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August 14, 2009

VIA E-MAIL

Grain Valley School District
 31606 NE Pink Hill Road
 Grain Valley, Missouri 64029

Hickman Mills C-1 School District
 9000 Old Santa Fe Road
 Kansas City, Missouri 64138

Lone Jack C-6 School District
 201 West Lone Jack-Lee's Summit Road
 Lone Jack, Missouri

Fort Osage R-1 School District
 2101 North Twyman Road
 Independence, Missouri 64058

Lee's Summit R-7 School District
 301 NE Tudor Road
 Lee's Summit, Missouri 64086

Center School District
 8701 Holmes Road
 Kansas City, Missouri 64131

Re: Blue Springs Reorganized School District No. 4 of Jackson County, et al. v. Jackson County, Missouri, et al.

Gentlemen:

Bad news! Accompanying this letter is the Order we just received from Judge Manners. Unfortunately, as you can see, he ruled against us. He did not reach the merits of our arguments or determine that the assessment was correct. Rather, he ruled the School Districts could not challenge the tax assessment process by declaratory judgment. Judge Manners has left open ruling on defendants' motion to dismiss our claim for mandamus in order to give us an opportunity to respond to that motion. Obviously, we need to determine the merits of going forward on this issue given the time crunch impacting all of you. Thank you for your time and attention.

Grandview C-4 School District
 13015 10th Street
 Grandview, Missouri 64030

Oak Grove R-VI School District
 1305 SE Salem Street
 Oak Grove, Missouri 64075

Blue Springs R-IV School District
 1801 NW Vesper
 Blue Springs, Missouri 64015

Independence School District
 3225 South Noland Road
 Independence, Missouri 64055

Raytown C-2 School District
 6608 Raytown Road
 Raytown, Missouri 64133

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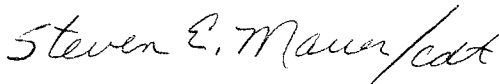
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Bryan Cave LLP

Very truly yours,

A handwritten signature in cursive script that reads "Steven E. Mauer/cdt". The signature is written in black ink and is positioned above the typed name.

Steven E. Mauer

SEM/cdt:965463/0235879
Enclosure

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE**

**BLUE SPRINGS REORGANIZED SCHOOL
DISTRICT NO. 4 OF JACKSON COUNTY,
MISSOURI, et al.,**

CASE NO. 0916-CV24152

PLAINTIFFS,

V.

DIVISION 2

JACKSON COUNTY, MISSOURI, et al.,

DEFENDANTS.

ORDER

On August 13, 2009, the Court heard argument and evidence on Plaintiffs' Motion for Temporary Restraining Order ("TRO"). The Court also heard argument on Defendants' Motion to Dismiss insofar as it questioned the Court's subject matter jurisdiction.

Before January of this year Defendants' claim that a failure to exhaust administrative remedies deprives this Court of subject matter jurisdiction might have been well-founded. However, in J.C.W. ex rel. Webb v. Wyciskalla, 275 S.W.3d 249 (Mo. 2009), the Supreme Court clarified the law of subject matter jurisdiction in this state. Subject matter jurisdiction is established solely by Article V, §14 of the Missouri Constitution, which vests subject matter jurisdiction in Circuit Courts to hear all civil and criminal cases. Since the case at bar is a civil case, it follows that this Court has subject matter jurisdiction, Webb, 275 S.W.3d at 254. Accordingly, the motion to dismiss for lack of subject matter jurisdiction must be DENIED.

The Court will turn to Plaintiffs' Motion for TRO. Plaintiffs argue that the County's assessment process is skewed so as to undervalue real property in their respective school districts. They argue that this process was exacerbated by an arbitrary and capricious reduction in assessed value in 2009 that will cost Plaintiffs over \$35 million in tax revenues this year and irreparably damage the quality of education provided by Plaintiffs. Defendants argue that their assessment process comports with generally accepted assessment practices. They aver that the reduction in assessed value accurately reflects the decline in the housing market that has been going on for the last two years.

The Court cannot reach the merit of these arguments without determining the preliminary question of whether Plaintiffs have standing to present their claims for injunctive relief.

In order to prevail on their Motion for Temporary Injunction, Plaintiffs must demonstrate, among other things, the likelihood of their success on the merits of their case, State ex rel. Director of Revenue v. Gabbert, 925 S.W.2d 838, 839 (Mo. 1996). The Court finds that a determination of the standing issue is integral to the question of the likelihood that Plaintiffs' claims will succeed on their merits.

"Standing is the requisite interest that a person must have in a controversy before the court. [Citation omitted.] Standing requires that a party seeking relief have a legally cognizable interest in the subject matter" Cook v. Cook, 143 S.W.3d 709, 711 (Mo. App. 2004). "Persons seeking relief have no right to do so in the absence of standing." Conseco Finance Servicing Corp. v. Missouri Dept. of Revenue, 98 S.W. 3d 540, 544 (Mo. 2003). If a party lacks standing, the court must dismiss the case, Farmer v. Kinder, 89 S.W.3d 447, 451 (Mo. 2002).

Do the Plaintiffs have standing to sue to attack the method used by Defendants in assessing the value of real property in Jackson County? That issue is resolved by State ex rel. St. Francois County School District R-III v. Lalumondier, 518 S.W.2d 638 (Mo. 1975). In that case a school district sued the County Board of Equalization, claiming that the County grossly undervalued real estate, such that it negatively affected the tax revenues realized by the school district. In ruling on whether the district had standing, the Missouri Supreme Court described the issue as "whether in a suit of this nature a school district may obtain a review of a decision of the county board of equalization which failed to increase an alleged underassessment of the real estate of a taxpayer." 518 S.W.2d at 640. In that connection the Court noted that the District had no right to appeal the assessment by the county to the State Tax Commission pursuant to § 138.430 because that statute limited the right of appeal to *property owners* who sought to correct the assessment of their properties: "We have the view that if the General Assembly had intended to provide a review of alleged underassessments at the request of a governmental subdivision, it would have so provided in § 138.430(2) which provides for an appeal by property owners." 518 S.W.2d at 643.

The Court also noted that most states have recognized "that in the absence of express statutory authorization no appeal *or other review* is provided for political subdivisions of the state in regard to alleged underassessments." (Emphasis added.) 518 S.W.2d at 642. The Court cited with approval Chicago R.I & G.R. Co. v. State, 241 S.W. 255 (Tex.Civ.App. 1922), for the proposition that political subdivisions could not go to court to question assessments in the absence of a statute permitting such review, 518 S.W. 2d at 642. The Court also referred to its earlier opinion in In re St. Joseph Lead Company, 352 S.W. 2d 656, 659 (Mo. 1961), where it held that the legislature could, if it chose to do so, deny political subdivisions the right to judicial review of tax assessments, 518 S.W.2d at 640 – 641. The Court concluded as follows:

We recognize that [the School District] has a vital interest in the assessment valuation of property located in its district. In the situation presented it may be that the legislature should review the matter and give consideration to an appropriate amendment of [§138.430]. *Until appeal or other review procedure is provided, however, we must rule that school districts do not have standing to obtain a review of alleged underassessment of property by the county board.*

(Emphasis added.) 518 S.W.2d at 643.

Under the law this Court is required to follow binding precedents of the Missouri Supreme Court. This Court believes that Lalumondier determines that school districts do not have standing to seek relief in court from alleged underassessment of property by counties, the gravamen of what Plaintiffs claim in this case.

Plaintiffs cite two cases to support their claim that they do have standing: Ste. Genevieve School District v. Board of Aldermen of the City of St. Genevieve, 66 S.W. 3d 6 (Mo. 2002), and State ex rel. School District of Independence v. Jones, 653 S.W. 2d 178 (Mo. 1983). Neither case involved an attempt to question the assessment of real estate in a school district. Ste. Genevieve did not discuss Lalumondier at all. School District of Independence did discuss it, but the Supreme Court distinguished Lalumondier precisely because it involved an attempted attack on assessment:

In Lalumondier, we examined the comprehensive statutory scheme for assessment of property values for property tax purposes. From this statutory scheme, especially the express provision for judicial review at the request of affected property owners but not interested school districts, we inferred a legislative intent to preclude relator school district from obtaining judicial review of alleged underassessments of private property by the county board of equalization. Plaintiffs, here, however, do not challenge the assessment or taxing practices in any county or dispute the interpretation of any tax statute. This is a contest between competing school district and state authorities as to the proportion of future state school funds such districts are legally entitled to receive. As such, it involves the school fund apportionment statutes, not the property tax scheme. In the school fund apportionment statutes, we discern no legislative intent to bar school districts in plaintiffs' situation from their common law and equitable remedies.

653 S.W. 2d at 188–189. Significantly, the Supreme Court recognized that Lalumondier's holding would bar a school district from using common law remedies to challenge assessment of real estate values, 653 S.W.2d at 188 n.9.

Based on Lalumondier this Court finds that Plaintiffs' Motion for Temporary Restraining Order must be DENIED.

A different rule may apply to Plaintiffs' request for a writ of mandamus. In State ex rel. City of Cabool v. Texas County Board of Equalization, 850 S.W.2d 102 (Mo. 1993), the Supreme Court recognized a narrow exception to the rule in Lalumondier where a political subdivision seeks mandamus. Although the Defendants have filed a Motion to Dismiss Plaintiffs' claim for mandamus, that Motion is not ripe, and the Court will defer ruling on Defendant's Motion until Plaintiffs have had the opportunity to respond to it.

IT IS SO ORDERED.

Dated this 14th day of August, 2009.



MICHAEL W. MANNERS, Judge

I hereby certify that copies of the foregoing were duly mailed/faxed on this 14th day of August, 2009, to:

Steven Mauer, Attorney for Plaintiff
Mark Jones, Attorney for Defendant

D. Walker, Judicial Administrative Assistant