
Rules of
Department of Revenue
Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and Appeals
From Local Boards of Equalization

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Title 12—DEPARTMENT OF REVENUE

**Division 30—State Tax Commission
Chapter 3—Local Assessment of Property and Appeals From Local Boards of Equalization**

12 CSR 30-3.001 Two-Year Assessment Cycle

PURPOSE: This rule establishes the method assessors shall use to determine assessed value of real property under the two-year assessment cycle.

(1) The assessed value of real property shall be calculated by determining its true value in money on January 1 of each odd-numbered year. The value shall remain the same for the subsequent even-numbered year unless there has been new construction or property improvements between January 1 of the odd-numbered year and January 1 of the following even-numbered year.

(2) In those instances in which new construction or property improvements have occurred between January 1 of an odd-numbered year and January 1 of an even-numbered year, the true value in money of the property as newly constructed or improved shall be determined as of January 1 of the odd-numbered year.

(A) The valuation of the property shall take into consideration the new construction or property improvements and shall assign to that new construction or property improvements the value which would have been attributed to new construction or improvements on January 1 of the odd-numbered year as though they had existed on that date.

(B) Examples.

1. On January 1, 1991, the subject property is a five (5)-acre vacant lot. On December 1, 1991, construction of a strip shopping center is completed. For the 1992 tax year, the assessed value is calculated by determining the true value in money of a shopping center of the same size, construction, location and use as the subject property as of January 1, 1991, and multiplying that amount by the appropriate statutory assessed value percentage.

2. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet. On August 1, 1991, the addition of a second story and seven hundred (700) square feet is completed. For the 1992 tax year, the assessed value is calculated by determining the true value in money of a two (2)-story,

two-thousand (2000) square foot residence of the same construction and location as the subject as of January 1, 1991, and multiplying that amount by the appropriate statutory assessed value percentage.

(3) A property improvement consists of any change to the physical characteristics of the property, whether that change is one that causes an increase or a reduction in value. Changes in zoning, neighborhood conditions or economic conditions which directly or indirectly affect the property will not warrant a change in the assessed value for the even-numbered year.

(A) Examples.

1. Assuming value is affected, a change in the assessed value for the 1992 tax year is warranted (see paragraph (2)(B)2.)

2. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet. On December 1, 1991, the house burns to the ground. A change in the assessed value for the 1992 tax year is warranted.

3. On January 1, 1991, the subject property is a five (5)-acre vacant lot zoned agricultural. On December 1, 1991, the property is rezoned commercial. No new construction is added to the property. A change in the assessed value for the 1992 tax year is not warranted.

4. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house located on ten (10) acres of land in the rural area of the county. On December 1, 1991, the county began operation of a landfill on property adjacent to the subject property. The location and operation of the landfill negatively affect the value of the subject property. A change in the value for the 1992 tax year is not warranted.

5. On January 1, 1991, the subject property is a three (3)-bedroom ranch style house with thirteen hundred (1300) square feet which is twenty (20) years old. On January 1, 1992, the subject property is twenty-one (21) years old. It is generally recognized in the appraisal of property that as property ages it physically deteriorates and it may be necessary to make a deduction for physical depreciation under the cost approach for value. A change in value for the 1992 tax year is not warranted.

(4) The examples used in this rule are by way of illustration only and not to be deemed to be the only instances to which this rule applies.

Auth: sections 137.115, RSMo (Cum.

*Supp. 1992) and 138.320, RSMo (1986). * Original rule filed May 14, 1991, effective Oct. 31, 1991.*

**Original authority: 137.115, RSMo (1939), amended 1945, 1951, 1959, 1972, 1973, 1981, 1983, 1985, 1985, 1986, 1987, 1989, 1990, 1991, 1992 and 138.320, RSMo (1939), amended 1945.*

12 CSR 30-3.005 Appeals of the Assessment of Real Property to the Local Board of Equalization Under the Two-Year Assessed Value Cycle

PURPOSE: This rule establishes how appeals of the assessment of real property to the local boards of equalization are to be accomplished under the two-year assessed value cycle and to ensure that the commission's authority to render decisions and orders in appeals from local boards of equalization is not compromised at the local level.

(1) Appeals to the Local Board of Equalization in Odd-Numbered Years. Appeals to the local board of equalization in odd-numbered years from assessment placed on real property by the county assessor shall be made by the aggrieved taxpayer in the manner required by law.

(2) Appeals to the Local Board of Equalization in Even-Numbered Years.

(A) If a taxpayer did not file an appeal of an assessment of real property from the local board of equalization to the State Tax Commission in the odd-numbered year, the appeal to the local board of equalization in the even-numbered year shall be made by the aggrieved taxpayer in the manner required by law.

(B) If a taxpayer did file an appeal of an assessment of real property from the local board of equalization to the State Tax Commission in the odd-numbered year, the local board of equalization shall accept as duly filed appeal of the assessment in the even-numbered year, a notice from the State Tax Commission to the county clerk that an appeal of the odd-numbered year's assessment is presently pending before the State Tax Commission. This notice shall constitute the filing of an appeal in writing to the local board of equalization on behalf of the taxpayer. The local board of equalization shall hear and decide an appeal in the same manner it



would hear and decide other appeals to it. The notice filed by the State Tax Commission on behalf of the taxpayer shall be filed before April 1 of the even-numbered year.

(3) Nothing in this rule shall prevent a taxpayer from filing an appeal of the assessment of real property on his/her own behalf in the even-numbered year from dismissing an appeal before the local board of equalization filed on his/her behalf by the State Tax Commission, or from appearing and presenting evidence at a hearing on his/her appeal at the local board of equalization.

*Auth: section 137.115.1., 138.060.1., 138.431.3. RSMo (Cum. Supp. 1992) and 137.275 and 137.385, RSMo (1986). * Original rule filed May 14, 1991, effective Oct. 31, 1991.*

**Original authority: 137.115.1. RSMo (1939), amended 1945, 1951, 1959, 1972, 1973, 1981, 1983, 1985, 1985, 1986, 1987, 1989, 1990, 1991, 1992 and 137.275, RSMo (1939), amended 1945; 137.385, RSMo (1945); 138.060.1., RSMo (1939), amended 1945, 1992; and 138.431.3., RSMo (1983), amended 1986, 1992.*

12 CSR 30-3.010 Appeals From the Local Board of Equalization

PURPOSE: This rule informs the local taxpayer of his/her right to protest by complaint or appeal an assessed value which s/he feels is unlawful, unfair, improper, arbitrary or capricious and the procedure for filing these complaints or appeals.

(1) Every owner of real property or tangible personal property shall have the right to appeal from the decision of the local board of equalization, upon compliance with the following rules:

(A) This appeal shall be initiated by filing a complaint on forms prescribed by this commission and directed to the State Tax Commission. No complaint will be accepted unless on forms prescribed by this commission; provided, that any complainant may attach to commission forms any additional written pleading deemed appropriate by complainant. The complaint shall specify the name of the complainant; the business address of the complainant or an attorney to whom notice of hearing may be mailed; the legal description of the real property or the complete description of the tangible personal

property at issue; a brief statement of the grounds upon which the assessment of the property is claimed to be unlawful, unfair, improper, arbitrary or capricious; a statement that the complainant had appealed to the proper local board of equalization; a statement of the relief to which complainant may feel entitled; if required under 12 CSR 30-3.025(3), a verified statement which states facts tending to demonstrate that the commission should reconsider the appropriateness of the value in the even-numbered year; and other information as shall be requested upon the commission forms;

(B) A complaint appealing a property assessment in counties of the first class, counties of charter government and the City of St. Louis shall be filed not later than August 15 or within thirty (30) days of the decision of the board of equalization, whichever is later. In all other counties, the complaint shall be filed not later than September 30 or within thirty (30) days of the decision of the board of equalization, whichever is later;

(C) Any complaint shall be served upon the State Tax Commission personally to any commissioner or to the administrative secretary of the commission, by registered mail addressed to the State Tax Commission in Jefferson City; by regular mail addressed to the State Tax Commission in Jefferson City or by facsimile transmission sent to the State Tax Commission in Jefferson City.

1. If personal service is made, it may be proven by the affidavit of any person competent to testify, or by the official certificate of any officer authorized under the laws of Missouri to execute process. In determining whether complaints personally served are filed within the time prescribed by law, the date on which personal service is obtained shall be deemed to be the date the complaint is filed with the commission.

2. In determining whether complaints are filed within the time prescribed by law, the complaints may be transmitted to the commission by registered or certified mail. Complaints filed by registered or certified mail shall be deemed filed with the commission as of the date deposited with the United States Postal Service as shown by the record of the mailing. Except for metered mail, mail shall be deemed filed with the commission as of the post office cancellation date (postmark date). Complaints filed by metered mail shall be deemed filed on the date of post office cancellation; or the date the commission receives the complaints if there is no dated post office cancellation.

3. In determining whether complaints filed by facsimile transmission are filed within the time prescribed by law, complaints so filed shall be deemed filed with the commission as of the date the facsimile transmission is received by the commission. A complaint filed by facsimile transmission shall have the same effect as the filing of an original document and a facsimile signature shall have the same effect as an original signature, subject to the requirement of the subsequent filing of the original complaint. The person filing a complaint by facsimile transmission shall cause the signed original of the complaint to be filed with the commission within the later of seven (7) days of the filing of the complaint by facsimile transmission or the time otherwise allowed by law for the filing of an appeal. Failure of a party to file the signed original as required under this rule shall be deemed a withdrawal of the complaint filed by facsimile transmission;

(D) Two (2) copies of the complaint shall be filed with the commission, one (1) copy of which will be forwarded to the assessor with notice of institution of the proceedings to review assessment; and

(E) The State Tax Commission, upon the filing of the complaint, shall set the matter for hearing at the office of the county court at the county seat, or at another place in the county of assessment, as the commission considers convenient, and notice of the hearing shall be given in the manner provided by law.

(2) On any appeal taken to the commission from the local board of equalization, a natural person may represent him/herself in the proceedings before the commission. The county assessor, but not a deputy, may represent his/her office in such proceedings. All others must appear through an attorney licensed to practice law in Missouri or in another jurisdiction.

(A) Any person who signs a pleading or brief, or who enters an appearance at a hearing for an entity or another person, by an act expressly represents that s/he is authorized to so act and that s/he is a licensed attorney at law in this state or his/her state of residence.

(B) Any attorney, not licensed in this state but who is a member in good standing of the bar of any court of record, may be permitted to appear and participate in a particular case before the commission under the following conditions: The visiting attorney shall file with his/her initial pleading a statement identifying each court of which s/he is a member of the bar and certifying that neither s/he nor

any member of his/her firm is disqualified from appearing in any such court. Also, the statement shall designate some member of the Missouri Bar having an office in Missouri as associate counsel. This designated attorney shall enter his/her appearance as an attorney of record.

(3) When a lawyer is a witness for his/her client, except as to merely formal matters, s/he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying before this commission in behalf of his/her client.

(4) The commission shall make arrangements to have all hearings in appeals from the local boards of equalization suitably recorded and preserved.

(5) The fundamental rules of evidence will apply at hearings before the commission.

*Auth section 138.430, RSMo (1994). * This rule previously was filed as 12 CSR 30.2.030. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Rescinded and readopted: Filed May 14, 1991, effective Oct. 31, 1991. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.*

**Original authority 1939, amended 1945, 1947, 1978, 1983, 1989.*

12 CSR 30-3.015 Orders of the Commission Under the Two-Year Assessed Value Cycle

PURPOSE: This rule establishes the procedure for implementing commission decisions under the two-year assessed value cycle for real property.

(1) In an appeal to the commission from the local board of equalization, the decision and order issued by the commission shall set the assessed value of the real property which is the subject of the appeal for both the first year of the two (2)-year cycle (odd-numbered year) and the second year of the two (2)-year cycle (even-numbered year), unless one (1) of the following conditions are met:

(A) The taxpayer did not file an appeal of his/her assessment to the commission in the odd-numbered year; or

(B) At the hearing before the commission

or one (1) of its hearing officers on the appeal of the odd-numbered year's assessment, the assessor or the taxpayer presents evidence which shows that there has been new construction or property improvements to the subject property as defined in 12 CSR 30-3.001 during the odd-numbered year.

(2) A decision and order issued by the commission which sets the assessed value of a property for both years of the two (2)-year cycle shall be implemented for the even-numbered year as follows:

(A) If the decision and order is issued and becomes final prior to the assessor returning the assessor's book for the even-numbered year to the county governing body, the assessor shall enter the assessed value as determined by the commission into the assessor's book;

(B) If the decision and order is issued and becomes final after the assessor returns the assessor's book for the even-numbered year to the county governing body but before the local board of equalization issues a decision on an appeal of the assessment to it in the even-numbered year, the local board of equalization shall issue its decision based on the assessed value as determined by the commission; and

(C) If the decision and order is issued and becomes final after the local board of equalization issues a decision on an appeal of an assessment to it in the even-numbered year, if the assessed value is changed by the commission, the county clerk shall enter the assessed value as determined by the commission in the supplemental tax book of the county for the even-numbered year.

Auth: sections 137.115.1. and 138.431.3., RSMo (Cum. Supp. 1992). Original rule filed May 14, 1991, effective Oct. 31, 1991.

**Original authority: 137.115.1., RSMo (1939), amended 1945, 1951, 1959, 1972, 1973, 1981, 1983, 1985, 1985, 1986, 1987, 1989, 1990, 1991, 1992 and 138.431.3., RSMo (1983), 1986, 1992.*

12 CSR 30-3.020 Intervention

PURPOSE: This rule distinguishes between the right to be heard and the right to intervene in contested cases before the commission and the procedure for intervening.

(1) All persons affected or liable to be affect-

ed by review by the commission of any assessment, whether or not they are made parties to the appeal by intervention, may appear and be heard at any evidentiary hearing of an appeal as provided by section 138.470(1), RSMo. However, nonparties are not entitled to notice of hearings and decisions, except as provided generally by section 610.020, RSMo, unless they are made designated persons by the complainants as provided by section 536.067(3), RSMo. Nonparties are not entitled to take depositions, nor entitled to the issuance of subpoenas.

(2) Any person may apply for leave to intervene in any contested case before the commission by serving a motion for leave to intervene upon all then existing parties and upon the commission. The motion shall state the grounds for it and whether the applicant is seeking to intervene on behalf of the complainant or the respondent. The motion shall be filed within thirty (30) days of the time of the notice of institution of the case. Oral argument will be scheduled by the commission on the motion only if there is a written objection to the intervention filed by any party not later than fifteen (15) days after the filing of the motion to intervene. Upon its own motion, the commission, in any case, may order that oral argument be had on the issue of the proposed intervention. A separate motion must be filed for each contested case in which an applicant seeks to intervene.

(3) An applicant may be granted permission to become an intervenor based upon a balancing of the nature and the extent of the interest of all of the complainants, respondents, intervenors and applicants in the appeal. For example, in the case of an appeal filed pursuant to section 138.430, RSMo, the commission may grant an applicant the status of intervenor based upon the following five (5) interests if they are found to weigh in balance in favor of the applicant:

(A) Substantially all of the applicant's operating revenues are derived from *ad valorem* tax revenues;

(B) If the decreases in assessed valuation paid by the complainants and against which the tax rate established by the applicant will be applied are granted by the commission, then decreases in assessed valuation will reduce the tax revenues available for distribution to the applicant;

(C) A reduction in the tax revenues will have a direct and immediate impact upon the applicant;

(D) The respondent, an existing party, may

not adequately represent the interests of the applicant; and

(E) The complainants will not be prejudiced by intervention nor will they be precluded from protecting or asserting their interest in decreases in assessed valuation.

(4) For the purpose of this rule, person is defined as provided by section 1.020, RSMo.

Auth: sections 138.430 and 536.063(1), RSMo (1986) and Article X, section 14, Mo. Const. 1945. This rule was previously filed as 12 CSR 30-2.050. Original rule filed Dec. 13, 1983, effective March 12, 1984.*

**Original authority: 138.430, RSMo (1939), amended 1945, 1947, 1978, 1983, 1989 and 536.063, RSMo (1957).*

State ex rel. Brentwood School District v. State Tax Commission 588 SW2d 613 (Mo. banc 1979). State Tax Commission rule on intervention cannot violate school district's due process rights, since the district is not a "person" within the contemplation of the due process clause and so has no such rights.

12 CSR 30-3.025 Collateral Estoppel

PURPOSE: This rule explains when a taxpayer may ask the commission to review a local assessment of real property.

(1) For the purpose of appeal under 12 CSR 30-3.010, each year's tax assessment shall constitute a separate cause of action which the taxpayer may appeal. The value of the subject property will be determined by the method set out in 12 CSR 30-3.001.

(2) Except as set in section (3), the taxpayer shall be allowed to litigate the issue of the assessed valuation of the subject property only once in each two (2)-year assessment cycle established by section 137.115, RSMo. The assessed value established by the commission for the odd-numbered year also shall be the assessed value for the following even-numbered year.

(A) The commission shall determine the appropriate assessed value of the subject property based on economic conditions present in the market on January 1 of the odd-numbered year and shall resolve all issues presented in the appeal for the odd-numbered year.

(B) Except in those instances in section (3)

when the taxpayer is allowed to litigate the issue of assessed value in the even-numbered year, the commission shall rule summarily on the appeal filed for the even-numbered year using the assessed value so established for the previous odd-numbered year.

(3) The taxpayer may be allowed to litigate the issue of assessed valuation of the subject property more than once in each two (2)-year assessment cycle if a verified statement filed with his/her appeal states facts which demonstrate that the commission should reconsider the appropriateness of the valuation. Facts which demonstrate that the appropriateness of the valuation should be reconsidered are—

(A) When the assessor or board of equalization should have decreased the assessed value of the subject property for January 1 of the even-numbered year in the two (2)-year assessment cycle pursuant to 12 CSR 30-3.001, but failed to do so; or

(B) When the assessor or board of equalization raises the assessed value of the subject property for January 1 of the even-numbered year in the two (2)-year assessment cycle pursuant to 12 CSR 30-3.001.

(4) A taxpayer who fails to appeal the assessed value in the odd-numbered year does not waive his/her right to appeal the assessed value in the even-numbered year. Any decision on the appeal of the assessment for the even-numbered year shall affect only the even-numbered year's assessment.

Auth: sections 137.115, 138.431, RSMo (Cum. Supp. 1992), 138.320, 138.432, RSMo (1986) and 138.430, RSMo (Cum. Supp. 1989). Original rule filed May 14, 1991, effective Oct. 31, 1991.*

**Original authority: 137.115, RSMo (1939), amended 1945, 1951, 1959, 1972, 1973, 1981, 1983, 1985, 1986, 1987, 1989, 1990, 1991, 1992; 138.320, RSMo (1939), amended 1945; 138.430, RSMo (1939), amended 1945, 1947, 1978, 1983, 1989; 138.431, RSMo (1983), amended 1986, 1992; and 138.432, RSMo (1983).*

12 CSR 30-3.040 Subpoenas and Discovery

PURPOSE: This rule establishes the methods to be used by a party to a proceeding before the commission to obtain discovery and subpoenas, and the commission's authority to enforce such discovery and subpoenas.

(1) Requests for subpoenas shall be in writing, state the caption of the case and the party requesting the subpoena shall provide for service upon the witness no less than seven (7) days before the date of the deposition or hearing, unless extraordinary circumstances dictate a shorter time.

(2) In addition to section (1), a subpoena *duces tecum* specifically shall name the person to testify, state with particularity the exact records, documents or parts of documents to be produced and state the reasons the production of those documents is believed to be material and relevant to the proceedings.

(3) Subpoenas shall be signed and issued by a commissioner or by the secretary of the commission. Subpoenas *duces tecum* shall be issued by the commission or by a commissioner.

(4) The scope and service of all subpoenas and the recompense of witnesses shall be as provided by section 138.360, RSMo.

(5) Subpoenas of the commission shall be enforced as provided by section 536.077, RSMo.

(6) Parties may obtain all available discovery in the same manner as the Missouri Supreme Court rules provide for civil actions in circuit court. The commission may, by order, enforce discovery for cause shown by the same methods, terms and conditions as provided by the Missouri Supreme Court rule in civil actions in the circuit court, except as may otherwise be required by law.

(7) No party shall serve on any other party more than twenty (20) interrogatories in the aggregate without leave of the commission or hearing officer or consent of opposing counsel. Subparagraphs of any interrogatory shall relate directly to the subject matter of the interrogatory and shall not exceed two (2) in number. Any party desiring to serve additional interrogatories shall first communicate in writing with opposing counsel concerning the matter. If the parties do not reach an agreement as a result of such communication, a party may file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for the additional interrogatories. A copy of the written communication to opposing counsel shall be attached to the motion.

Auth: sections 138.360, 138.430,

536.073 and 536.077, RSMo (1994)* and Article X, section 14, Mo. Const. 1945. This rule was previously filed as 12 CSR 30-2.060 and 12 CSR 30-2.065. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Aug. 23, 1995, effective Jan 30, 1996.

*Original authority: 138.360, RSMo (1939), amended 1945, 1949; 138.430, RSMo (1939), amended 1945, 1947, 1978, 1983, 1989; 536.073, RSMo (1957), amended 1985, 1989; and 536.077, RSMo (1957).

12 CSR 30-3.050 Procedure: Motions and Stipulations

PURPOSE: This rule prescribes the procedure for the filing of certain motions and the use of certain stipulations in appeals taken under section 138.430, RSMo.

(1) Any party filing a written motion or other writing subsequent to the original petition shall serve a copy of that writing upon the attorney of record for all remaining parties or upon the party him/herself if there is no attorney of records. Service shall be made by delivering a copy of the writing to the attorney or party—by leaving a copy of that writing with personnel at the attorney's office, by transmitting a copy by facsimile transmission provided the filing party subsequently mails a copy of the writing to the attorney or party, or by mailing a copy of the writing.

(2) Any written motion which is appropriately filed prior to the hearing, except a motion to dismiss which may be filed at any time, shall be filed with the commission and served on all remaining parties such that each has not less than five (5) days' notice before the date specified for the event which stands to be affected by the motion. A filing which does not provide for five (5) days' notice to the parties will be denied unless there is a showing that despite the exercise of due diligence, a timely filing was not possible.

(3) Upon the commission or hearing officer's own motion, or the motion of a party, an appeal may be dismissed for any of the following grounds:

- (A) Lack of jurisdiction;
- (B) Untimely filing of an appeal;
- (C) Failure to comply with the rules of the commission relating to appeals;

- (D) Failure of prosecution; or
- (E) Any other ground alleged to legally justify an involuntary dismissal of an appeal.

(4) Any party may file a written motion for summary judgment upon allegations that there are no material issues of fact requiring an evidentiary hearing before this commission.

(5) Upon stipulation of all parties, and approval by the commission or hearing officer, an appeal may be decided upon written stipulation of facts in lieu of an oral hearing.

(6) Any party may file a written motion for a continuance not less than five (5) days before the date specified for the event which stands to be affected by the motion. Continuances will be granted for good cause shown as—

- (A) Illness of attorneys or witnesses;
- (B) Serious illness or death of immediate family members of attorneys or witnesses; or
- (C) Prior commitments of attorneys or witnesses.

1. The prior commitment must be substantial and must have been extant at the time the commission conference, exhibit exchange, hearing, or other event was set.

2. Case settings which occur after the commission setting will not suffice to allow a continuance. Each attorney is responsible for notifying the relevant tribunal of the conflict at the time counsel obtains a trial or hearing setting.

(7) A second request for a continuance by a party will be denied except in extraordinary circumstances.

(8) Any complainant may make a written request for a voluntary dismissal of an appeal and all parties to an appeal may stipulate and agree as to proper assessed value for the subject property, subject to a confirmation by this commission, prior to the issuance of a final decision and order. Stipulations which propose a fifteen percent (15%) or greater change in the board of equalization's assessment on the commercial portion of an appeal must include a brief explanation of the factual basis for the proposed commercial assessment.

(9) 12 CSR 30-3.010(1)(C)2. is controlling in determining whether a written motion or other writing is filed within the time prescribed by law.

Auth: section 138.430, RSMo (1994) and Article X, section 14, Mo. Const.*

1945. This rule was previously filed as 12 CSR 30-2.070. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed April 21, 1988, effective Sept. 11, 1988. Amended: Filed May 14, 1993, effective Jan. 13, 1994. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.

*Original authority: 1939, amended 1945, 1947, 1978, 1983, 1989.

12 CSR 30-3.060 Exchange of Exhibits, Prefiled Direct Testimony and Objections

PURPOSE: This rule describes the procedures for the exchange of exhibits and prefiled direct testimony between the parties, and filing objections to the admission of exhibits or testimony

(1) The commission, or hearing officer, may order the exchange of exhibits and written direct testimony of all witnesses in advance of the prehearing conference. The order shall establish a schedule of deadlines and other requirements. The written testimony shall be in question and answer form, unless for good cause shown the commission or hearing officer approves narrative form, and shall be presented instead of the witness's oral direct testimony. After an exhibit containing the witness's testimony has been properly identified and authenticated by the witness, under oath, it may be marked and introduced as an exhibit. Written direct testimony must be as complete and accurate as if it were oral testimony, and it is subject to the same rules of evidence as if given orally. The witness shall be subject to cross-examination. Direct testimony will not be allowed at the hearing unless the written direct testimony has been filed and served on all parties the same as any other exhibit, or unless the parties have stipulated that it may be accepted by the commission at the hearing and the commission or hearing officer, after good cause shown, allows it. A party who opposes the introduction of written testimony may file a written objection and/or motion to strike, in accordance with the schedule set by the commission or hearing officer for such responses. Upon proper filing of an objection to written testimony, the commission or hearing officer will make an appropriate ruling on the matter. The purpose of this rule is to allow for full and fair cross-examination at the evidentiary hearing. Any exhibit or written direct

testimony which has not previously been exchanged in accordance with this rule will be excluded from admission into evidence at the evidentiary hearing. This shall not preclude the offering of evidence based upon a sale of the subject property which occurs after an exchange of exhibits takes place, or other exhibits and related testimony which were not available at a time such that they could have been exchanged on the exchange date.

*Auth: section 138.430, RSMo (1994).**
Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Nov. 4, 1993, effective July 10, 1994. Rescinded and readopted: Filed Aug. 23, 1995, effective Jan. 30, 1996.

**Original authority 1939, amended 1945, 1947, 1978, 1983, 1989.*

12 CSR 30-3.065 Appraisal Reports

PURPOSE: This rule describes the suggested content and guidelines for the composition of appraisal reports as exhibits.

(1) As used in this rule, a “complete narrative appraisal report” for real property should be paginated for easy reference and should contain the following elements:

(A) A narrative introduction, including:

1. A statement of purpose, including a statement of the property interest being valued;

2. A description of the subject property including, but not limited to, a legal description of the property and any leasehold interests; address, locator number where applicable; land and improvement area; zoning, topography and neighborhood;

3. A statement of the highest and best use of the subject property; and

4. An opinion of the true value in money of the subject property;

(B) A statement of the recognized approaches to value with a statement of why each approach was or was not used.

1. An income approach should include:

A. A complete reconstructed income and expense statement for the subject property showing economic or market values for each of the following elements:

- (I) Potential gross income;
- (II) Vacancy and collection loss;
- (III) Miscellaneous income;

- (IV) Effective gross income;
- (V) Operating expenses; and
- (VI) Net operating income;

B. The capitalization method and rate used including all calculations, a narrative explanation of why the capitalization method is appropriate and an explanation of each element of the selected method;

C. A statement of the applicable tax levy rate;

D. Sources of actual and market expense, income and capitalization rate figures and verification for each; and

E. A final indication of value.

2. A sales comparison approach should include:

A. The name of the owner(s), the location, date of sale, conditions of sale, land and improvement areas, sales price and source of information for each comparable sale;

B. A narrative explanation of why the comparable properties were selected for use;

C. A statement that the sales have been verified and by and with whom they were verified;

D. A specific listing of adjustments made; and

E. A final indication of value including a narrative explanation of why that value was chosen.

3. A cost approach should include:

A. An opinion of the value of the subject land and a description of the methodology used to arrive at that opinion;

B. A narrative explanation of whether the replacement cost or the reproduction cost was used and why;

C. An estimate of the reproduction cost or replacement cost new, including the method used and sources employed to arrive at that estimate;

D. The amount and type of depreciation applied with a narrative explanation of why the depreciation was applied and the methods employed; and

E. A final indication of value.

4. Any other approach to value used should be explained with sufficient specificity to allow all other parties to reconstruct the approach used. A narrative explanation of why the approach was used should be included;

(C) A final opinion of value which correlates all approaches used including a narrative explanation of any weighing process used to arrive at that final opinion of value; and

(D) The signature of the appraiser.

(2) As used in this rule, an appraisal report

for personal property should be paginated for easy reference and should contain the following elements:

(A) A narrative introduction which states the purpose of the appraisal;

(B) A description of the subject property including, but not limited to, common names and registration numbers where applicable, usage, legal interests, effective and actual age;

(C) A narrative explanation of the approach(es) to value used which is sufficiently specific for all other parties to reconstruct the approach(es) used and which includes the reasons for its (their) use;

(D) A narrative explanation of the correlation of all approaches used;

(E) A final opinion of value of the subject property; and

(F) The signature of the appraiser.

*Auth: section 138.430, RSMo (1994).**
Original rule filed Aug. 23, 1995, effective Jan. 30, 1996.

**Original authority 1939, amended 1939, 1945, 1947, 1978, 1983, 1989.*

12 CSR 30-3.070 Prehearing Procedures

PURPOSE: This rule describes the procedures for prehearing practice in appeals to the commission.

(1) Upon its own motion or motion of a party, the commission may set a prehearing conference. Unless excused by commission, the person who will actually handle the hearing shall attend the conference.

(2) Parties or their attorneys shall attend prehearing conferences and be prepared to simplify issues; estimate length of hearing; and stipulate to uncontroverted facts, contents, authenticity, and the identification of exhibits.

(3) The commission or hearing officer may make an order which recites the action taken at the conference and any agreements made by the parties as to any of the matters considered. The order shall control the subsequent course of the cause, unless later modified by the commission or hearing officer.

(4) The location of prehearing conferences shall be as ordered by the commission or hearing officer.

(5) Any natural person appealing his/her

assessment prose may perform any action required or permitted by this rule without benefit of counsel.

*Auth: section 138.430, RSMo (1994).**
This rule was previously filed as 12 CSR 30-2.040. Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Nov. 4, 1993, effective July 10, 1994. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.

**Original authority 1939, amended 1945, 1947, 19798, 1983, 1989.*

12 CSR 30-3.080 Hearing and Disposition of Appeals

PURPOSE: This rule explains how hearing officers are assigned to hear appeals and how appeals are finally disposed of by the commission.

(1) To hear and decide appeals pursuant to section 138.430, RSMo, the commission shall appoint one (1) or more hearing officers subject to supervision by the commission. In its discretion, the commission may reserve the appeals as it deems fit to be heard and decided by the full commission, and in cases the decision of the commission shall be final and subject to judicial review pursuant to section 138.470, RSMo.

(2) The commission as it deems fit, may assign the appeals to a hearing officer for disposition. A hearing officer, after affording the parties reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying or reversing the determination of the board of equalization, correcting any assessment which is unlawful, unfair, improper, arbitrary or capricious. The commission may reassign an appeal. All parties to an appeal shall be duly notified of the hearing officer's decision and order.

(3) The commission or hearing officer shall have all lawful means available to ensure the effective operation of a full and fair proceeding, the ethical conduct of persons practicing before it and compliance with all lawful orders of the commission. Any aggrieved person to such an action by the commission may seek recourse in circuit court as provided in Chapter 536, RSMo.

(4) Within thirty (30) days following the date of notification or mailing of a decision and order of a hearing officer, a party may file

with the commission an application to have the decision and order reviewed by the commission pursuant to section 138.432, RSMo. Appeal to the full commission is prerequisite to judicial review.

(5) The commission may summarily allow or deny an application for review of a hearing officer decision.

(A) If the application is allowed, the commission may affirm, modify, reverse, deny or remand to the hearing officer the decision and order of the hearing officer on the basis of the evidence previously submitted or based on additional evidence taken before the commission. The commission promptly shall notify the parties of its decision and order, which decision and order shall then be subject to judicial review pursuant to section 138.470.4., RSMo.

(B) If the application is denied, the decision and order of the hearing officer is deemed to be the final decision of the commission for purposes of judicial review. The time limitations for judicial review in these cases shall run from the date of notice of mailing of the order of the commission denying the application for review.

*Auth: sections 138.430, 138.431 and 138.432, RSMo (1994).** *Original rule filed Dec. 13, 1983, effective March 12, 1984. Amended: Filed Aug. 23, 1995, effective Jan. 30, 1996.*

**Original authority: 138.430, RSMo (1939), amended 1945, 1947, 1978, 1983, 1989; 138.431, RSMo (1983), amended 1986, 1992; and 138.432, RSMo (1983).*