adjusted land assessed value." *Id.* at 6. So, the deduction of the forest reserve portion of the taxpayer’s property in this case was described by the court as an exemption.

In New York, the New York Supreme Court analyzed administrative code of the City of New York which provided for “an exemption on assessed building valuation, which runs . . . for a period of twelve years, and is computed on the basis of the specific dollar amount the market value of the property increased by virtue of the improvements made." *Prince Wooster Corp. v. Tax Com'n of City of New York*, 453 N.Y.S.2d 547 (N.Y.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Sup. Ct. 1982). The Court stated that, for "the tax year 1979/80 an exemption was granted in the amount of $27,000 for the increase in value in the residential space due to alteration work." *Id.* at 548. Similar to Iowa, the New York Supreme Court described the $27,000 reduction in the taxpayer's property value in this matter as a type of exemption.

Illinois has made it clear for several decades now that a statutorily mandated reduction in assessed value is the same thing as exemption, when the Illinois Supreme Court analyzed then-existing Section 51.1 of the Illinois Revenue Act of 1939. *Elk Grove Engineering Co. v. Korzen*, 304 N.E.2d 65, 66 (Ill. 1973). In this case, the constitutionality of several statutes was questioned by a multitude of plaintiffs. *Id.* at 66-67. The statute that was alleged to amount to an exemption provided that, "Every taxpayer, individual or corporate, shall be allowed a standard deduction not to exceed $5,000 from the assessed valuation of his, her or its personal property, as equalized or assessed by the Department of Local Government Affairs." *Id.* at 67. In concluding that the statute in question was the same as an exemption, the Illinois Supreme Court stated that, "In *Hoffman v. Lehnhausen*, 48 Ill.2d 323, 269 N.E.2d 465, we considered the validity of a statute granting a $1,500 homestead exemption and the argument that it was a 'property valuation reduction' and not a true exemption. We held there that a valuation reduction was an exemption to the extent the assessed value was reduced, and we hold here that the standard deduction provided in section 51.1 is an exemption to the extent that it reduces the assessed valuation of the property to be taxed." *Id.* at 72.

What is clear from a multitude of states is that a legally mandated reduction in assessed value is the same thing as a mandate of exempting property from taxation. There

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

is no significant distinguishing characteristic between the methodology provided for in Section 137.115.1, RSMo. and any of the aforementioned methodologies applied in other states. It follows, therefore, that the Missouri mandate that an assessing authority reduce the true value in money of any possessory interest contained within an airport boundary is the same thing as a statutorily mandated exemption.

As the Missouri Constitution states, "[a]ll laws exempting from taxation property other than the property enumerated in this article, shall be void." Mo. Const. Art X, Sec. 6. The reduction in value which is mandated by Section 137.115.1 to property contained within an airport boundary is not achieved without exempting a special class of property from taxation. The Assessor would further note to this Court that no other statute within Chapter 137 of the Missouri Revised Statutes grants a similar kind of reduction to assessed valuation, based on improvements or construction made to a property. Functionally, Section 137.115.1 is impermissibly adding a class of exempt property that the assessor may not assess, by dictating that any new construction or improvements on real estate, completed after January 1, 2008 within an airport boundary are to be exempted from the assessment rolls.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

ARGUMENT - POINT RELIED ON III

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo., THE COMMISSION HAS PERFORMED A VALUATION WHICH IS NOT UNIFORM IN COMPARISON TO HOW OTHER PROPERTIES ARE VALUED BY THEIR TRUE VALUE IN MONEY UNDER MISSOURI LAW, IN VIOLATION OF ARTICLE X, SECTION 3 OF THE MISSOURI CONSTITUTION

Overview

The Commission's valuation of the subject Property violates Article X, Section 3 of the Missouri Constitution, in that it deducts $1,200,000 from the Property's valuation by utilizing the Airport Property Provision, and such deduction creates a non-uniform assessment, compared to all other properties in this state, which are valued at their true value in money, pursuant to Section 137.115.1, RSMo.

Statement of Preservation of Error

Assessor's Petition alleges a non-uniform assessment in violation of Article X, Section 3 of the Missouri Constitution, levied by the Commission's Decision and Order in Paragraph 75(c) of such Petition (D370 p. 11). Additionally, Assessor included such argument in his *Appellant-Assessor's Brief* (D438 p. 13) and *Appellant-Assessor's Reply*

Brief (D444 p. 1), both filed in Platte County Circuit Court Case No. 23AE-CC00292. Such was also argued before the Platte County Circuit Court on April 4, 2025 in said case, as evidenced by the transcript of the oral argument before the Platte County Circuit Court, filed with this Court in this case on August 22, 2025. Hrg. Transcr. 9:10-18.

Additionally, because the Missouri Supreme Court reviews both the decisions of administrative agencies and questions of constitutionality of statutes *de novo*, Assessor properly preserves review by incorporating such argument into this brief.

Standard of Review

The Missouri State Tax Commission is an administrative agency created by the State of Missouri. Section 138.190, RSMo. "In an appeal following judicial review of an agency action by a trial court, [this Court] review[s] the decision of the agency, not the trial court." *Johnson v. March*, 376 S.W.3d 26, 28 (Mo. App. 2012) (quoting *Lajeunesse v. State*, 350 S.W.3d 842, 844 (Mo.App. W.D.2011)). When reviewing an appeal from a decision of an administrative agency like the Commission, "'[t]his court reviews the decision of the [Commission] and not the hearing officer.'" *Cox v. Grady Hotel Invs., LLC*, 605 S.W.3d 575, 580 (Mo. App. 2020) (quoting *Rinehart v. Bateman*, 363 S.W.3d 357, 362–63 (Mo. App. W. D. 2012)). "When an administrative agency decision is based on the agency's interpretation and application of the law, [the court] review[s] the administrative agency's conclusions of law and its decision de novo, and [the court] make[s] corrections to erroneous interpretations of the law." *Rinehart v. Bateman*, 363 S.W.3d 357, 363 (Mo. App. 2012) (citing *Algonquin Golf Club v. State Tax Commission*,

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

220 S.W.3d 415, 418 (Mo. App. E.D. 2007)). "The standard of review for constitutional challenges to a statute is *de novo*." *Phillips v. Edmundson*, 240 S.W.3d 691, 693 (Mo. 2007) (citing *Hodges v. City of St. Louis*, 217 S.W.3d 278, 279 (Mo. banc 2007)).

Pursuant to Section 536 of the Missouri Revised Statutes, this Court, in reviewing a decision of an administrative agency like the Missouri State Tax Commission, may extend its inquiry as to whether the action of the agency: (1) is in violation of constitutional provisions; (2) is unauthorized by law; (3) is arbitrary, capricious or unreasonable; (4) and is unsupported by competent and substantial evidence upon the whole record. Section 536.140.2, RSMo. "The question of whether a statute is constitutional is also reviewed de novo. *Johnson v. Springfield Solar 1, LLC*, 648 S.W.3d 101, 103 (Mo. 2022) (citing *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)). "'Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision.'" *Id.* (quoting *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)).

Argument

The Uniformity provision of the Missouri Constitution states, "Taxes may be levied and collected for public purposes only, and shall be uniform upon the same class or subclass of subjects within the territorial limits of the authority levying the tax." Mo. Const. art. X, Sec. 3. As the Supreme Court noted, in regards to distinctions between taxpayers, "The uniformity provision does not prohibit all distinctions among taxpayers; it prohibits only distinctions between those in the same class or subclass. *Michael Jaudes*

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Fitness Edge, Inc. v. Dir. of Revenue, 248 S.W.3d 606, 610 (Mo. 2008) (citing *McKinley Iron, Inc. v. Director of Revenue*, 888 S.W.2d 705, 708 (Mo. banc 1994)). "In order to comply with this provision, '[i]t is only necessary that there be a reasonable basis for the ... differentiation and that all persons similarly situated ... be treated alike.'" *Id.* at 611 (quoting *Bopp v. Spainhower*, 519 S.W.2d 281, 289 (Mo. banc 1975)).

The subject Property, operating as a hotel, clearly falls into the commercial class of taxable property, under Section 137.016.1, RSMo. The testimony produced in this case establishes that there are other hotels operating within Platte County, Missouri, which are not contained within the airport boundary, like the subject Property. (D379, p. 9) ("The hotels of the competitive set include the subject property and 4 local competitors. The competitors are all located within five miles of the Kansas City International Airport and are all located approximately 18 to 20 miles north of the Kansas City Central Business District."). There is no reasonable basis to provide Grady with the added benefit of having their property assessment reduced while, in effect, punishing other hotel operator-taxpayers who do not benefit from having their property within an airport boundary, as contemplated by Section 137.115.1, RSMo.

The differentiation can also not be reasonable if the difference results in patent discrimination in tax burden. As *Cock v. Stewart* astutely noted, "If a tax to raise $50,000 is levied upon all the taxable property of the county, and the tax upon any portion of that property is not collected in money, but is credited upon stock certificates, *so much of that burden is cast upon the balance of the taxable property*." *Cock v. Stewart* 85 Mo. 575, 579 (Mo. 1885) (emphasis added). What the Court correctly illustrated is that, if any

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

portion of the taxable property in a given county is given a form of credit or reduction in their assessment burden, it means all the other taxpayers in such assessment jurisdiction pay what is not being paid by the taxpayer fortunate enough to be granted a reduction in his assessment burden. Section 137.115.1's mandate to reduce assessed valuation of any taxpayer fortunate enough to have property within an airport boundary is not a reasonable distinction and results only in disproportionate burden of the overall property tax burden paid by the taxpayers of a given county.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

ARGUMENT - POINT RELIED ON IV

THE COMMISSION'S DECISION AND ORDER RESULTS IN AN UNCONSTITUTIONAL ASSESSMENT OF THE SUBJECT PROPERTY BECAUSE, IN UTILIZING THE AIRPORT PROPERTY PROVISION OF SECTION 137.115.1, RSMo. TO VALUE THE PROPERTY, THE COMMISSION HAS GRANTED A SPECIAL PRIVILEGE AND IMMUNITY FROM TAXATION TO GRADY'S PROPERTY, IN VIOLATION OF ARTICLE I, SECTION 13 AND ARTICLE III, SECTION 40(28) OF THE MISSOURI CONSTITUTION IN THAT GRADY'S PROPERTY IS REDUCED IN VALUE FROM ITS OTHERWISE APPLICABLE TRUE VALUE IN MONEY ASSIGNED UNDER SECTION 137.115.1, RSMo.

Overview

The Commission's valuation of the subject Property violates Articles I, Section 13 and III, Section 40(28) of the Missouri Constitution, in that it deducts $1,200,000 from the Property's valuation by utilizing the Airport Property Provision, and such deduction grants Grady a special privilege and immunity from taxation, compared to all other properties in this state, which are valued at their true value in money, pursuant to Section 137.115.1, RSMo.

Statement of Preservation of Error

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Assessor's Petition alleges a granting of an unconstitutional special privilege in violation of Article I, Section 13 of the Missouri Constitution, levied by the Commission's Decision and Order in Paragraph 75(b) of such Petition. (D370 p. 11). Additionally, Assessor included such argument in his *Appellant-Assessor's Brief* (D438 p. 14) and *Appellant-Assessor's Reply Brief* (D444 p. 7), both filed in Platte County Circuit Court Case No. 23AE-CC00292. Such was also argued before the Platte County Circuit Court on April 4, 2025 in said case, as evidenced by the transcript of the oral argument before the Platte County Circuit Court, filed with this Court in this case on August 22, 2025. Hrg. Transcr. 15:5-15. Assessor also specifically alleged a violation of Article III, Section 40(28) of the Missouri Constitution's prohibition against grants of special privileges by the Commission's Decision and Order in his *Appellant-Assessor's Reply Brief* (D444 p. 7) filed in Platte County Circuit Court Case No. 23AE-CC00292 and during oral argument, as evidenced by the transcript of the oral argument before the Platte County Circuit Court, filed with this Court in this case on August 22, 2025. Hrg. Transcr. 15:5-15. Such provision's violation is also *de facto* alleged in Assessor's Petition, pursuant to paragraphs 74 and 75(b), as each paragraph alleges an illegal special privilege granted by Section 137.115.1, RSMo.'s application in the Commission's Decision and Order. (D370 p. 11).

Additionally, because the Missouri Supreme Court reviews both the decisions of administrative agencies and questions of constitutionality of statutes *de novo*, Assessor properly preserves review of alleged violation of both aforementioned sections of the Missouri Constitution by incorporating such argument into this brief.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Standard of Review

The Missouri State Tax Commission is an administrative agency created by the State of Missouri. Section 138.190, RSMo. "In an appeal following judicial review of an agency action by a trial court, [this Court] review[s] the decision of the agency, not the trial court." *Johnson v. March*, 376 S.W.3d 26, 28 (Mo. App. 2012) (quoting *Lajeunesse v. State*, 350 S.W.3d 842, 844 (Mo.App. W.D.2011)). When reviewing an appeal from a decision of an administrative agency like the Commission, "'[t]his court reviews the decision of the [Commission] and not the hearing officer.'" *Cox v. Grady Hotel Invs., LLC*, 605 S.W.3d 575, 580 (Mo. App. 2020) (quoting *Rinehart v. Bateman*, 363 S.W.3d 357, 362–63 (Mo. App. W. D. 2012)). "When an administrative agency decision is based on the agency's interpretation and application of the law, [the court] review[s] the administrative agency's conclusions of law and its decision de novo, and [the court] make[s] corrections to erroneous interpretations of the law." *Rinehart v. Bateman*, 363 S.W.3d 357, 363 (Mo. App. 2012) (citing *Algonquin Golf Club v. State Tax Commission*, 220 S.W.3d 415, 418 (Mo. App. E.D. 2007)). "The standard of review for constitutional challenges to a statute is *de novo*." *Phillips v. Edmundson*, 240 S.W.3d 691, 693 (Mo. 2007) (citing *Hodges v. City of St. Louis*, 217 S.W.3d 278, 279 (Mo. banc 2007)).

Pursuant to Section 536 of the Missouri Revised Statutes, this Court, in reviewing a decision of an administrative agency like the Missouri State Tax Commission, may extend its inquiry as to whether the action of the agency: (1) is in violation of constitutional provisions; (2) is unauthorized by law; (3) is arbitrary, capricious or

unreasonable; (4) and is unsupported by competent and substantial evidence upon the whole record. Section 536.140.2, RSMo. "The question of whether a statute is constitutional is also reviewed de novo. *Johnson v. Springfield Solar 1, LLC*, 648 S.W.3d 101, 103 (Mo. 2022) (citing *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)). "'Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision.'" *Id.* (quoting *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012)).

Argument

The Missouri Constitution states that, "no ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges or immunities, can be enacted." Mo. Const. Art. I, Sec. 13.

The Missouri Supreme Court has previously analyzed legislation which gives some set of companies a competitive benefit, to the detriment of other companies in *Planned Indus. Expansion Authority of City of St. Louis v. Southwestern Bell Tel. Co*., 612 S.W.2d 772 (Mo. 1981). In this case, Southwestern Bell "had laid underground cables and conduits beneath some or all of the streets and alleys" under the real estate in question in this matter. *Planned Indus. Expansion Authority of City of St. Louis v. Southwestern Bell Tel. Co*., 612 S.W.2d 772, 774 (Mo. 1981). The Planned Industrial Expansion Authority of the City of St. Louis requested Southwestern Bell to remove such property. *Id.* Southwestern Bell refused, citing then-existing Section 392.080 of the Missouri Statutes. *Id.* The City alleged that the statute upon which Southwestern Bell was claiming

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

immunity violated Article I, Section 13 of the Missouri Constitution. *Id.* The Court cited the statute in question as follows:

> "Companies organized under the provisions of sections 392.010 to 392.170, for the purpose of constructing and maintaining telephone or magnetic telegraph lines are authorized to set their poles, piers, abutments, wires, and other fixtures along, across or under any of the public roads, streets and waters of this state, in such manner as not to incommode the public in the use of such roads, streets and waters; provided, any telegraph or telephone company desiring to place their wires, poles, and other fixtures in any city, they shall first obtain consent from said city through the municipal authorities thereof;
>
> (The 1974 amendment added the following language:)
>
> and provided, further, that the acceptance, use, or continued use of this right shall create a real property public easement in the public roads, streets and waters in favor of the accepting telephone or magnetic telegraph company so long as it is used for public utility purposes, subject only to public use and the rights of the cities as set out above, and such easement shall not terminate or be extinguished by any vacation, abandonment or subsequent sale by the state or any agency or commission thereof; however, nothing contained herein shall alter the authority of the state highway commission to require the alteration or removal of such facilities pursuant to section 227.240, RSMo, nor entitle the owner of the facilities to reimbursement for the cost of altering or removing such facilities pursuant to an order of state highway commission under section 227.240, RSMo."
>
> *Id.* at 774-775.

In concluding their analysis of the relevant statute, the Court stated the statute, ". . . by its plain language declares that whatever use an accepting telephone or telegraph company has in public streets or alleys shall not be effected by the vacation of such roadways. In other words, the effect of the amendment is to convert the permissive use . . . into a permanent use. It is this conversion that the City asserts is violative of § 13 of Article I." *Id.* at 776. The Court ultimately found the law to be retrospective in operation, in violation of Article I, Section 13. *Id.*

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Of great import, too, in addition to finding the law retrospective, the Court also stated, "Though not addressed by the parties, it is equally clear that the 1974 amendment is violative of the ban on local or special laws found in Art. III, § 40(28), of the Missouri Constitution. It is well settled in this state that a statute which relates to persons or things as a class is a general law, while a statute which relates to particular persons or things of a class is considered a special law. *Id.* (citing *Collector of Revenue of the City of St. Louis v. Parcels of Land*, 517 S.W.2d 49 (Mo.1974); *State v. Ward*, 328 Mo. 658, 40 S.W.2d 1074 (1931); *Ewing v. Hoblitzelle*, 85 Mo. 64 (1884); *State ex rel. Lionberger v. Tolle*, 71 Mo. 645 (1880)). The Court further found, "While we make no judgment as to the reasonableness of the classification contained in the original portion of the statute, the 1974 amendment *confers a special privilege and benefit* upon telecommunications companies vis-a-vis other utility companies whose customers might be served through the use of public streets and alleys." *Id.* (emphasis added). Ultimately, the Court stated, "There appears to be no reasonable constitutional basis for granting a permanent easement to a telecommunications company while not creating a similar vested easement for electric, water or other utility companies whose services might be provided through underground facilities." *Planned Indus. Expansion Authority of City of St. Louis v. Southwestern Bell Tel. Co.*, 612 S.W.2d 772, 777 (Mo. 1981).

Article III, Section 40, of the Missouri Constitution states, in subsection 28, "The general assembly shall not pass any local or special law . . . granting to any corporation, association or individual any special or exclusive right, privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track." Mo. Const.

Art. III, Sec. 40(28). So, in effect, the Missouri Supreme Court has already found that any law that gives some set of commercial taxpayers a benefit – in this case, telecommunications companies – while, not at the same time giving such special benefit to other, similarly situated companies – like electric or water companies – constitutes a violation against granting special privileges and rights, under Article III, Section 40 of the Missouri Constitution. The plain language of such provision in Article III, Section 40 practically mirrors the language of the prohibitions contained in Article I, Section 13 of the Missouri Constitution, regarding prohibitions against special privileges and immunities. As such, the same conclusion should follow in regard to the privilege which Section 137.115.1 of the Missouri Revised Statutes grants properties within an airport boundary, while not conferring the same benefit to other commercial taxpayers. In effect, both Article I, Section 13's and Article III, Section 40(28)'s prohibitions against grants of special privileges and immunities are violated through the Commission's Decision and Order.

Of significant consideration to this Court's analysis of the effect of the disparate treatment the Airport Property Provision creates is Grady's own expert witness' analysis which was offered for the Commission's consideration. In the appraisal report, prepared and testified to by Mr. Thomas Slack, Grady's own expert stated, "The hotels of the competitive set include the subject property and 4 local competitors. The competitors are all located within five miles of the Kansas City International Airport and are all located approximately 18 to 20 miles north of the Kansas City Central Business District." (D379, p. 9). The fact that the properties who are considered "competitors" to the subject

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

Property are not receiving a similar allowance of valuation reduction pursuant to Missouri law is direct evidence of the special privilege which Grady is granted, to the detriment of their own competitors in the hotel marketplace. In addition to being the only hotel located within the Kansas City International Airport's boundary, they are also the only hotel operator in the "competitive" marketplace that receives a statutorily-mandated reduction to their property's valuation.

CONCLUSION AND REQUEST FOR ORAL ARGUMENT

WHEREFORE because of the aforementioned constitutional violations incurred as a result of the Commission's utilization of the Airport Property Provision in their Decision and Order, Appellant-Assessor respectfully requests this Court to declare such portion of Missouri Statute 137.115.1 unconstitutional under: Article I, Section 13; Article III, Section 40(28); Article X, Section 3; Article I, Section 10; and Article X, Section 6 of the Missouri Constitution and reverse the decision of the Commission and remand this case to the Commission for further proceedings in light of these findings.

Additionally, Appellant-Assessor requests oral argument on all points contained in this brief.

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 15, 2025, a true and correct copy of the above and foregoing was electronically filed with the Clerk of the Court by using the Court's Electronic Filing System, which notifies all counsel of record.

/s/ Stephen E. Magers

Attorney for Appellant-Assessor

Electronically Filed - SUPREME COURT OF MISSOURI - October 15, 2025 - 10:29 AM

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CERTIFICATION OF COUNSEL

The undersigned certifies that:

1. As required by Supreme Court Rule 55.03, the attorney signed the original copy of the attached brief.
2. As required by Supreme Court Rule 84.06(b), this Brief is proportionally spaced and, excluding the cover, Certificate of Service, signature blocks and Certification of Counsel, contains 8,944 words. I relied upon my word processor (Microsoft Office Word 2016) to obtain the word count.
3. An electronic copy has been filed with the Court's e-filing system.

/s/ Stephen E. Magers
Stephen E. Magers, Bar No. 69204
415 Third Street, Room 114
Platte City, MO 64079
(816) 826-1303
Fax (816) 858-3314
stephen.magers@co.platte.mo.us
Attorney for Appellant, David Cox,
Platte County Assessor