IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

STATE OF MISSOURI ex rel. Bailey, et al.,	)	
	)	
Relators/Plaintiffs,	)	
	)	
v.	)	**Case No. 2316-CV33643**
	)	
JACKSON COUNTY, MISSOURI, et al.,	)	
	)	
Respondents/Defendants.	)	

AMICUS BRIEF OF FORT OSAGE R-1 SCHOOL DISTRICT, INDEPENDENCE SCHOOL DISTRICT NO. 30, LEE'S SUMMIT R-7 SCHOOL DISTRICT, AND OAK GROVE R-VI SCHOOL DISTRICT

I. INTRODUCTION AND REASON FOR FILING

On December 19, 2023, the Missouri Supreme Court ordered the Honorable David Chamberlain to dismiss a purported class action lawsuit filed by Jackson County property owners. *State ex rel. Jackson Cnty. v. Chamberlain*, 679 S.W.3d 463 (Mo. 2023). On the day that mandate was handed down, Attorney General Andrew Bailey filed this action, on the same substantive legal grounds rejected in *Chamberlain*, seeking substantially the same, if not more far-sweeping, relief than that sought by the *Chamberlain* plaintiffs and rejected by the Supreme Court. The relief sought in this case directly conflicts with the Supreme Court's mandate in *Chamberlain* and ignoring that mandate would upend the current statutory framework for challenging property tax assessments, collecting taxes, and disbursing those taxes to the taxing jurisdictions that rely on that established process.

The Amici, four impacted public school districts ("School Districts") located in Jackson County, Missouri ("County"), collectively serve, support, and educate approximately 38,500 students. The Amici are:

- Fort Osage R-I School District (“Fort Osage”)—enrollment of approximately 4,685 students.
- The School District of the City of Independence, District No. 30 (“Independence”)—enrollment of approximately 14,200 students.
- Reorganized School District No. 7 of Jackson County (“Lee’s Summit”)—enrollment of approximately 17,810 students
- Oak Grove R-VI School District (“Oak Grove”)—enrollment of approximately 1,861 students.

The School Districts, in serving their communities, students, and employees, increasingly rely on local property taxes to effectuate their mission. The School Districts do not assess property, nor do they collect property taxes, but rely on and are funded by the processes at issue in this case.

The School Districts file this brief to assist the Court in seeing beyond the abstract legal theories the Attorney General pursues, focusing instead on the real-world harms that would be visited upon the School Districts if his legal theories were to be accepted by this Court despite their rejection in *Chamberlain.* The relief sought by the Attorney General would result in catastrophic financial harm to the School Districts and presumably, the other taxing jurisdictions in Jackson County. This is because the School Districts must set their tax rates no later than October 1 to raise the amount of money needed to fund their budgeted revenues, and no more. Once set, those tax rates cannot lawfully be adjusted upward to account for a substantial retroactive reduction in assessed valuations. The Attorney General’s requested relief would force the School Districts to repay tens of millions of dollars in property tax revenues they have already spent to pay teachers, heat buildings, feed students, and buy textbooks, just to name a few expenses. The School Districts budget for the fact that there will be some successful challenges to the County’s

assessments, but not for an illegal rollback of assessments on virtually *every* property in the County.

Among other relief, the Attorney General seeks to roll back the 2023 assessment of every property in the County to their 2021 values. (Third Amended Petition, "Relief," ¶ 3.) If this Court were to grant this relief, the School Districts estimate that they would somehow need to repay the following amounts of 2023 property taxes:

- Fort Osage: $5,958,243
- Independence: $16,083,539
- Lee's Summit: $31,867,939
- Oak Grove: $2,708,338

This amounts to a collective revenue loss of approximately **$56,618,059**. And this is for only four taxing jurisdictions; by extrapolating that impact across every taxing jurisdiction in Jackson County, the Court can begin to understand the catastrophic effect of the Attorney General's proposed relief.

II. AMICI DO NOT OPPOSE REASONABLE CORRECTIVE ACTIONS TO ENSURE THAT THOSE WHO LAWFULLY PERFECTED CHALLENGES TO THEIR APPRAISALS RECEIVE THE PROCESS REQUIRED BY MISSOURI LAW.

The School Districts do not want this brief to be misconstrued as an endorsement of Jackson County's assessment processes. If media reports or the report of the State Auditor are accurate, there were flaws in those processes. To be clear, any property owner who has timely invoked one of the pathways authorized by Missouri law to challenge an assessment should be allowed a meaningful process by which to prosecute that challenge, whether in an appeal to the Board of Equalization, an appeal to the State Tax Commission, or a suit against the County Collector to recover taxes paid under protest. If the Court must fashion equitable relief to ensure

that those pathways remain open and functional, so be it. But what the Court cannot do, as *Chamberlain* made abundantly clear, is reduce the assessment of any property owner who did not timely perfect one of the statutorily prescribed administrative processes.

The School Districts seek only to advise the Court of the devastating impacts they will face if the Court were to disregard *Chamberlain*, and to demonstrate the illegal nature of some of the relief sought by the Attorney General. The School Districts do not oppose meaningful access to the administrative remedies that are available to taxpayers and property owners in Jackson County who timely perfected challenges to their 2023 assessments, nor do the School Districts endorse or vouch for assessment processes outside their control.

III. THE ATTORNEY GENERAL'S SUIT SEEKS ILLEGAL REMEDIES.

While amici do not oppose reasonable corrective action for those who have lawfully perfected challenges to their 2023 reassessment notices, the relief sought by the Attorney General in his Third Amended Petition goes far beyond this and would clearly violate Missouri law as the Missouri Supreme Court just held in *Chamberlain*. As it happens, the Attorney General filed this action on December 19, 2023, the same day the Supreme Court handed down its opinion in *Chamberlain*. The fact that the Supreme Court rejected in *Chamberlain* the precise claims being asserted in this suit should doom any remedies the Attorney General seeks beyond targeted relief to ensure that those who have properly perfected challenges to their 2023 reassessments are allowed to meaningfully contest those reassessments.

Chamberlain was a putative class action based on the same alleged flaws in the County's 2023 reassessment process that are the subject of the Attorney General's suit: the County's failure to notify property owners of increases in their appraised valuations by June 15, 2023, and the County's failure to conduct physical inspections of properties whose values were increased by

more than 15 percent. Compare *Chamberlain*, 679 S.W.3d at 464, with Third Amended Petition, ¶¶ 71, 72, 82.

The Supreme Court held in *Chamberlain* that property owners with these complaints were required to exhaust administrative remedies, either through timely appeals to the Board of Equalization by the July 10, 2023 deadline (for all those who did receive notice of increased assessments by the June 15 deadline), or by appealing directly to the State Tax Commission by December 31, 2023 if the property owner did not receive notice of an increased assessment within 30 days before the deadline to appeal to the Board of Equalization. *Chamberlain*, 679 S.W.3d at 466-67.[1] Thus, the suit challenging assessment increases on these grounds had to be dismissed. *Id.* at 467.

The *Chamberlain* decision, in conjunction with the payment under protest procedure allowed by Mo. Rev. Stat. § 139.031, therefore accounts for *anyone* who wished to challenge their 2023 appraisal for any reason. If someone received their reappraisal notice in time to meet the deadline for appealing to the Board of Equalization, *Chamberlain* held that they were required to take that route, regardless of the reason for challenging the reappraisal, including the failure of the County to conduct a physical inspection. If someone did not receive their reappraisal notice in time

[1] The December 31 deadline for appealing to the State Tax Commission is set by 12 C.S.R. 30-3.010(1)(B)1(a) and is intended to allow for any complaint a property owner has with their assessed value that could not be addressed in an appeal to the Board of Equalization due to a delay in receiving notice of an increased appraisal. The December 31 deadline is important because that is the deadline for paying property taxes in Missouri, so even if a property owner did not receive a notice of reassessment, the regulation presumes that property owners would know that their tax bills had increased and would thus be on notice of a duty to inquire about why their taxes had increased. Moreover, this regulation was first adopted in 1984, so the Supreme Court's decision in *John Calvin Manor, Inc. v. Aylward,* 517 S.W.2d 59 (Mo. 1971), allowing suits for injunctive relief to set aside increases in assessed values where the property owner did not receive notice of the increase, has effectively been superseded by that regulation. The *Chamberlain* court distinguished *John Calvin Manor* based on the regulation. *Chamberlain*, 679 S.W.3d at 466.

to appeal to the Board of Equalization, *Chamberlain* holds that they are required to appeal to the State Tax Commission, where they can assert any grounds for challenging their reappraisal. Missouri law gives taxpayers a third option of paying their taxes under protest by the December 31 deadline for tax payments, and then suing the County Collector in circuit court within 90 days after the payment under protest. Mo. Rev. Stat. § 139.031. This option was not at issue or discussed in *Chamberlain* since the Supreme Court handed down its opinion before that December 31 tax payment deadline.

Moreover, the *Chamberlain* court went out of its way to ensure that any challenges to a reappraisal had to take one of these routes. The Supreme Court expedited the case so that property owners who had not received timely notice of their reassessments could file appeals to the State Tax Commission on or before the December 31 deadline, 679 S.W.3d at 465 n. 6, and prohibited the filing of motions for rehearing so that its December 19 opinion would be final in advance of the December 31 deadline for paying taxes or appealing to the State Tax Commission. 679 S.W.3d at 467 n. 14.

Chamberlain therefore accounted for every possible way in which property owners can challenge appraised values, holding that the multiple paths available to property owners were the *exclusive* means to challenge a reassessment. Implicit in *Chamberlain* is that only those property owners who have timely availed themselves of one of these administrative processes can realize a reduction in their assessed value. *Chamberlain* explicitly rejected an end run around those processes in the form of a civil action such as this.

Despite this stark limit on who can have their assessment reduced, the Attorney General seeks relief that is flatly contrary to *Chamberlain*. Paragraph 1 of the Attorney General's prayer for relief seeks an order "declaring that any increase in assessed valuation of implicated real

properties is void." The Attorney General does not define "implicated properties," but to the extent he seeks relief for property owners who did not timely pursue appeals to the Board of Equalization or the State Tax Commission, or timely pay their taxes under protest, the Court simply has no authority to grant this relief. Nor can he seek this relief for those who have pursued one of the available options for challenging their assessments, because it is plainly barred by *Chamberlain*.

Paragraph 2 of the Attorney General's prayer for relief seeks injunctive relief "against County Defendants collecting and/or levying any real property tax based on an increase in assessed value." This request for relief is patently illegal and overly broad. If a property owner received a timely notice of reassessment and did not perfect a timely challenge to that reassessment through one of the means expressly allowed by state law, the tax assessed by virtue of the reassessment is irrefutably valid. The Attorney General's requested relief would cover someone whose property increased in value by *any* amount, who received a timely notice of reassessment, and who paid their taxes without protest.

Paragraph 3 of the Attorney General's prayer for relief seeks injunctive relief "limiting County Defendants' real property assessed valuations to the values arrived at through the previous assessment." This prayer for relief suffers from the same flaw as the relief sought in Paragraph 2—it would give relief to those who did nothing to challenge their appraisals.

Paragraph 4 seeks an order "limiting the assessed valuation increases of residential real properties to fifteen percent," and Paragraph 5 seeks injunctive relief "limiting assessed valuation increases of residential real properties from the 2023 assessment to no more than fifteen percent." While it is difficult to see how these two requests are different, in both cases, the Attorney General ignores the law. As phrased, the requested relief would not only cover those who did not timely

perfect a challenge to their reassessment, it would cover those as to whom the County Assessor followed the law with respect to physical inspections.

The essence of the Attorney General's suit is a petition for a writ of mandamus, seeking to compel compliance by the County with its statutory obligations in the reassessment process. But in light of *Chamberlain*, it is clearly too late for the Attorney General to use his suit as a means to compel compliance with the reassessment process itself—*Chamberlain* teaches that property owners were required to meet, at the very latest, a December 31 deadline to challenge their 2023 reassessments. At best, the Attorney General's suit can serve as a tool to require the County's Board of Equalization to provide a meaningful appeal process for those who timely appealed their reappraisals to the Board of Equalization. The role of the State Tax Commission in this suit is a mystery, because unless it has issued a valid order for the County to take some action that the County has disregarded, the State Tax Commission cannot evade its responsibility to process appeals properly filed before it just because there are a lot of them—no less than the Board of Equalization can unduly delay the processing of appeals that are properly before it.

All this points out yet another problem with the Attorney General's suit: He has effectively filed a class action on behalf of every property owner in Jackson County, just as the plaintiffs in *Chamberlain* attempted to do. But he does not and could not satisfy Mo. R. Civ. P. 52.08, because the class of plaintiffs the Attorney General purports to represent is overly broad. In *State ex rel. General Credit Acceptance Co. v. Vincent*, 570 S.W.3d 42 (Mo. banc 2019), the Supreme Court prohibited a trial court judge from proceeding with a class action where the class was overly broad. The putative class action claimed that the defendant had violated state law governing the repossession and disposition of collateral; the trial court certified a class consisting of all Missouri residents whose property had been repossessed by the defendant. The Supreme Court held that this

class should not have been certified because it was overly broad, in that 87 percent of the class members' claims were already precluded for one reason or another. *Id.* at 50.

Here, because of *Chamberlain*, anyone who has not timely perfected a challenge to their reassessment through one of the paths available under Missouri law has no claim whatsoever; a "class" consisting of all property owners in the County would be overly broad for the same reason the class in *Vincent* was too broad. Moreover, the only persons who could be in a class of plaintiffs with claims against the County are those property owners who timely perfected appeals to the Board of Equalization. Those who have appealed to the State Tax Commission or those who paid their taxes under protest and timely filed refund petitions have no claims against the County either, since the County has no role in adjudicating their challenges.

IV. THE UNLAWFUL RELIEF SOUGHT BY THE ATTORNEY GENERAL WOULD RESULT IN CATASTROPHIC HARM TO AMICI.

The County provides an annual report to the School Districts showing the assessed value of taxable property within their jurisdictions. The School Districts, since they are located within a charter county, are required to fix their ad valorem tax rates no later than October 1 following a public hearing on the proposed tax rates. Mo. Rev. Stat. § 67.110.1 and .2. The tax rates they set must be calculated to produce substantially the same revenue set in their annual budgets. Mo. Rev. Stat. § 67.110.2; the purpose of this is to prevent tax windfalls resulting from large increases in assessed valuation. See *Lane v. Lensmeyer*, 158 S.W.3d 218, 232 (Mo. banc 2005).

Several school districts within Jackson County reduced their tax rates based on the assessed valuations reported by the County Assessor so that they would not collect more taxes than needed to fund their budgeted revenues. For instance, Lee's Summit rolled back its tax rate by more than 65 cents per $100 of assessed valuation once it received the County's report on the assessed value

of property within the school district, because the collective increase in assessed valuation was significantly greater than the school district's increase in budgeted revenues.

Once approved by their respective boards of education, each School District's tax rate was submitted to the State Auditor pursuant to Mo. Rev. Stat. § 137.073.6(2), who attested to the legality of the tax rates. The County then collected property taxes from the owners of property within each School District based on those approved tax rates. Presumably, every other political subdivision in the County, such as fire departments and libraries, followed this same process, setting their tax rates based on the assessed values reported by the County.

Missouri law provides no mechanism for the School Districts to impose a retroactive increase of these approved tax rates to make up for a substantial retroactive reduction in assessed values. In fact, the "make up" mechanism allowed under state law proves that only those property owners who have timely perfected administrative challenges can see their assessed values reduced. Mo. Rev. Stat. § 137.073.3(2) provides that a political subdivision can revise its tax rate ceiling in later years if it "experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation." (Emphasis added.) Mo. Rev. Stat. §§ 138.430 through .433 deal with appeals to the State Tax Commission from decisions by local boards of equalization, or rare situations where a taxpayer claims that its property is exempt from taxation, in which case the appeal is to the appropriate circuit court from the board of equalization.

As noted earlier, the School Districts have calculated how much they would have to return if the Court were to order the County to revert assessed values to their 2021 or 2022 levels, while applying the 2023 tax rates that the State Auditor has approved. As a microcosm of the impacts

across all Jackson County school districts, the anticipated revenue loss for the four School Districts is $56,618,059.

As required by § 137.073.6(1), Oak Grove reduced its levy $0.4706 based on assessed valuations reported by the County. Oak Grove's anticipated loss if assessed valuation reverted to 2022 numbers would be $2,708,338. Those reductions would impact Oak Grove's general fund, debt service fund, and capital funds. Oak Grove serves 1,861 students and relies on local revenue to operate and educate its students.

Fort Osage serves approximately 4,685 students. Based on the tax rate it set for 2023 based on 2023 assessed valuation, a reversion to 2022 assessed valuation would result in estimated lost revenue of $5,958,243.43. That anticipated loss breaks down as an anticipated loss of $4,907,876.70 for Funds 1 (General Fund) and 2 (Teachers Fund), and an anticipated loss of $1,050,366.83 for Fund 3 (Debt Service). Funds 1 and 2 are commonly referred to together as Operating Funds.

Independence, serving approximately 14,200 students, anticipates a total loss of $16,083,539. That breaks down to an anticipated loss of $13,197,862 for Funds 1 and 2 (Operations Fund), and an anticipated loss of $2,885,677 for Fund 3 (Debt Service).

Lee's Summit, serving approximately 17,810 students, estimates that it would lose $31,867,939 if it had to apply its 2023 tax levy rate to 2021 assessed valuations. Across funds, those breakdown to an anticipated loss of $25,644,641 for Fund 1 (General Fund), $5,885,071 for Fund 3 (Debt Service), and $338,227 for Fund 4 (Capital Fund).

The artificial, across-the-board, reduction in assessed valuation that the Attorney General requests would also adversely affect at least some school districts as well as other political subdivisions in the County in yet another way. Article VI, Section 26(b) of the Missouri

Constitution allows school districts to incur debt (including bond debt) of no more than 15 percent of the value of taxable tangible property within the school district, "as shown by the last completed assessment for state or county purposes." Counties, cities, and other political subdivisions may incur debt of no more than five percent of the value of taxable tangible property within their boundaries. Lee's Summit, for example, calculates that if the Attorney General's request were to be granted, Lee's Summit's bonding capacity would be reduced by approximately $30 million. Growing school districts vitally depend upon their bonding capacity to acquire property and build schools to accommodate that growth.

The School Districts not only serve the children of Jackson County, but they also employ numerous teachers and support staff—they are some of the largest employers in their communities. To address statewide teacher shortages, these districts rely on tax revenues to make the profession attractive and to retain those educators. And due to legislative reductions in state funding, school districts must increasingly rely on local tax efforts to fulfill their core mission of educating Missouri's youth.

Allowing the Attorney General to proceed with the claims that the School Districts have shown to be illegal would subject the School Districts to unprecedented revenue losses and ongoing uncertainty in their budgeting processes and tax collections. The only way the School Districts could hope to recoup the funds they would lose through this suit is to set substantially higher tax rates in the future. But the necessary increases would run headlong into constitutional or statutory limits.

The Court should therefore deny the Attorney General any relief beyond that necessary to allow for meaningful administrative processes. Any order beyond this would conflict with the

statutory scheme set by the Legislature, as affirmed by the Supreme Court on the very same day the Attorney General filed this action.

V. CONCLUSION

The School Districts did not reap a windfall by virtue of significant increases in assessed valuations. State law limits the rate by which they can increase their budgeted revenues, and in no event could they have set a tax rate that would yield revenues in excess of the amounts needed to fund their budgets. So the School Districts rolled back their tax rates and it is now too late for them to change that. Aside from its illegality, the relief that the Attorney General seeks would require the School Districts to issue enormous refunds without the legal means to recoup those losses. And if the School District did have the means to recoup the losses, this raises the larger question of what the Attorney General's suit is meant to accomplish besides attention, since a mechanism for recouping the losses would yield no net benefit to the School Districts' taxpayers.

The Court is duty-bound under *Chamberlain* to stay out of the reassessment process. Missouri law prescribes the limited circumstances in which a circuit court can get involved in assessment disputes, namely when a taxpayer pays taxes under protest, or on review of appeals in which the State Tax Commission's jurisdiction has been properly and timely invoked. This case involves neither scenario.

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically on Case.net, with notice of case activity generated and sent electronically on this ____ day of May 2024, to all counsel of record.

/s/ W. Joseph Hatley_______________________
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