

Approved: _____

2-3-93

Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Keith Roe at 9:00 a.m. on February 2, 1993 in Room 519-S of the Capitol.

All members were present except:

Representative Crowell, excused
Representative Larkin, excused

Committee staff present: Tom Severn, Legislative Research Department
Chris Courtwright, Legislative Research Department
Don Hayward, Revisor of Statutes
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

David Cunningham, Director, Division of Property Valuation

Others attending: See attached list

Chairperson Roe distributed copies of the Committee rules and guidelines.

Staff distributed copies of 1991 Interim Tax Committee Proposal No. 2 - Property Tax Abatements and Airport Authorities (Attachment 1) and information on property tax exemption of airport property (Attachment 2), which had been requested by several Committee members.

A motion was made by Representative Roe, seconded by Representative Empson, to introduce a bill which would place a 2 1/2 mill levy upon tangible property in Crawford, Douglas, Ellis, Lyon and Riley Counties; revenues collected in each county would go to the Regents school in that county. The motion carried.

David Cunningham, Director of Property Valuation (PVD), presented an update on the twelve items in the Court's Order for Corrective Action and its various components. Mr. Cunningham stated that development of a valid ratio study has been a major priority of PVD and this project is close to completion. The extra time spent on the ratio study has curtailed PVD's time spent on county audits. Regarding educational plans for county personnel, he said that PVD has been looking at community colleges to see what kind of programs can be developed at those sites (Attachment 3). Mr. Cunningham reported on current staffing for PVD and said that he is exploring options where county appraisers can assist one another so the Division can focus its resources on the counties requiring the most assistance (Attachment 4). Also distributed by Mr. Cunningham were copies of appraisal directives issued by PVD on November 30, 1992, to county officials (Attachment 5).

Mr. Cunningham responded to questions and said that all sales in the sales ratio study will be considered either valid or invalid. He also said that the PVD approach at this point is for state PVD personnel to do the validation process for ratio study purposes; the counties would continue to do validation of sales for their appraisal purposes.

After Committee review, the minutes of January 28 and February 1, 1993, were approved as printed.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for February 3, 1993.

Date:

2/2/93

GUEST REGISTER

HOUSE COMMITTEE ON
ASSESSMENT AND TAXATION

NAME

ORGANIZATION

ADDRESS

PHONE

HAROLD P. TITS	AARP-CATF	Topeka	
TIMOTHY N. HAGEMANN	appraiser	LAKIN KS	316-355-7187
Ann Papay	Appraiser	Ulysses, Ks	316-356-3362
Alan Steppat	PETE McMill & Assoc.	Topeka	233-4512
Eldon Mlamille	—————	Leoti Ks	316-375-2638
ALLAN FOSTER	Legislative Post Audit	Topeka	296-3792
Mark Niehaus	Graham County Appraiser	Hill City KS	674-2196
Sharon Bradford	"	"	"
Alan Hale	NORTON COUNTY APPRAISER	NORTON, KS	877-2844
JANET STUBBS	STUBBS & ASSOC	Topeka	233-9853
JOAN SHERRE	SHAWNEE COUNTY REGISTER OF DEEDS	TOPEKA	291-4023
Peggy Frazzle	Ks Gov't Consulting	"	
P. Plunkett	PVD	Topeka	296-2365
Sam Schmidt	Kan County Appraisers Assoc	Manhattan 913	537 6310
Brad Welch	Reynolds/Greeley Co	LAKIN 316	355-6427
Naniel Canoch		Topeka	273-4470
Bill Gaven	Metro News	Topeka	232-8600
Clyde Graeber	Legislature	Leavenworth	
BEV BRADLEY	KS Assoc of Counties	Topeka	233-2271
JOHN KOEPKE	KASB	Topeka	273-3606
Bruce Goeden	KNEA	Topeka	232-8271
Don Morris	DOR	"	2436
Spencer Smith	Dept of Rev.	Topeka	296-3011

RE: PROPOSAL NO. 2 -- PROPERTY TAX ABATEMENTS AND AIRPORT AUTHORITIES*

Proposal No. 2 directed the Special Committee to identify the local economic development property tax abatements granted since 1986; determine whether the amount of assessed valuation exempted is known and, if not, whether such data should be available to the Legislature and other interested parties; review implications of abatements on school finance and on narrowing the tax base generally; consider if any legislation is warranted (pursuant to the *Constitution*) to prohibit or limit the granting of the abatements; and study the tax environment existing under the jurisdiction of municipal airport authorities, including a review to determine whether the policy decisions made in 1991 H.B. 2194 should be extended or modified.

Property Tax Abatements

Background

Article 11, Section 13 of the *Kansas Constitution*, approved by voters in August of 1986, allows cities and counties to exempt from all ad valorem taxation for up to ten years all or any portion of the appraised value of buildings, land, and tangible personal property used exclusively by businesses commencing operations after August 5, 1986 for the purposes of manufacturing, research and development, or storing commodities sold in interstate commerce. The abatements also may be granted for similar purposes to facilitate the expansion of existing businesses if new employment is created as a result of such expansion. The Legislature is granted the power to limit or prohibit the application of the abatements by enactments uniformly applicable to all cities and counties.

Attorney General Opinion Nos. 86-168 and 87-5 concluded that while the Board of Tax Appeals has statutory authority under K.S.A. 1990 Supp. 79-213 to examine the legal and factual basis of any exemptions granted under the constitutional amendment, the Board may not review the advisability of the exemptions, since the *Constitution* delegates that policy decision to the cities and counties.

Prohibitions against exemptions were passed by the 1987 and 1988 legislatures. H.B. 2076 enacted in 1987 prohibited cities and counties from granting the exemptions to corporations owning or operating rabbit and poultry confinement facilities on agricultural land. The prohibition was extended to swine confinement facilities in 1988 with the enactment of H.B. 3018, as amended by H.B. 3123.

1990 S.B. 440. S.B. 440, enacted in 1990, imposed several procedural restrictions on cities and counties seeking to grant the abatements. What is now K.S.A. 79-251 requires cities and counties, prior to the granting of an exemption, to develop and adopt official policies and procedures, including the required preparation of a cost benefit analysis for each exemption and procedures for monitoring compliance of businesses receiving the exemptions. The legislation also requires cities and counties to hold public hearings regarding exemptions following notice published at least seven days prior to the hearings. In addition to the publication requirements, city and county clerks are required to notify the affected school districts in writing.

K.S.A. 79-210, now 79-210a, was amended to require city and county clerks to prepare written statements to be filed along with the owners' annual claims for exemptions stipulating that the exempted property continues to meet all terms and conditions established as a condition of granting the exemptions.

K.S.A. 79-213 was amended to clarify that the Board of Tax Appeals is required to approve the exemptions.

* S.B. 464 accompanies this report.

2/2/93

House Taxation Cmte
Attachment 1

K.S.A. 79-221 was enacted to statutorily exempt other property owned and rented or leased by community-based not-for-profit economic development corporations exempted pursuant to Internal Revenue Code 501(c)(6) if the property was integrally associated with other property which had received the constitutional exemption and the leased property was otherwise used exclusively for the same exempt purposes.

K.S.A. 79-252 also was enacted to clarify that the economic development exemptions could not be granted to property which had been previously subject to tax or had been granted previous economic development exemptions absent a "factual determination" by cities or counties that jobs would be retained in the State of Kansas.

Finally, K.S.A. 12-1749c was enacted to require city and county clerks to notify school districts in writing prior to the approval of property tax exemptions granted through the issuance of industrial revenue bonds.

1991 H.B. 2544. The House Tax Committee during the 1991 Session introduced H.B. 2544, which would have provided a number of additional limitations on the authority of cities and counties to grant the economic development abatements. Cities and counties would have been prohibited from granting the abatements for more than two years, and they would have been prohibited from exempting more than 50 percent of the cumulative appraised valuation for a new business and more than 50 percent of the cumulative appraised valuation associated with the expansion of an existing business. Moreover, the exemptions would have been totally prohibited if the new or expanding business was "in direct competition with another established business operating" within the city or county. Finally, the exemptions could not have been granted unless the businesses entered into contracts providing for payments-in-lieu-of-taxes in an amount not less than 50 percent of the amount of taxes that would have been levied. The bill remained in Committee at the end of the 1991 Session and was referred to the interim Committee for further study.

Committee Activity

The Committee devoted parts of four meetings to economic development abatements. Staff prepared a background memorandum and policy options. The Board of Tax Appeals in June discussed its review process for the abatements and at the September meeting provided a listing of economic development applications, the assessed value of the property involved, and the Board's action for each application.

In June, Ms. Laura Ellen Johnson, a law clerk for the Board, presented two articles she had authored: "Spurring Economic Development in Kansas through Property Tax Exemptions -- Are We Getting the Results We Want"? *Washburn Law Journal*, Vol. 30, No. 1, (Fall, 1990) pages 82-111; and "Cities and Counties Initiating Property Tax Exemptions for Economic Development Purposes Pursuant to Article 11, Section 13," *Kansas Municipal Law Annual*, Vol. 8 (1991), pages 141-151.

The Committee heard testimony on local economic development abatements from local officials in Topeka, Wichita, and Johnson County in conjunction with their airport tours discussed below. The Committee in September heard a presentation by Carlene Hill Forrest, Director, Center for Economic Development and Business Research, Wichita State University, on the value of a strong exporting base.

Municipal Airport Authorities

Background

Municipal Airport Authorities. Municipal airport authorities are created pursuant to statute to operate airports and surplus federal property and to promote economic development. They are separate taxing subdivisions and may be created under three statutes. The provisions permitting cities located in a county within which a surplus air base is located to create airport authorities are contained in K.S.A. 27-315 *et seq.*, (the Surplus Property and Public Airport Authority Act) and in K.S.A. 27-327 *et seq.*, (Topeka). These airport authorities are designed to acquire and manage air bases and other property declared surplus by the federal government. Wichita's authority, authorized in K.S.A. 3-162 *et seq.*, is designed to operate an airfield formerly operated by a city board of park commissioners. Each of the three authorizing statutes is discussed briefly below.

Creation, Governance, and Dissolving. Herington, Pratt, and Salina are three cities which have formed airport authorities under K.S.A. 27-315 *et seq.* Such airports are governed by directors appointed by the city governing bodies, and may be dissolved by the city by ordinance, provided they have been in existence for ten years and have no debt outstanding. Property of the authority then would become the property of the city.

Topeka created the Metropolitan Topeka Airport Authority (MTAA) in 1974 by charter ordinance amending K.S.A. 27-315 to provide for the administration of Phillip Billard Municipal Airport and the former Forbes Air Force Base and to provide for economic development. In 1978 the Legislature enacted K.S.A. 27-327 *et seq.*, to permit formation of a countywide authority, with voter approval. The required approval of the Shawnee County voters was obtained at the November, 1978 general election. The Authority is governed by a five-member board of directors, with two directors appointed by the Shawnee County Commission and three directors appointed by the Topeka City Commission. MTAA, if it has no debt outstanding, may be abolished by a two-thirds vote of the county commission and the city governing body. Property of MTAA then becomes the property of the city and county in the manner agreed upon by them.

The Wichita Airport Authority was created by ordinance under K.S.A. 3-162 *et seq.* The Authority was designed to take over the management of a municipal airport formerly controlled by a city board of park commissioners (as authorized by K.S.A. 3-114) or the city governing body. The board of directors currently consists of five members appointed by the mayor with the consent of the governing body. Effective July 1, 1991, H.B. 2194 (L. 1991, Ch. 7) increased the membership of the board to nine members, with two of the additional members to be appointed (from different county commissioner districts) by the Sedgwick County Commissioners.

Powers. Airport authorities have the power to enter into contracts, to sue and to be sued, to acquire and hold property, levy taxes, issue bonds, and exercise eminent domain, with exceptions. Authorities formed under K.S.A. 27-315 may exercise eminent domain only upon approval of the city governing body. MTAA may recommend airport hazard zones, but the zones may be adopted only with approval of the city or county governing body. MTAA must submit any proposed sale of any airport property owned by the Authority to the voters for approval. The Wichita Airport Authority requires the approval of the city to issue bonds or levy taxes (K.S.A. 3-167). Bonds issued by an authority formed under K.S.A. 27-315 or 27-327 must conform to the city's or county's bonded debt limits.

Exempt Property. Two recent court cases have held that property leased by an airport authority to business enterprises does not qualify for a property tax exemption under K.S.A. 79-201a *Second*. In *Salina Airport Authority v. Board of Tax Appeals* (13 K.A.2d 80, 1988) the Court held that real property leased to businesses is not used in a manner qualifying for exemption under K.S.A. 79-201a *Second* when no public function of government is being carried out by the lessees. In *Tri-County Public Airport v. Board of County Commissioners of Morris County* (245 K. 301, 1989), the Court held that the exclusive use of the property as defined by K.S.A. 79-201a *Second* requires actual use of the property for a public purpose. All property owned by MTAA is exempt

under K.S.A. 27-330, and all property located within Salina and owned by the Salina Airport Authority on January 1, 1989 is exempt under K.S.A. 1990 Supp. 27-319.

Johnson County Airport Commission. K.S.A. 3-307a authorized Johnson County to create an airport commission to supervise any public airports operated by the county. The commission has broad powers: to employ engineers, legal counsel, architects, and other personnel necessary for its duties; to contract for and to buy and sell real estate; and other powers necessary to carry out its duties. However, these powers may be exercised only with the approval of the Board of County Commissioners, and all expenditures of the commission must be within available resources.

General Authority. Several other statutes specifically authorize cities and counties to own and operate airports. K.S.A. 3-113 *et seq.*, permits the governing body of any city to acquire, equip, improve, operate, maintain, and regulate municipal airports. K.S.A. 3-301 *et seq.*, authorizes Johnson County to establish public airports. (These statutes predate those described above relating to an airport commission.) K.S.A. 3-308 *et seq.*, applies to counties of less than 5,000 population. K.S.A. 3-316 *et seq.*, applies to Allen County. K.S.A. 3-404 *et seq.*, authorizes Arkansas City and Winfield to acquire Strother Field as tenants in common. Another group of statutes permits cities and counties to dispose of airport properties no longer needed for airport purposes.

Other Taxes and Fees. Among the powers generally granted to airport authorities is the power to levy property taxes and to impose fees for the use of airport facilities. Airport authorities have imposed a variety of charges which closely resemble excise taxes. One such charge, airport flowage fees, has been the subject of an Attorney General's Opinion (AGO 89-57). Flowage fees are per-gallon charges on fuel sold by fixed-base operators for the privilege of operating on the airfield. The opinion states that the fee is part of the rent for the fixed base operator's facility and does not constitute a local excise tax.

Provisions of 1991 H.B. 2194. As a result of the cases cited above, several bills to exempt property owned by airport authorities were introduced in 1991, which lead to passage of H.B. 2194. H.B. 2194 exempts from all ad valorem taxes all property owned and operated primarily as an airport by a political subdivision including property leased by the political subdivision for purposes not essential to the operation of the airport for tax years 1984 to 1992. Properties subject to a lease in effect on April 15, 1991 which extends beyond tax year 1992 will be exempt through the tax year during which the lease expires. All property taxes for the taxable years noted above are canceled. No refunds are allowed for taxes paid except for the Liberal Municipal Airport. The bill also expands the membership of the Wichita Airport Authority as discussed above.

Concern whether the policy choices embodied in H.B. 2194 should be made permanent lead to assignment of the topic for interim study.

Committee Activity

The Committee devoted part of five meetings to this topic. Staff prepared a background memorandum and a table summarizing airport authorities. Tours were conducted of the Metropolitan Topeka Airport Authority, the Wichita Airport Authority, and the Johnson County Airport Commission. Public testimony was heard in September, and in October the Committee heard further testimony on private, public-use airports in Kansas by the Department of Transportation.

Committee Conclusions and Recommendations

The Committee recommends that the assessed valuation of property locally exempted through industrial revenue bonds (IRBs) or economic development abatements be included in district wealth for purposes of calculating general school aid through the school finance formula. Enactment of S.B. 464 would accomplish this recommendation.

The Committee urges the Board of Tax Appeals to develop an application form with instructions for communities for documenting a tax abatement application. The Committee also recommends that applications that are not complete simply be returned for completion.

The Committee also urges the Board of Tax Appeals to establish a procedure for prospective review of applications for tax abatements so as to give businesses some guidance on which to base their investment decisions.

The Committee requests the Board of Tax Appeals to prepare an annual statistical report of the value of IRB and economic development exempt properties.

The Committee recommends no legislation affecting airport exemptions. The temporary exemptions in H.B. 2194 will expire in 1992 (or upon the expiration of certain leases).

MINORITY REPORT

By Sens. Audrey Langworthy, Jack Steineger, Reps. Nancy Brown,
Mary Jane Johnson, Tom Sawyer

We disagree strongly with the decision of the Committee to introduce legislation which would amend the definition of district wealth for purposes of the school finance formula to include the assessed valuation of property locally exempted through the issuance of industrial revenue bonds (IRBs) and the granting of economic development exemptions. Such a measure would be doubly unfair to many school districts across the state.

Since cities and counties, not school districts, are the entities responsible for the granting of the property tax exemptions, those same school districts, which levy the lion's share of all property taxes, have many times opposed the narrowing of the tax base. Schools supported legislation enacted in 1990 which required cities and counties seeking to grant economic development exemptions to hold public hearings following published notice and to notify all affected school districts in writing.

If the Legislature believes too many exemptions are being granted to the overall detriment of the tax base, it has the power to limit or totally prohibit the granting of the exemptions by cities and counties, a move which could be supported by many school districts.

The bill accompanying the Committee report would DOUBLY penalize those school districts with exemptions which have been granted within their boundaries, even though they may well have opposed the granting in the first place. Moreover, the bill is "retroactive" in its application in that it would require the valuation adjustment for all outstanding exemptions (as well as those granted in the future). The implications of this policy decision on school finance obviously were not contemplated by school districts when the outstanding exemptions were granted.

Adding back into district wealth the valuation exempted through the issuance of IRBs and the granting of economic development abatements also raises policy questions about adding back the valuation of other exempt property, including farm machinery, inventories, parsonages, livestock, business aircraft, etc. Also, the market valuation of agricultural land (rather than the use value) conceivably could be calculated for purposes of the school finance formula.

The entire school finance formula and the relationship between the state and its school districts is about to undergo the most dramatic change ever. With the myriad of school finance issues to be resolved, it is far more prudent to hold off on controversial and ill-conceived proposals such as the bill recommended by the Committee.

2. resulting from a divorce settlement;
3. made solely for the purpose of creating a joint tenancy or tenancy in common;
4. by way of a sheriff's deed;
5. by way of a deed that has been in escrow for more than five years;
6. by way of a quit claim deed filed for the purpose of clearing title encumbrances;
or
7. when title is transferred to convey right-of-way or pursuant to eminent domain.

Also, the fine for falsifying the value shown on a real estate sales validation questionnaire is increased from \$100 to \$500.

Property Tax – Exemption of Airport Property

S.B. 629 amends K.S.A. 79-201q to exempt from property tax all property owned and primarily operated as an airport by a political subdivision, including property leased for purposes not essential to the operation of an airport, for all years prior to 1993. Prior law had exempted such property prior to 1993 but after 1983.

Also exempted, beginning with 1993, is property owned and primarily operated as an airport by a political subdivision, including property leased for purposes essential to the operation of an airport. Payments in lieu of taxes may be required by the political subdivision for any or all years for the leased property. For airport property subject to a lease existing on April 15, 1991, for purposes not essential to the operation of an airport, payments in lieu of taxes may be required for the duration of the lease. Any payments in lieu of taxes will be apportioned and distributed in the same manner as general property tax.

K.S.A. 1991 Supp. 27-319 is amended to cancel any property taxes levied on qualified property of the Salina Airport Authority prior to January 1, 1989, and to exempt property of the Pratt Airport Authority which is owned by it prior to and on January 1, 1992 and which is located within the corporate limits of Pratt. All taxes imposed on such property in a previous taxable year are cancelled.

The Strother Field Airport Commission will be exempt from property tax on property owned by it prior to and on January 1, 1991, and all taxes imposed on such property in a previous taxable year will be cancelled, but any taxes paid will not be refunded.

For tax year 1992 and thereafter, all property owned and primarily operated as an airport by an airport authority established under K.S.A. 3-162, including property leased by the airport for aviation related purposes, will be exempt and any taxes imposed on such property in a previous taxable year are cancelled. If the term of any lease existing on April 15, 1991, for property used for purposes not aviation related extends beyond tax year 1991, the property will be exempt for the duration of the lease.

STATE OF KANSAS



Department of Revenue
Division of Property Valuation

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585

(913) 296-2365
FAX (913) 296-2320

MEMORANDUM

TO: House Taxation Committee
FROM: David C. Cunningham, Director, Division of Property Valuation
DATE: February 2, 1993
SUBJECT: Proposal No. 23

Mr. Chairman and members of the committee, I appreciate the opportunity to appear today and update you on the Court's Order for Corrective Action and its various components. I will discuss each of the twelve items from the order so the committee will know where we are in the process.

The initial three points of the order, paragraphs A, B, and C generally require that the Division perform its statutory responsibilities to "insure to the fullest extent practical that the appraisal of all real property throughout the State of Kansas is at fair market value on a uniform and equal basis." Further provisions require the prosecution of anyone not complying with orders of the Division to comply with the laws of this state regarding the proper valuation of real property.

Paragraph D requires the Division to devote all necessary resources to the development of a valid ratio study. This has been a major priority. We are on schedule and the study will be done in time to include it in the plan and provide a preliminary study to the committee. The Division has been providing sales to the counties that will be included in the study to receive input as to any documentation relative to the sales' validity. PVD staff make the validity calls, but it has been helpful to have the counties' documentation on the various aspects of the sales.

2/2/93

House Taxation Cmte
Attachment 3

Paragraph E discusses the continued expansion of county audits. The Division has not been able to engage in any audits since all resources have been assigned to the ratio study. Personnel will be allocated to this function with the completion of the ratio study. The scope of the audits being performed has been changed as the Division will no longer audit all five offices, but rather, will concentrate on the appraiser's office by using the substantial compliance criteria for the overall audit function. This will allow the Division to audit all counties annually and, in conjunction with the ratio study, target counties that might require an in-depth audit.

Paragraph F deals with the testing of the computer system. The test has been completed and the results indicate the system will function properly as a tool in developing estimates of value. There is no question that the commercial side needs enhancement. This issue has been addressed in the report of the CAMA Committee. I will have the final report within the next week or so and it will be part of the overall plan that is submitted to the court.

Paragraphs G and J require the Division to develop educational plans. Paragraph G provides for establishing minimum standards of education and training for county personnel. Upon consultation with the Kansas County Appraisers Association and the Kansas Association of Mappers, a core group of 5 surrounding counties were selected to represent the interests of staff in all 105 counties. The tasks performed by the appraisers office were classified into 7 major categories. Residential, Commercial, Data Collection, Use Value, Cartography, Oil and Gas, and Personal Property. Functions and tasks applicable to each position (regardless of the county) were set forth. Necessary education, training and experience requirements were established. As a result there is now a yardstick by which to determine whether staff are adequately performing their job. If not, courses have been developed and are being offered which will allow those in need of training the opportunity to meet the standards set forth. Paragraph J provides for exploring an ongoing educational curriculum in conjunction with the Board of Regents and Junior Colleges. We have conducted research into various programs that exist. On Tuesday, January 26, 1993, we traveled to Lindenwood College in St. Charles, Missouri to examine firsthand a four year bachelors degree program and a master's degree program in the area of Valuation Sciences. On Friday, January 29, 1993, we along with Joe Emmons, Director of Community Colleges for the Kansas Department of Education, traveled to Waskashaw County Technical College in Pewaukee, Wisconsin, to examine an associate degree program in appraisal and assessment. We will be working with the Board of Regents and Community Colleges to explore the feasibility of this proposal in the state of Kansas.

Addressing paragraph H was challenging to say the least; however, the new directives were completed and issued in November of 1992. I have copies of the final directives available.

As part of the overall plan, paragraph I will necessitate an evaluation of the resources necessary to adequately perform the statutorily mandated supervision of the appraisal process. Eighteen additional positions have been approved by the Governor and I have included an attachment outlining the allocation of these positions. I am also exploring options where county appraisers can assist one another so the Division can focus its resources on the counties requiring the most assistance.

Paragraphs K and L require the development of statewide data bases and commercial and industrial benchmarks to assist in the appraisal process. These will be dealt with in the plan and will require development over a period of time. While some of this capability exists now (sales data base), it will be a continual process as the needs of counties change.

Thank you again and if there are questions, I would be pleased to respond.

STAFFING FOR THE DIVISION OF PROPERTY VALUATION

	<u>CURRENT</u>	<u>PROPOSED FY 94</u>
Compliance Bureau	43	31
Bureau Chief	1	1
Support Staff		1
Audit Section *	13	8
Ratio Study Section	29	15
Special Assistance		6
County Appraised Bureau	20	48
Bureau Chief	1	1
Support Staff		1
Use Value	3	
County Assistance	2	4
Commercial/Oil & Gas	1	
Special Assistance	2	
Personal Property (includes oil & gas in 1994)	2	7
Cartography *	5	7
CAMA (includes research in 1994)	4	10
Field (includes use value in 1994)		18
State Assessed Bureau	13	13
Bureau Chief	1	1
Public Utility	7	7
Motor Carrier	5	5
Administration Bureau	13	15
Legal	1	1
Education	1	3
Support Services	<u>11</u>	<u>11</u>
TOTAL	89	107

*Denotes sections temporarily assigned to work on sales ratio project in FY 1993.

2/2/93
House Taxation Cmt
Attachment 4

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

MEMORANDUM

TO: Kansas County Officials
FROM: David C. Cunningham, Director *DCC*
DATE: November 30, 1992
RE: Appraisal Directives

Enclosed you will find a complete set of appraisal directives. These directive are the standards for ad valorem taxation in the state of Kansas. Any directives that you have received prior to this date should be discarded. The set of directives that you have received today and those issued hereafter are the only directives to be referenced in the performance of appraisal functions. Individuals who previously received a packet of Directives dated November 3, 1992, and "draft" directives dated November 30, 1992 should discard those copies.

Please note that some changes have been incorporated as a result of the public meeting held on 11/17/92. Special note should be made of Directive 92-019 "Annual Appraisal: "10% Variance" Language in K.S.A. 79-503a" with an effective date of November 3, 1992. The first paragraph on the second page has been revised due to a statutory change requiring change of value notices to be mailed for all properties each year. In addition, Directive 92-020 "Controlled Shooting Areas" with an effective date of November 3, 1992, has been revised. The revision reflects the changes resulting from the passage of the constitutional amendment on classification. The correct versions of these two directives are denoted by a revised date of November 30, 1992 in the left hand corner.

If you have any questions or require additional clarification on any of the directives issued, please contact this office.

3/2/93
House Taxation Cmte
Attachment 5

DIRECTIVE LIST

DIRECTIVE #	SUBJECT	ISSUE DATE
92-001	Rescission of Directives	11/3/92
92-002	Substantial compliance	11/30/92
92-003	Appraisal maintenance plan and budget	11/30/92
92-004	Posting value changes from hearings	11/30/92
92-005	Procedures and guidelines for valuing properties	11/30/92
92-006	Uniform standards of professional appraisal practice	11/30/92
92-007	Land use codes	11/30/92
92-008	Educational requirements hearing officers, panel members and arbit	11/30/92
92-009	Abatement of tax penalties pursuant to KSA 79-332a, 79-1422, etc.	11/3/92
92-010	Final review	11/30/92
92-011	Leasehold improvements	11/30/92
92-012	Sufficient justification review procedures	11/30/92
92-013	Appraisal of subdivision lots	11/30/92
92-014	Computation of interest on delinquent taxes following reduction by	11/3/92
92-015	Owner of record	11/30/92
92-016	Real estate sales validation questionnaires; filing requirements	11/30/92
92-017	Water shed exemption	11/3/92
92-018	Valuation changes	11/30/92
92-019	Annual Reappraisal: "10% variance" language in KSA 79-503a Rev. 11/30/92	11/30/92
92-020	Controlled shooting areas Rev. 11/30/92	11/30/92
92-021	Mixed use properties	11/30/92
92-022	Homesite delineation	11/3/92
92-023	Informal meeting "no shows"	11/30/92
92-024	Representation forms	11/30/92
92-025	Exemptions	11/30/92
92-026	"Rent to own" property	11/30/92

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-001

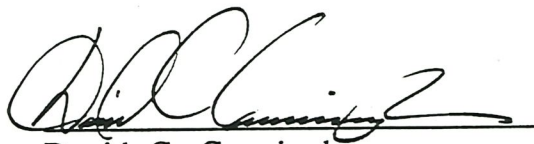
TO: All County Officials and Division of Property Valuation Staff

SUBJECT: Rescission of Directives

The Director of Property Valuation is authorized to adopt rules and regulations or appraiser directives prescribing standards for ad valorem taxation in this state (L. 1992, ch. 249, § 1).

Effective immediately, all prior directives, memoranda, and written or oral instructions issued by any Director of Property Valuation on appraisal processes are rescinded, except for directives issued pursuant to a PVD audit since January 1, 1991. On this date, I am issuing a series of directives that will be in force and effect until rescinded. A master list of current directives will be maintained as official records of the Division of Property Valuation. The Division will annually promulgate a list of current directives, noting additions and rescissions.

Approved: November 3, 1992


David C. Cunningham
Director of Property Valuation

5-3

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-002

TO: County Appraisers

SUBJECT: Substantial Compliance

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The following criteria and standards shall be used for 1993 and subsequent years to determine whether a county is in substantial compliance with the statutory requirement to uniformly appraise real and personal property at its fair market value, as defined by K.S.A. 79-503a. In order to establish compliance or lack of compliance in each county, the Division of Property Valuation (PVD) shall conduct a ratio study as required by L. 1992, ch. 131. PVD shall conduct a procedural audit in each county covering items deemed essential to establishing fair market value. PVD shall determine whether specific Kansas statutes pertaining to property taxation have been followed. Whenever sufficient valid sales within a single property subclass cannot be obtained for the ratio study, or whenever the confidence level for the subclass suggests the median ratio or coefficient of dispersion measure is unreliable, compliance shall be determined according to the procedural and statutory review.

CRITERIA AND STANDARDS

Any county achieving 75 to 100 points (as explained on page 3-6) shall be found in substantial compliance. Any county achieving 74 or less points shall be found in noncompliance and required to submit a detailed plan to correct areas of noncompliance.

Reimbursement funds for counties not in compliance shall be withheld (L. 1992, ch. 48) and shall be deposited in a special training fund to be utilized by the Director of Property Valuation to correct the problems causing noncompliance and to provide training for county officials.

A county in noncompliance may be audited on all property tax functions and responsibilities depending on the reason the county is found to be in noncompliance. An audit may be initiated if the county does not implement its approved plan and correct the area or areas in noncompliance. As long as the corrective plan is timely implemented, reimbursement monies shall be returned to the county as the corrective plan is carried out. If a county is found to be in noncompliance in the same subclass in the next compliance period, a full audit shall be conducted. The reimbursement monies withheld shall be used by the Director to correct the area or areas of noncompliance. When a county is in noncompliance in the same subclass for two consecutive years, in addition to withholding reimbursement monies and requiring a corrective plan, the Director may pursue all legal options, including, but not limited to, proceedings before the State Board of Tax Appeals and/or the removal of the county appraiser.

An Administrative Review designation shall be assigned to any county in which a subclass, as a whole, indicates compliance, but in which one or more stratifications (age or price by neighborhood) indicates a failure to meet the basic statistical standards for Ratio or Coefficient of Dispersion (COD). Counties subject to Administrative Review shall be required to submit a plan to correct the area or areas not meeting the basic statistical standards, but reimbursement funds shall not be withheld. If, in the next statistical period, the subclass is again in compliance and the same subclass stratifications do not meet the basic statistical standards, reimbursement monies may be withheld to assist the Division in correcting the area or areas of noncompliance.

Counties are reminded that administrative appeals to the Director and State Board of Tax Appeals are available.

Examples of points used for the measuring of compliance and the weighting of those points are found on the next four pages.

MEASURE OF COMPLIANCE:

<u>Measure</u>		<u>Points</u>
1.	Statistical Measures Total Weight	50
a.	Appraisal Level	25
b.	Appraisal Uniformity	25
The total of (a.) and (b.) shall be multiplied by the subclass weight for Commercial/Industrial, Residential and Vacant Lots.		
2.	Procedures	36
a.	Reappraisal plan	4
b.	Cost index	4
c.	Sale file	4
d.	Depreciation documentation	4
e.	Income approach	4
f.	Comparable sales approach	4
g.	25% maintenance reinspection	4
h.	Land valuation model calibration	4
i.	Final review process	4
3.	Agricultural Use Valuation	2
4.	Cadastral Mapping	2
5.	Constitutional and Statutory Compliance Checklist	10
a.	CVN's mailed and trend study published timely	2
b.	Hearings conducted within statutory time frame	2
c.	Certification to clerk timely	2
d.	Personal property listed correctly	2
e.	Retention of records	2
TOTAL		100

SUBCLASS WEIGHTING

The statistical compliance of "*residential*," "*commercial/industrial*" and "*vacant lot*" subclasses shall be determined separately. Each subclass shall be weighted by its percentage of the combined appraised value of the three subclasses, as derived from the statistical abstract, to demonstrate the county's statistical compliance. These calculated weights shall vary from county to county and from year to year. If a 95% confidence interval can not be achieved with respect to the median ratio or coefficient of dispersion, the points assigned to the statistical measures for that subclass shall be omitted thereby establishing a new base of total possible points. The total points assigned to a county shall be divided by the adjusted base, total possible, and multiplied by 100 to arrive at the total points used to determine substantial compliance. This method adds more emphasis to the procedural review. The following is an example of the weighting procedure:

<u>SUBCLASS</u>	<u>APPRAISED VALUE</u>	<u>% OF APPRAISED</u>
RESIDENTIAL	\$250,000,000	81.3%
COMMERCIAL/INDUSTRIAL	\$45,000,000	14.6%
VACANT	\$12,500,000	4.1%
TOTAL APPRAISED VALUE	\$307,500,000	100.0%

<u>SUBCLASS</u>	<u>% OF APPRAISED</u>	<u>COMPLIANCE POINTS</u>	<u>WEIGHTED POINTS</u>
RESIDENTIAL	81.3%	50	40.7
COMMERCIAL/ INDUSTRIAL	14.6%	25 (Ratio 88)	3.7
VACANT	4.1%	25 (COD 25)	1.03
STATISTICAL COMPLIANCE POINTS			45.4

PROCEDURES	23.0
AGRICULTURAL USE VALUATION	0.0
CADASTRAL MAPPING	2.0
CONSTITUTIONAL / STATUTORY	10.0
NONSTATISTICAL COMPLIANCE POINT	35.0
TOTAL COMPLIANCE POINTS	80.4

COMPLIANCE REVIEW: SAMPLE 1					
SUBCLASS WEIGHTING:					
	SUBCLASS	APPRAISED VALUE	% OF TOTAL		
	RESIDENTIAL	250,000,000	81.3		
	COMM./IND.	45,000,000	14.6		
	VACANT LOTS	12,500,000	4.1		
	TOTAL	307,500,000	100.0		
MEASURE		POINTS ALLOCATED	SUBCLASS WEIGHT	POINTS POSSIBLE	POINTS RECEIVED
I. STATISTICAL MEASURES					
a. RESIDENTIAL					
	APPRAISAL LEVEL	25	0.813	20.3	20.3
	APPRAISAL UNIFORMITY	25	0.813	20.3	20.3
b. COMMERCIAL/INDUSTRIAL					
	APPRAISAL LEVEL	25	0.146	3.7	3.7
	APPRAISAL UNIFORMITY	25	0.146	3.7	0.0
c. VACANT LOTS					
	APPRAISAL LEVEL	25	0.041	1.0	0.0
	APPRAISAL UNIFORMITY	25	0.041	1.0	1.0
	TOTAL			50.0	45.3
2. PROCEDURES					
	a. APPRAISAL PLAN	4		4.0	4.0
	b. COST INDEX	4		4.0	4.0
	c. SALES FILE	4		4.0	0.0
	d. DEPRECIATION DOCUMENTATION	4		4.0	4.0
	e. INCOME APPROACH	4		4.0	0.0
	f. COMPARABLE SALES APPROACH	4		4.0	4.0
	g. 25% MAINTENANCE REINSPECTION	4		4.0	4.0
	h. LAND VALUATION MODEL CALIBRATION	4		4.0	4.0
	i. FINAL REVIEW PROCESS	4		4.0	4.0
	TOTAL	36		36.0	28.0
3. AGRICULTURAL USE VALUATION					
		2		2.0	0.0
4. CADASTRAL MAPPING					
		2		2.0	2.0
5. STATUTORY COMPLIANCE					
	a. CV'S MAILED BEFORE STATUTORY DEADLINE	2		2.0	2.0
	b. HEARINGS WITHIN STATUTORY TIMEFRAME	2		2.0	0.0
	c. CERTIFICATION TO CLERK ON TIME	2		2.0	0.0
	d. PERSONAL PROPERTY LISTED CORRECTLY	2		2.0	2.0
	e. RECORDS PROPERLY KEPT	2		2.0	2.0
	TOTAL	10		10.0	6.0
I. TOTAL POSSIBLE				100.0	
II. TOTAL RECEIVED					81.3
OVERALL SCORE (I/II)*100				81.3	
1. b. COD outside acceptable range					
1. c. Median ratio outside acceptable range					
2. c. Sales file not maintained in an acceptable manner					
2. e. Income approach not properly developed					
3. Agricultural use not properly delineated					
5. b. Hearings not completed within statutory timeframe					
5. c. Values not certified to clerk by statutory deadline					

COMPLIANCE REVIEW: SAMPLE 2					
SUBCLASS WEIGHTING:					
	SUBCLASS	APPRAISED VALUE	% OF TOTAL		
	RESIDENTIAL	250,000,000	81.3		
	COMM./IND.	45,000,000	14.6		
	VACANT LOTS	12,500,000	4.1		
	TOTAL	307,500,000	100.0		
MEASURE		POINTS ALLOCATED	SUBCLASS WEIGHT	POINTS POSSIBLE	POINTS RECEIVED
1. STATISTICAL MEASURES					
a. RESIDENTIAL					
	APPRAISAL LEVEL	25	0.813	20.3	20.3
	APPRAISAL UNIFORMITY	25	0.813	20.3	20.3
b. COMMERCIAL/INDUSTRIAL					
	APPRAISAL LEVEL	0	0.146	0.0	0.0
	APPRAISAL UNIFORMITY	0	0.146	0.0	0.0
c. VACANT LOTS					
	APPRAISAL LEVEL	25	0.041	1.0	0.0
	APPRAISAL UNIFORMITY	25	0.041	1.0	1.0
	TOTAL			42.7	41.6
2. PROCEDURES					
	a. APPRAISAL PLAN	4		4.0	4.0
	b. COST INDEX	4		4.0	4.0
	c. SALES FILE	4		4.0	0.0
	d. DEPRECIATION DOCUMENTATION	4		4.0	4.0
	e. INCOME APPROACH	4		4.0	0.0
	f. COMPARABLE SALES APPROACH	4		4.0	4.0
	g. 25% MAINTENANCE REINSPECTION	4		4.0	4.0
	h. LAND VALUATION MODEL CALIBRATION	4		4.0	4.0
	i. FINAL REVIEW PROCESS	4		4.0	4.0
	TOTAL	36		36.0	28.0
3. AGRICULTURAL USE VALUATION					
		2		2.0	0.0
4. CADASTRAL MAPPING					
		2		2.0	2.0
5. STATUTORY COMPLIANCE					
	a. CVN'S MAILED BEFORE STATUTORY DEADLINE	2		2.0	2.0
	b. HEARINGS WITHIN STATUTORY TIMEFRAME	2		2.0	0.0
	c. CERTIFICATION TO CLERK ON TIME	2		2.0	0.0
	d. PERSONAL PROPERTY LISTED CORRECTLY	2		2.0	2.0
	e. RECORDS KEPT PROPERLY	2		2.0	2.0
	TOTAL	10		10.0	6.0
I. TOTAL POSSIBLE				92.7	
II. TOTAL RECEIVED					77.6
OVERALL SCORE (I/II)*100			83.7		
Reason for "0" points by measures					
1.	b. Insufficient sample size				
2.	c. Improper handling of COV's				
	e. No income and expense file				
3.	Cost tables not updated with current use values				
5.	b. Hearings scheduled past deadline				
	c. Certification made past deadline				

I. STATISTICAL COMPLIANCE REVIEW

The following statistical review shall be used to establish whether the county's appraisal performance is in substantial compliance pursuant to Property Valuation Division statistical measures and Kansas statutes.

A. APPRAISAL LEVEL:

The median ratio measure of central tendency must suggest the level of appraised value for a subclass of property falls between 90 and 110 percent.

If the median ratio does not suggest a ratio within the prescribed range, a confidence interval test shall be made to provide an indication of reliability. If, at the 95% confidence level, the subclass falls within the prescribed range, the appraisal level shall not be out of compliance.

B. APPRAISAL UNIFORMITY:

The average deviation of ratios about the median appraisal level shall be measured by the coefficient of dispersion (COD). The COD measure must suggest a deviation of 15% or less for the *residential* subclass, 20% or less for the *vacant lots* and 20% or less for the *commercial/industrial* subclass. If a subclass fails to meet these measures, a confidence interval test shall be performed on the COD. If the suggested range includes the maximum acceptable COD prescribed for the subclass at the 95% confidence level, appraisal uniformity shall not be out of compliance.

For example, the *commercial/industrial* subclass requires a COD of 20% or less:

COD = 18% Confidence interval = 13-21%

This example would be considered in compliance because the COD is less than 20%. The confidence interval does suggest, however, there is a possibility the COD could actually be out of compliance due to imprecision in the statistical measure.

COD=30% Confidence interval = 22-38%

This example is out of compliance because the COD is 30% and there is a high degree of confidence that the true COD measure does not fall below the 20% maximum specified for this subclass.

COD=22% Confidence interval = 17-27%

This example is not out of compliance although the COD is 22%. Due to the imprecision in the statistical measure it is possible that the COD is actually within the range of 17 to 20%; therefore, the county would be found in compliance.

C SAMPLE SIZE:

If less than 10 valid sales are collected for each subclass during the study period, all valid sales from the previous study period for that subclass shall be included in the statistical analysis. Sales used from the previous study period shall be trended to account for any changes in the market conditions since the date of sale.

II. PROCEDURAL COMPLIANCE REVIEW

The following procedural review is designed to establish whether the county's appraisal performance, as it pertains to appraisal guidelines and directives, is in substantial compliance. It is very important that the county has the ability to perform the appraisal functions required by manuals, guidelines and directives.

A. REAPPRAISAL MAINTENANCE PLAN:

PVD shall confirm that the county has prepared and submitted to the Director of Property Valuation a feasible appraisal maintenance plan for the current year. The plan must contain objectives, personnel requirements, a budget and be approved by the Director.

B. COST INDEX ANALYSIS:

PVD shall review and confirm that the county has a current cost index study and the cost tables are updated to reflect that study. The county must document that they have developed a new construction cost file, trend analysis, cost index analysis and statistical analysis proving the index.

C. SALES FILE:

PVD shall verify that the county has a sales file that documents validity of sales, field inspection of data and sales price adjustments. Both physical and computer files must be maintained and updated on a regular basis.

D. DEPRECIATION DOCUMENTATION:

PVD shall confirm that the county has a depreciation analysis that utilizes all available valid sales and includes neighborhood CDU analyses. The county must include appropriate statistical and graphics reports and statistical analyses to test percent good assignments. The county must update percent good tables, if appropriate, with the results of the yearly analysis.

E. INCOME APPROACH:

PVD shall verify that the county has attempted or developed an income approach to value for appropriate properties. The county appraiser must document: neighborhood analysis, rental survey documentation, income and expense analysis, vacancy study, effective tax rate study, capitalization rate development documentation, expense summary used for public disclosure (general summary of income and expense data as opposed to specific income and expense statements). Updated income and expense models must be completed.

F. COMPARABLE SALES APPROACH:

PVD shall verify that the county has developed a market approach to value. The county must use logical variables, coefficients, selection criteria and neighborhood grouping.

G. 25% MAINTENANCE REINSPECTION:

PVD shall confirm that the county has performed the data collection reinspection. Documentation on field documents as well as on the KSCAMA system showing data collection, quality control, grading and CDU application activities must be maintained.

H. LAND VALUATION MODEL CALIBRATION:

PVD shall verify that the county has developed and calibrated land valuation models. Neighborhood analysis forms, updated sales maps and data summary and analysis documentation must be complete to be considered in compliance. PVD shall also confirm that land pricing tables have been updated. Records shall be reviewed to determine lot sizing and model assignment uniformity in order to assist in determining conformity.

I. FINAL REVIEW PROCESS:

PVD shall verify that the county has performed the final field review of values. The county must document the date, person/persons performing the final review, qualifications of person/persons performing the final review, time frame and resource allocation for performing a careful and critical examination of values.

III. AGRICULTURAL USE VALUATION

PVD shall confirm that the county has performed a review/inspection for current agricultural use and influence factors. The county must identify current use of agricultural land, including crop land, grassland, irrigated land, waterways, non-productive land, farm homesites and adverse influences, and update land pricing tables with current PVD values.

IV. CADASTRAL MAPPING

PVD shall confirm that accurate property ownership maps are being maintained. Updated field maps (showing new plats, splits and combinations), an updated assessment administration file and adherence to the parcel definition must be maintained.


V. CONSTITUTIONAL AND STATUTORY COMPLIANCE

The following review areas are to establish whether the county is following Kansas statutes not previously covered.

- A. Change of value notices mailed before statutory deadline. (K.S.A. 1991 Supp. 79-1460, as amended by L. 1992, ch. 282, § 4)

- B. Informal hearings held within statutory time frame or an extension has been granted pursuant to K.S.A. 1991 Supp. 79-1404, Seventeenth. (K.S.A. 1991 Supp. 79-1448, as amended by L. 1992, ch. 282, § 3)
- C. Values certified to county clerk by statutory deadline, provided an extension has not been granted pursuant to K.S.A. 1991 Supp. 79-1404, Seventeenth. (K.S.A. 79-1466 and 79-1467 as amended by L. 1992, ch. 282, §§ 5 and 6, respectively)
- D. Real estate value trend study published at least five business days prior to the mailing of the CVN's. (K.S.A. 1991 Supp. 79-1460, as amended by L. 1992, ch. 282 § 4)
- E. Personal property listed as required and penalties applied where applicable. (K.S.A. 79-306, as amended by L. 1992, ch. 165, §2 and 79-1422; K.S.A. 79-332a, as amended by L. 1992, § 2)
- F. The preservation and protection of all property tax records. (K.S.A. 45-403)

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-003

TO: County Appraisers and County Commissioners
SUBJECT: Appraisal Maintenance Plan and Budget

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

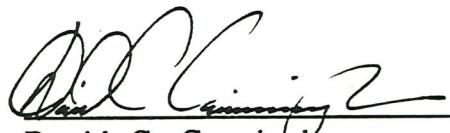
The county appraiser shall prepare an appraisal maintenance plan for the approval of the Director of Property Valuation. The plan shall be submitted by July 1 of each year, detailing the maintenance for the following calendar year, in accordance with the maintenance specifications. The 1993 appraisal maintenance plan shall be submitted on or before December 31, 1992.

The county appraiser shall submit a quarterly report detailing the progress of the appraisal maintenance project.

The county appraiser shall prepare and submit to the Director for review a budget adequately funding all real and personal property functions of the appraiser's office.

The county shall comply with the Division of Property Valuation's approved list of vendors, contractors and consultants. The county shall have all contracts for appraisal and mapping services approved by the Director of Property Valuation.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

5-15

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-004

TO: County Appraisers and County Clerks

SUBJECT: Posting Value Changes from Hearings

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall process into the KSCAMA hearing and tracking system all informal appeals of real estate values and all payment under protest informal hearings on real estate, except when the Director of Property Valuation has granted a variance for an approved alternate tracking system.

The county clerk or their designee shall process into the KSCAMA hearing tracking system all appeals of real estate values to the county hearing panel, hearing officer or arbitrator. Real estate value changes from clerical errors shall be entered in the KSCAMA hearing tracking system, except when the Director of Property Valuation has granted a variance for an approved alternate tracking system.

Approved: November 30, 1992

A handwritten signature in dark ink, appearing to read "David C. Cunningham", is written over a horizontal line.

David C. Cunningham
Director of Property Valuation

5-16

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-005

TO: County Appraisers

SUBJECT: Procedures and Guidelines for Valuing Property

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

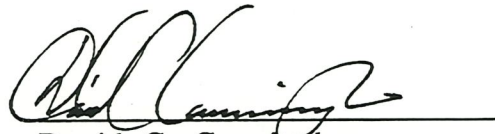
The county appraiser shall follow the procedures and guidelines set forth in the Division of Property Valuation's specifications, manuals, guides and tutorials, as promulgated by the Director. These include, but are not limited to:

- A. Appraisal Maintenance Specifications
- B. Kansas Reappraisal Manual (revised)
- C. Agricultural Land Identification and Classification
- D. Technical Specifications for Property Ownership Mapping
- E. Technical Specifications for Aerial Photography
- F. Technical Specifications for Rectified Aerial Photography and Soil Overlay Enlargements

G. Guides:

1. Grain Elevator Guide
2. Manufactured Housing Guide
3. Sale Validation Guide
4. Oil and Gas Price Guide
5. Oil and Gas Appraisal Guide
6. Personal property guides provided by and/or prescribed by the Division of Property Valuation
 - a. Miscellaneous Property
 - b. Motor Vehicle Reference
 - c. Personal Property Reference
 - d. Truck Blue Book
 - e. Abos Marine Blue Book
 - f. NADA Recreation Vehicle Appraisal Guide
 - g. Aircraft Bluebook-Price Digest
 - h. NADA Used Car Guide
 - i. NADA Motorcycle Guide
 - j. NADA Older Used Car Guide
 - k. Motor Vehicle Value Release Forms

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-006


TO: County Appraisers

SUBJECT: Uniform Standards of Professional Appraisal Practice

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall perform all appraisal functions in conformity with the Uniform Standards of Professional Appraisal Practice, Standards 2 and 6, as required by L. 1992, ch. 249, § 1. The Uniform Standards of Professional Appraisal Practice are hereby incorporated by reference as though fully set forth herein.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

5-19

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-007

TO: County Appraisers


SUBJECT: Land Use Codes

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall utilize the attached list of land use codes to describe the predominate and present use of each parcel of real property. The Director may update this list as necessary without re-issuing this directive. If a parcel of property is not in use on January 1 of the tax year, the land use code shall represent the most recent use, intended use or highest and best use of the parcel. Field 102 of the KSCAMA record is the designated position used for this data.

A one position optional sub-field to the right of the decimal point may be used by the county for greater specificity, if desired. No changes, alterations, or additions to the primary land use codes can be made by the county. Modification requests shall be submitted to the Director in writing. Any modifications approved by the Director shall be distributed to all counties through a revised set of pages for the Real Property Reappraisal Manual.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

5-20

100	Vacant Residential Land	333	Steel Fabricating
111	Single Family Residential	334	Automobile - Manufacturing
112	Duplex	335	Aircraft - Manufacturing
113	Triplex	336	Instrument, High Tech - Manufacturing
114	Fourplex	340	Machinery, Except Electrical - Manufacturing
115	Condominium	341	Electrical Equipment - Manufacturing
116	Condominium - Common Element	399	Other Industrial Uses N.E.C.
117	Mobile Home Site (Not Mobile Home Park)		
118	Mobile Home Park or Court	400	Vacant Transportation, Communication, Utility Land
119	Garden Apartment - 1 to 3 stories	411	Railroad Transportation
120	Walk-Up Apartment - 1 to 4 stories	422	Motor Freight Transportation
121	Mid-Rise Apartment - 4 to 7 stories, Limited Elevator Service	423	Bus Transportation
122	High-Rise Apartment - 7 stories and over, Full Elevator Service	424	Taxicabs
123	Group Quarters - Rooming House	431	Airports and Flying Fields
124	Residential Dwelling Converted to Apartments	441	Marine Terminals
		458	Street (Private)
170	Hotel-Motel with Restaurant	460	Automobile Parking (Open)
171	Hotel-Motel without Restaurant	461	Automobile Parking Garage
172	Hotel-Motel -High-Rise - 5 stories and up	471	Telephone Communications
173	Resort Hotel-Motel	472	Telegraph Communications
174	Health Resort	473	Radio Broadcast Studio
199	Other Residential Uses N.E.C.	474	Television Broadcast Studio
		475	Radio and Television (Combined Systems)
200	Vacant Industrial Land	476	Radio - Television - Microwave Transmission Facility
211	Meat Products - Manufacturing	481	Electric Utility
212	Dairy Products - Manufacturing	482	Gas Utility
214	Grain Mill Products - Manufacturing	483	Water Utility and Irrigation
215	Bakery Products - Manufacturing	484	Sewage Disposal
218	Beverage - Manufacturing	485	Solid Waste Disposal
229	Textile Mill Products - Manufacturing	486	Salvage - Reclamation Yard
236	Leather and Leather Products - Manufacturing	499	Other Transportation, Communication, Utility Uses N.E.C.
238	Textile Products (Clothing) - Manufacturing		
241	Timber - Forest Products - Manufacturing	500	Vacant Commerical Land
242	Sawmills and Planing Mills	511	Warehouse, Distribution, or Storage Facility
243	Millwork, Veneer, Plywood, etc. - Manufacturing	512	Warehouse - Office Strip or Complex Combination
259	Furniture and Fixtures - Manufacturing	513	Warehouse - Retail Combination
262	Paper - Manufacturing	514	Warehouse - Office Combination
265	Paperboard Containers and Boxes - Manufacturing	515	Mini-Storage
271	Newspapers - Publishing and Printing	516	Cold Storage Facility
272	Periodicals - Publishing and Printing	517	Truck Terminal - Transit Warehouse
274	Commercial Printing	518	Grain Storage (Elevator)
281	Industrial Chemicals - Manufacturing	521	Lumber Yard - Building Supply Center
282	Plastic Materials, etc. - Manufacturing	522	Nursery - Greenhouse - Garden Center
283	Drugs - Manufacturing	531	Downtown Row - Type Store
285	Paints, Varnishes, Lacquers, etc. - Manufacturing	532	Retail Store (Free Standing - Single Use)
291	Petroleum Refining	535	Discount Chain Store
292	Paving and Roofing Materials - Manufacturing	536	Department Store
319	Rubber Products - Manufacturing	537	Convenience Store
321	Flat Glass - Manufacturing	538	Convenience Retail Center
322	Glass and Glassware - Manufacturing	539	Supermarket (Free-Standing)
323	Cement (Hydraulic) - Manufacturing	540	Neighborhood Shopping Center
326	Concret, Gypsum, and Plaster Products - Manufacturing	541	Community Shopping Center
327	Cut Stone and Stone Products - Manufacturing	542	Regional Shopping Center
332	Iron and Steel Foundries		

543	Super Regional Shopping Center	699	Other Institutional - Service Uses N.E.C.
544	Retail Condominium Unit	700	Vacant Cultural, Entertainment, Recreational Land
551	Automobile Dealership (Full Service)	708	Sports Arenas - Playing Fields - Baseball Diamonds
552	Automobile Dealership (Car Lot)	709	Gymnasiums - Dance Schools
553	Mobile Home - Motor Home Dealership	710	Health Clubs - Racquetball Clubs
554	Farm Implement Dealership	711	Museum
555	Tractor - Trailer Dealership	712	Library
556	Marine Dealership	713	Art Gallery
557	Motorcycle Dealership (New and Used)	714	Zoo - Aquarium
581	Restaurant (Free Standing)	715	Motion Picture Theater
582	Drive-In Restaurant	716	Cinema Complex - 2 or more projection screens
583	Fast Food Restaurant (Franchise or Chain)	717	Legitimate Theater
584	Bar - Lounge - Disco - Club - Tavern	718	Drive-In Theater
585	Night Club - Dinner Theater	719	Amphitheater
611	Bank -Savings and Loan (Full Service)	720	Auditorium
612	Branch Bank - Savings and Loan with Drive-Up Facility	721	Race Track
613	Bank - Remote Facility Only	722	Fairground
624	Funeral Home	723	Amusement Park
631	Office Building - Low Rise - 1 to 4 Stories	724	Family Arcade - Game Center
632	Office Building - High Rise - 5 stories and up	725	Bowling Alley
633	Strip Office Center - Professional Center	726	Skating Rink
634	Office Condominium Unit	727	Tennis Court
635	Medical - Dental Office	728	Golf Course with Country Club
636	Veterinary Office	729	Golf Course without Country Club
637	Stockyard	730	Driving Range
638	Automobile Service Garage	731	Miniature Golf
639	Automobile Service Center (National Chain)	732	Playground
640	Full Service Station	733	Swimming Pool
642	Self-Service Station	734	Marina
643	Car Wash (Automatic)	735	General Recreation Park - Wildlife Reserve
644	Car Wash (Self Service)	736	Leisure - Ornamental Park
645	Contract Construction Services	737	Travel Trailer Park
649	Other Commercial Uses N.E.C.	738	Campground
650	Vacant Institutional - Service Land	739	Fishing - Hunting Camp
651	Governmental Offices	740	Indian Reservations
652	Post Office	799	Other Cultural, Entertainment, Recreational Uses NEC.
653	Police Station	800	Farm - Ranch Land - No Improvements
654	Fire Station	811	Farm - Ranch with Residential and Farm Improvements
655	Correctional Institution	812	Farm - Ranch with Farm Improvements Only
656	Military Base or Resevation	813	Feedlot - Commercial Feed Yards
657	Hospital	814	Orchards
658	Surgical Clinic - Health Center	815	Tree Farms - Nursery - Grass or Turf Farm
659	Convalescent Home - Nursing Home	816	Poultry Confinement Facility
660	Cemetery	817	Swine Confinement Facility
661	Day Care - Learning Center	818	Cattle Confinement Facility
662	Preschool - Nursery School	900	Vacant Resource Production and Extraction Land
663	Elementary School	911	Metal Ore Mining
664	Junior High School - Middle School	912	Coal Mining
665	High School	913	Crude Petroleum Production
666	Junior College	914	Natural Gas Production
667	College - University	915	Quarries - Stone, Gravel, Limestone, Sandstone, etc.
668	Vocational - Trade School	916	Sand Pit
670	Church - Place of Worship	932	Lake
671	Religious School	990	Non Severed Mineral Rights
673	Religious Living Quarters	991	Severed Mineral Rights
680	Charitable Institution	999	Other Resource Production and Extraction Uses NEC.
681	Civic Club		
682	Union Hall		
683	Fraternal Institution		
692	Social Service Facility		

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-008

TO: County Appraisers, County Clerks and County Commissioners

SUBJECT: Educational Requirements for Hearing Officers, Panel Members and Arbitrators

The Director of Property Valuation, as required by L. 1992, ch. 282, §§ 7, 14, establishes the following education, experience and training requirements for hearing officers, panel members and arbitrators:

HEARING OFFICER OR PANEL MEMBER

A specified valuation school sponsored by the Division of Property Valuation;

IAAO I or its equivalent to hear appeals on residential properties; and

IAAO II or its equivalent to hear appeals on commercial properties.

BINDING ARBITRATOR

A specified valuation school sponsored by the Division of Property Valuation; and

Be licensed or certified as an appraiser by the Kansas Real Estate Appraisal Board.

Approved: November 30, 1992

A handwritten signature in black ink, appearing to read "David C. Cunningham", is written over a horizontal line.

David C. Cunningham
Director of Property Valuation

5-23

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE # 92-009

TO: County Appraisers; Boards of County Commissioners

**SUBJECT: Abatement of Tax Penalties Pursuant to
(K.S.A. 79-332a, as amended by L. 1992, ch. 282,
§2.K.S.A.79-1422 and K.S.A. 1991 Supp. 79-1427a)**

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall impose all penalties prescribed by K.S.A. 79-332a, as amended by L. 1992, ch. 282, §2, K.S.A. 79-1422 and K.S.A. 1991 Supp. 79-1427a. County appraisers, county clerks and boards of county commissioners shall not abate such penalties.


K.S.A. 79-1422 provides in part that "[a]ny person required to file a statement listing property for assessment and taxation purposes who fails to make and file such statement on or before the date prescribed by K.S.A. 79-306, and amendments thereto, shall be subject to a penalty...". The word "shall" imposes an affirmative obligation to which discretion does not apply {Banister v. Carnes, 9 Kan. App. 2d 133 (1983)}. Therefore, any county appraiser not adding the penalties prescribed by K.S.A. 79-1422 in the case of a late filing is in contravention of the provisions of the statute. K.S.A. 1991 Supp. 79-1404, *Third* states that it shall be the duty of the Director of Property Valuation to direct proceedings, action and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property.

5-24

Only the Board of Tax Appeals is authorized to abate any penalty imposed under the provisions of K.S.A. 79-1422(c), which provides:

The board of tax appeals shall have the authority to abate any penalty imposed under the provisions of [K.S.A. 79-1422] and order the refund of the abated penalty, whenever excusable neglect on the part of the person required to make and file the statement listing property for assessment and taxation is shown, or whenever the property for which a statement of assessment was not filed as required by law is repossessed, judicially or otherwise, by a secured creditor and such secured creditor pays the taxes and interest due.

Approved: November 3, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-010

TO: County Appraisers

SUBJECT: Final Review

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County appraisers shall conduct final review before value estimates can be finalized and change of value notices can be mailed.

It is critical that adequate time and resources be allocated for the accurate and timely completion of this phase. (§ 16, of the Appraisal Maintenance Specifications).

Phase 690 - - Final Review:


A qualified appraiser shall make a field inspection to carefully and critically examine the appraisal estimates developed for each parcel of property. The indicator which most accurately reflects the market value shall be selected after the quality of the recorded data has been ascertained and determined to be correct. This phase shall be completed prior to mailing of change of value.

The exception to Phase 690 is; no such inspection shall be required to change the valuation of land devoted to agricultural use.

5-26

Final review must be done not only according to specifications, but the finalization of a value must be carefully documented by notation on the comp and/or ICS sheets. Notation shall include the initials or ID number of the review appraiser and the date of the review. This documentation shall be retained for verification of the final review and accordance with Article 4 - Public Records Preservation K.S.A. 45-401 et.seq.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-011

TO: County Appraisers
SUBJECT: Leasehold Improvements

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County appraisers shall follow the law of fixtures in determining whether leasehold improvements constitute real or personal property for taxation purposes.

K.S.A. 79-102 provides in relevant part:

... the terms "real property," "real estate," and "land" ... shall include not only the land itself, but all buildings, fixtures, improvements, mines, minerals, quarries, mineral springs and wells, rights and privileges appertaining thereto. (Emphasis added).

The term "personal property" shall include every tangible thing which is the subject of ownership, not forming part and parcel of real property ... (Emphasis added).

To determine whether an item constitutes a fixture, three factors are considered: (1) annexation to the realty; (2) adaptation to the use or purpose of that part of the realty to which it is connected; and (3) the intention of the party making the annexation to make the item a permanent annexation to the freehold [Dodge City Water & Light Co. v Alfalfa Land & Irr. Co., 64 Kan. 247, 67 P. 462 (1902)].

In considering annexation when determining whether an item is a fixture, some courts have looked at whether removal of the item shall injure the realty or shall injure the item itself [Stem Brothers, Inc. v Alexandria Township, 6 N.J. Tax 537 (1984)]. For example, an indication that the leasehold improvement is a fixture, thus real property, is if removal of the leasehold improvement from the realty causes a change in the market value of the realty or requires a significant amount of time or cost to restore the realty or leasehold improvement to its original use. An indication that the leasehold improvement is personal property is if removal of the leasehold improvement from the realty is easily accomplished with minimal damage to the realty or leasehold improvement.

Adaptation to the use or purpose of that part of the realty to which the item is connected focuses on the relationship between the item and the use which is made of the realty to which the item has been attached. If the leasehold improvement is a necessary or useful adjunct to the realty and makes the realty more valuable, then it may be said to have been adapted to the use or purpose of the realty to which it was attached. If the leasehold improvement is attached for a use or purpose which does not enhance the value of the land, it is generally deemed not to become a part of the land [Atchison, T. & S.F. R. Co. v. Morgan, 42 Kan. 23, 21 P. 809, 4 L.R.A. 284, 16 Am.St.Rep. 471 (1889)].


The intention to make the item a permanent annexation to the freehold is the controlling factor in determining the character of the item. Intention is inferred from the nature of the item affixed, the relation and situation of the party making the annexation, the structure and mode of annexation, and the purpose for which the annexation has been made [Eaves v. Estes, 10 Kan. 314, 15 Am.Rep. 345 (1872)].

While no current statute requires improvements on leased land to be listed for the purpose of valuation as personal property (K.S.A. 79-328; Repealed, L. 1981, ch. 371, § 1; April 25, 1981), statutory exemptions exist specifically requiring certain mobile homes (K.S.A. 79-340) and oil and gas property (K.S.A. 79-329) to be listed as personal property for the purpose of valuation.

5-29

The law of fixtures applies in determining whether leasehold improvements constitute real or personal property. Once such a determination has been made, the property shall be carried on either the real property roll or the personal property roll.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-012

TO: County Clerk and Hearing Officers
SUBJECT: Sufficient Justification Review Procedures

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The hearing officer or panel shall provide written justification when such officer or panel issues an order modifying the valuation of individual tracts of real property.

K.S.A. 79-1481, as amended by L. 1992, ch. 54, provides as follows:

The director of property valuation shall require written justification from the hearing officer or panel . . . when such officer, [or] panel issues an order modifying the valuation of individual tracts of real property if such change constitutes the final decision of the county. The justification shall be conveyed on forms prescribed by the director, notifying the director if such actions of the hearing officer or panel . . . and conveyed by certified mail, return receipt requested, or personally delivered to the director of property valuation or his designee. The director shall within 30 days after receipt of such justification review such justification to determine compliance with K.S.A. 79-503a, and amendments thereto, except that, the director may extend such time in intervals of 30 days not to exceed two such extensions, for just cause shown. If the director finds such hearing officer's or panel's . . . actions are not in compliance with K.S.A. 79-503a, and amendments

5-31

thereto, the director shall order reinstatement of the appraiser's valuation. Any party aggrieved by the director's order may within 30 days appeal such order to the state board of tax appeals which shall conduct a hearing on the appeal in accordance with the provisions of the Kansas administrative procedures act.

A written explanation made by the hearing officer or panel describing why the change in value or classification of the property is warranted is to be provided to the Director on the appropriate HTM (Hearing Tracking Module) generated form. The explanation shall be accompanied by copies of supporting data in sufficient detail to justify the change.

The hearing officer or panel shall provide a copy of any documentation pertinent to the appeal. In the case of an appraisal report, a sheet giving the pertinent facts of the appraisal may be sent in the place of such appraisal with the notation that the appraisal is on file in the clerk's office in the county. Attached documents shall also include a copy of the appeal form and the proceedings/justification form.

If an appraisal description sheet is used, it shall contain the name and designation of the appraiser making the report, the date of valuation for the property being valued, and the conclusion of value made.

The county clerk or their designee shall mail those appeals that were changed to the Property Valuation Division weekly. The envelope should be marked "Attention: Sufficient Justification" in the lower left corner.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-013

TO: County Appraisers

SUBJECT: Appraisal of Subdivision Lots

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall follow the procedures set forth herein if, in the appraisal of subdivision lots, the county appraiser elects to use the developer's discount methodology.

Although K.S.A. 79-405 requires platted lots in a subdivision to be identified and taxed individually, the appraisal should be based upon the entire tract of land. When the appraisal of the whole tract is complete, the market value shall be allocated among the developer's individual lots. This requires the county appraiser to distinguish between the gross sellout (aggregate of individual retail prices) and the market value (wholesale value of the development as one unit).

County appraisers shall obtain pertinent income and expense data from developers and prepare an estimate of value based on the present worth of the projected income stream.

The appraiser shall use a discounted cash flow analysis that itemizes the entire income and expense flow on a year-by-year basis during the absorption period. In selecting the discount rate, the appraiser is to consider the desirability of the project, the risk involved and the competitive rate of return required to attract capital to the project. This methodology shall be subject to an annual review of all pertinent data. Factors such as the absorption rate, discount rate, lot prices and operating

5-33

expenses shall be reexamined annually before the discounted cash flow analysis is recalculated.

Although the sale data of individual lots will be very useful for arriving at individual lot values it shall **not** be used in the official state assessment/sales ratio study. To properly flag this sale data in CAMA for exclusion, a source code of 7 is to be entered when the transfer is processed.

Actual use of the land should be determined. If the property is being used for agricultural purposes, the appropriate agricultural use value should be applied to the land.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-014

TO: County Treasurers

**SUBJECT: Computation of Interest on Delinquent Taxes
Following Reduction by the Board of Tax
Appeals**

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County treasurers shall recalculate the tax due whenever the state board of tax appeals, or other competent jurisdiction, reduces valuation. If such taxes are delinquent, the statutory rate(s) shall be applied to the adjusted tax due.

Approved: November 3, 1992

A handwritten signature in black ink, appearing to read "D. C. Cunningham", is written over a horizontal line.

David C. Cunningham
Director of Property Valuation

5-35

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-015

TO: County Appraisers and County Clerks

SUBJECT: Owner of Record

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County clerks shall change the real property assessment and tax rolls to indicate the new owner of record whenever a deed or other instrument conveying real property is recorded.

K.S.A. 1991 Supp. 79-1460 provides in part that the term "taxpayer" shall be the person in ownership of the property as indicated on the records of the office of register of deeds or county clerk.

K.S.A. 58-2221 provides:

"Every instrument in writing that conveys real estate ... may be recorded in the office of register of deeds of the county in which such real estate is situated[.]"...

The grantor, ... grantee ... or any other person conveying or receiving real property or other interest in real property upon recording the instrument in the office of register of deeds shall furnish the full name and last known post-office address of the person to whom the property is conveyed or his or her designee.

5-36

The register of deeds shall forward such information to the county clerk of the county who shall make any necessary changes in address records for mailing tax statements."

K.S.A. 1991 Supp. 79-2001 requires the county treasurer to mail tax statements to taxpayers, as shown by the tax rolls. In order to comply with K.S.A. 58-2221, the county clerk shall change the tax rolls to indicate the name and address of the grantee or such grantee's designee. The real property assessment roll shall also be changed to indicate the name and address of the grantee or such grantee's designee. However, the real property tax roll shall not be changed after the first day of November of the current year .

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-016

TO: Register of Deeds

SUBJECT: Real Estate Sales Validation Questionnaires; Filing Requirements

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

Register of Deeds shall comply with the following procedures in handling and processing real estate sales validation questionnaires.

1. The only exceptions to the requirement to file a real estate sales validation questionnaire are statutory.

K.S.A. 1991 Supp. 79-1437e(a), as amended by L. 1992, ch. 159, § 2, provides:

The real estate sales validation questionnaire required. . . shall not apply to transfers of title:

- (1) recorded prior to the effective date of this act;
- (2) made solely for the purpose of securing or releasing security for a debt or other obligation;
- (3) made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration;
- (4) by way of gift, donation or contribution stated in the deed or other instrument;


- (5) to cemetery lots;
 - (6) by leases and transfers of severed mineral interests;
 - (7) to a trust, and without consideration;
 - (8) resulting from a divorce settlement where one party transfers interest in property to the other;
 - (9) made solely for the purpose of creating a joint tenancy or tenancy in common;
 - (10) by way of a sheriff's deed;
 - (11) by way of a deed which has been in escrow for longer than five years;
 - (12) by way of a quit claim deed filed for the purpose of clearing title encumbrances; or
 - (13) when title is transferred to convey right-of-way or pursuant to eminent domain.
2. A real estate sales validation questionnaire is required when an affidavit of equitable interest in real estate is recorded in the office of register of deeds.
 3. The "total sale price" must be entered on the real estate sales validation questionnaire. If one dollar (\$1.00), ten dollars (\$10.00) or any nominal sale price is entered on the real estate sales validation questionnaire, the register of deeds shall question the accuracy of the sale price as entered. If the grantor or grantee affirms that the sale price as entered is correct, the deed should be recorded.
 4. A real estate sales validation questionnaire is not required on a trust deed that states "without consideration" or that has one dollar (\$1.00), ten dollars (\$10.00) or some other nominal value entered thereon. "Without consideration" as used in K.S.A. 79-1437(e)(7), as amended by L. 1992, ch. 159, § 2, means "gift." Therefore, an entered consideration of one dollar (\$1), ten dollars (\$10) or "love and affection" on a trust deed shall be construed as a "gift," and the deed accepted without a real estate sales validation questionnaire. However, if the phrase "one dollar (\$1.00) and other valuable consideration" has been entered on the deed, a real estate sales validation questionnaire is required to record the deed.
 5. Any person with authority to execute a deed or other instrument conveying real property may sign the real estate sales validation questionnaire.

6. If a government entity, such as a county, conveys real property, the real estate sales validation questionnaire must be signed by the government official(s) who signed the deed.
7. An agent may complete the real estate sales validation questionnaire and have the grantor or grantee sign it.
8. Multiple deeds conveying partial interests and filed simultaneously, do not require multiple real estate sales validation questionnaires, provided the real estate sales validation questionnaire filed is annotated to state that the consideration entered thereon is the total consideration for the transfer of the entire interest. The register of deeds shall indicate in the upper left hand corner of the real estate sales validation questionnaire the deed book and page number range assigned to the corresponding deeds.
9. A real estate sales validation questionnaire with the phrase "other valuable consideration" entered as the sales price shall not be accepted. It shall be returned for the sale price to be entered before the deed, instrument or affidavit may be recorded.
10. The Register of Deeds has a legal obligation to see that the real estate sales validation questionnaire is completed. At a minimum, this requires that each real estate sales validation questionnaire be scrutinized for completion of the identification and location information and all questions thereon.
11. A real estate sales validation questionnaire without every question answered, including the sale price, the signature and phone numbers entered is not "completed". Incomplete real estate sales validation questionnaires accompanied by the deed, affidavit of equitable interest or other instrument transferring title to real estate, must be returned to the filer with notice that such deed, affidavit, or instrument has not been recorded.
12. The phrase "made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration," (K.S.A. 79-1437e) is explained as follows:

Confirm means "to complete or establish that which was imperfect or uncertain; to ratify what has been done without authority or insufficiently; to make firm or certain; to give new assurance of truth or certainty; to put aside past doubt; to give approval to." Black's Law Dictionary 270 (5th ed. 1979). **Correct** means "to remove errors from." Webster's II New Riverside University Dictionary 314 (1984). **Modify** means "to alter; to change in incidental or subordinate features." Black's Law Dictionary 905 (5th ed. 1979). **Supplement** means "something added to offset a deficiency, or strengthen the whole; a section added to a document to provide additional data, or to correct errors." Webster's II New Riverside Dictionary 1163 (1984). The recurrent theme of these definitions is an incidental change, not a change in substance. In the case of a deed previously recorded, this would mean that the change does not change the grantor or the grantee (although, e.g., a change may be made in the spelling of the grantor's or grantee's name). Whatever the change, the intent to convey the real property to a named person or entity is not changed. Also, there can be no additional consideration.

13. It is a misdemeanor to falsify the value of real estate transferred on a real estate sales validation questionnaire (K.S.A. 1991 Supp. 79-1437g, as amended by L. 1992, ch. 159, § 3). Any Register of Deeds or other county official who has information or suspects that a real estate sales validation questionnaire has been falsified shall notify the County Attorney or County Counselor for possible legal action.
14. Photocopies of real estate sales validation questionnaires may be obtained by those individuals who have statutory access to them (K.S.A. 1991 Supp. 79-1437f, as amended by L. 1992, ch. 282, § 19). K.S.A. 45-219(a) provides that any person may make abstracts or copies of any public record to which such person has access under the Open Records Act. Public officials may require advance payment of the actual cost of furnishing copies, including the cost of staff time, to make the information available. K.S.A. 45-218(f); K.S.A. 45-219(c)(1).

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-017


TO: County Appraisers

SUBJECT: Watershed Exemption

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County appraisers shall not include building value in the amount to be exempted pursuant to K.S.A. 79-201g. The term "real property," as used in K.S.A. 79-201g, refers to **land only**. Buildings are not considered part of the exemption for property contiguous to a watershed pond. K.S.A. 79-201g refers to "land" and "real property," and uses the terms interchangeably. K.S.A. 82a-405 clarifies this further as it refers to "land" only.

Approved: November 3, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-018

TO: County Appraisers

SUBJECT: Valuation Changes

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County appraisers shall make changes in classification and/or appraised value of property only in the following circumstances.

First: The county appraiser may make changes in the classification and/or appraised value of property any time before the appraisal rolls are certified to the county clerk. See K.S.A. 79-1465. K.S.A. 79-1466, as amended by L. 1992, ch. 282, § 5, provides that the county appraiser shall on or before June 15 of each year deliver a document certifying that the real property appraisal rolls are complete. K.S.A. 79-1467, as amended by L. 1992, ch. 282, § 6, provides that the county appraiser shall on or before June 15 of each year deliver a document certifying that the personal property appraisal rolls are complete.

Second: The county appraiser may change the classification and/or appraised value of property that is the subject of an informal meeting with the county appraiser or the appraiser's designee pursuant to K.S.A. 1991 Supp. 79-1448, as amended by L. 1992, ch. 282, § 3.

Third: The county appraiser may request that the hearing officers or panels appointed by the county commission pursuant to L. 1992, ch. 282, § 7, make changes in the classification and/or appraised valuation while they are in session as such hearing officers or panels. The county clerk notifies the taxpayer of the proposed change to the classification and/or appraised valuation of such taxpayer's property at least 10 days before a hearing on such proposed change, fixing a time and place for such hearing. In each of these circumstances, either the hearing officer or panel orders the actual change in classification and/or appraised value of the taxpayer's property. The county clerk or their designee pursuant to such orders actually and physically make such changes in the certified appraisal rolls.

Fourth: The county appraiser has no authority to correct clerical errors in the assessment rolls. Such authority is vested in the county clerk (K.S.A. 79-1701), the board of county commissioners (K.S.A. 79-1701a), and the state board of tax appeals (K.S.A. 79-1702). The county appraiser does have statutory authority to request the correction of clerical errors in the assessment rolls; however, it is the county clerk who actually and physically corrects the assessment rolls pursuant to either K.S.A. 79-1701, or as ordered by the board of county commissioners or the state board of tax appeals pursuant to K.S.A. 79-1701a or K.S.A. 79-1702 respectively.

Fifth: Hearing officers and panels have no authority to be in session after July 1. L. 1992, ch. 282, § 10, unless reconvened by order of the director of property valuation pursuant to K.S.A. 79-1404, *Sixteenth*. K.S.A. 79-1404.

If changes in the classification and/or appraised value of properties are made by the hearing officer or panel pursuant to the reconvening order of the director of property valuation, the only appeal available to taxpayers aggrieved by such changes is the "tax protest" provided by K.S.A. 79-2005.

Sixth: K.S.A. 79-2005, as amended by House Bill 2001, Kansas Register, Vol. 8, No. 50, December 14, 1989 (now K.S.A. 1991 Supp. 79-2005), reopened the "hearing" and appeals process." The county appraiser may change value as a result of the formal meeting with the taxpayer required by K.S.A. 1991 Supp. 79-2005, subject to the approval of the state board of tax appeals. The state board of tax appeals may schedule a hearing on such changes. If the state board of tax appeals takes no action within 45 days of the notice of such changes, such changes become final. Such "final changes" may be appealed by the taxpayer to the county commissioners or the state board of tax appeals.

In summary, while the county appraiser is statutorily limited to making changes in the classification and/or appraised value of property in the county within specific time frames, there are other taxing officials who may order changes in such classification and/or appraised value during other time frames.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-019

TO: County Appraisers

SUBJECT: Annual Appraisal: "10% Variance" Language in
K.S.A. 79-503a

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.


The county appraiser shall have the duty of reappraising all real property in the county and of updating the same on an annual basis. This means that reappraisal is an ongoing process and that every parcel of real property must be appraised annually. The county appraiser is required by law to value property at its fair market value or use value, whichever is applicable, pursuant to K.S.A. 79-501, 79-503a, and 79-1439. K.S.A. 79-503a provides in pertinent part as follows:

"A variance of 10% in any individual appraisal at fair market value shall not be considered willful neglect of the county appraiser's duty to achieve fair market value. The foregoing provision shall not be construed to mean that a series of such variances does not constitute willful neglect. . . ." (emphasis added).

The language of K.S.A. 79-503a regarding 10% variance does not authorize the board of county commissioners or the county appraiser to establish variance or threshold levels when determining property values. Such a practice would constitute "a series of variances" and would be considered willful neglect which is prohibited by K.S.A. 79-503a. It is the appraiser's duty to find the fair market value, or use value, of each property on an annual basis.

This is not to say that an appraiser is prohibited from carrying forward a value if, in the appraiser's judgment, the value established in the prior year is the appropriate value for the current year. However, if a value is carried forward, the appraiser must be prepared to document that such value is the fair market value, or use value, of the property.

Approved: November 3, 1992


David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-020

TO: County Appraisers


SUBJECT: Controlled Shooting Areas

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

Controlled shooting areas shall be valued as follows:

1. The establishment of a controlled shooting area pursuant to K.S.A 32-943, *et seq.*, does not automatically preclude classifying said parcel(s) as "land devoted to agricultural use" (Class 1, B).
2. A parcel established as a controlled shooting area should be classified, as any other parcel, on the basis of its current predominate use.
3. Any building/structure used to support said controlled shooting area, shall be classified as "*Commerical/Industrial*" (Class 1, D) and shall be assessed to 25% of its value.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-021

TO: County Appraisers

SUBJECT: Mixed Use Properties

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County Appraisers shall recognize mixed use properties and appropriately classify each portion thereof.

DEFINITION

Mixed Use Property: A parcel which is **not** distinctly and exclusively used or intended to be used for residential, multifamily, recreational, commercial, industrial or agricultural purposes, but a combination thereof. Uses which are transient or incidental mixed uses that are so integrated with the predominate use as to be indistinguishable are not segregated for classification.

GENERAL GUIDELINES

Even when mixed uses are recognized for assessment classification, the market value of the parcel shall continue to be based upon the highest and best use of the land and improvements.

Approved: November 30, 1992

A handwritten signature in dark ink, appearing to read "D.C. Cunningham", is written over a horizontal line.

David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-022

TO: County Appraisers

SUBJECT: Homesite Delineation

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall not establish a "standard" size for homesites. K.S.A. 1991 Supp. 79-1476 defines "land devoted to agricultural use" and further describes land excluded from agricultural use as follows:

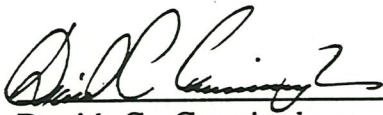
Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home site or farm home sites and yard plots whose primary function is for residential or recreational purpose even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Many suburban residential acreages and rural homesites encompass anywhere from two to twenty acres, and in some cases even more. Although the house, garage and surrounding landscaped lawn may only occupy one acre, the remaining acreage should not be valued as agricultural land if the primary function is for residential or recreational purposes. Homesites (both rural and farm) or yardplots are defined as follows:

Land on which a residence, used or intended to be used for nontransient human habitation, and the supporting auxiliary facilities and improvements which enhance the residential amenities are located. It also includes that portion of a residential property which is used for incidental horticultural, agricultural or recreational purposes.

Each tract must be considered individually and delineated as to what is actually being used. While an appraiser may choose to include septic drain fields, zoning factors, etc., in the homesite delineation which might infer a minimum size, there can not be a standard size established for the homesite. Each site must be delineated on the map and the area calculated to the nearest one-tenth of an acre.

Approved: November 3, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS.

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

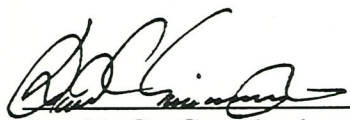
DIRECTIVE #92-023

TO: County Appraisers
SUBJECT: Informal Meeting "No Shows"

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall not generate a Notification of Informal Meeting Results form (PV-RA-32) through the Hearing Tracking Module for "no shows." "No shows" are not entitled to continue with the formal appeal process and should not be misled by the instructions which are printed on the bottom of the form. An informal meeting with the county appraiser or the appraiser's designee is a condition precedent to an appeal to the county or district hearing officer/panel. A telephone interview, with an exchange of information, can be considered as an informal meeting. Whenever possible the county appraiser should reschedule an informal meeting (before the May 15th deadline) if a just and adequate reason can be provided for the failure to appear. It is, however, the property owner's responsibility to request a rescheduling prior to May 15th.

Approved: November 30, 1992


David C. Cunningham
Director of Property Valuation

5-52

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-024

TO: County Appraisers

SUBJECT: Representation Forms

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.


A county appraiser shall not require an attorney to complete a representation form in order to represent a taxpayer during the hearing and appeals process.

Longstanding Kansas case law establishes that an attorney's authority to appear on a client's behalf is presumed, and his or her acts bind the client, unless clearly shown unauthorized. Hendrix v. Fuller, 7 Kan. 331 (1871); Kerr v. Reece, 27 Kan. 469 (1882); Reynolds v. Fleming, 30 Kan. 106, 1 P. 61, 46 Am.Rep. 86 (1883); Overlander v. Overlander, 129 Kan. 709, 284 P. 614 (1930); Kackley State Bank of Kackley v. Nichols, 162 Kan. 648, 179 P.2d 186 (1947); Meyer v. Schmidt, 184 Kan. 21, 334 P.2d 345 (1959); Shinkle v. State Highway Commission, 202 Kan. 311, 448 P.2d 12 (1968); Meyer v. Meyer, 209 Kan. 31, 495 P.2d 942 (1972). The discipline of attorneys is handled by the Kansas Board for Discipline of Attorneys appointed by the Kansas Supreme Court. Consequently, the unauthorized representation of a client by an attorney may subject such attorney to discipline by the Disciplinary Board. Since the unauthorized representation of taxpayers by attorneys can be handled under existing procedures, it is not necessary to require them to complete a representation form.

5-53

Nonetheless, attorneys are encouraged to voluntarily complete client representation forms. The representation forms are intended to protect both the client and the representative.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS

David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585



(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-025

TO: County Appraisers and County Commissioners
SUBJECT: Exemptions

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

No County Official shall exempt the value of any property or release, discharge, remit or commute any portion on taxes assessed or levied against any person or property, except for those properties which may be exempted by the county appraiser without the approval of the Board of Tax Appeals.

All property in Kansas, real and personal, is subject to taxation unless expressly exempt therefrom. K.S.A. 79-101. K.S.A. 1991 Supp. 79-213(a), as amended by L. 1992, Ch. 102, § 8, and Ch. 287, § 2, provides that any property owner requesting an exemption from ad valorem taxation shall be required to file an initial request for exemption with the state board of tax appeals (hereinafter referred to as "BOTA"). K.S.A. 79-213(l), as amended, lists several exceptions to the filing requirement. In addition, particular statutes provide exceptions to the filing requirement for specific types of property. For example, K.S.A. 79-215 provides that property held for display at a fair is exempt from the filing requirement of K.S.A. 79-213. Unless a particular type of property is exempt from the filing requirement, the property is taxable unless BOTA has issued an exemption order for the property.

5-55

If the appraiser is in doubt as to whether a particular item of personal property is exempt, the property should be placed on the roll. Whether or not there is an initial filing requirement, all doubts concerning exemption are to be resolved against the exemption in favor of taxation. Farmers Co-op v. Kansas Bd. of Tax Appeals, 236 Kan. 632, 635, 694 P.2d 462 (1985). If the taxpayer requests that the property be exempt, the county appraiser should assist the taxpayer in filing a request for exemption with BOTa.

Although an initial request for exemption has been granted by BOTa, the appraiser should place the property on the roll if there has been a change in ownership, or change in use of the property, or if the property is no longer exempt due to a change in the law.

The filing requirement in K.S.A. 79-213, as amended, should not be confused with the annual filing requirement in K.S.A. 1991 Supp. 79-210. The annual filing requirement in K.S.A. 79-210 applies after an initial request for exemption has been granted by BOTa. Generally, when BOTa grants an exemption for a specified number of years, for example 10 years, the taxpayer is required to file an annual claim with the county appraiser each year for 10 years. This claim need not be forwarded to BOTa. A few exceptions to the annual filing requirement are listed in K.S.A. 79-210.

Approved: November 30, 1992



David C. Cunningham
Director of Property Valuation

STATE OF KANSAS



David C. Cunningham, Director
Robert B. Docking State Office Building
915 S.W. Harrison St.
Topeka, Kansas 66612-1585

(913) 296-2365
FAX (913) 296-2320

Department of Revenue
Division of Property Valuation

DIRECTIVE #92-026

TO: County Appraisers
SUBJECT: "Rent to Own" Property

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

County appraisers shall verify that "rent to own" property such as furniture and television sets constitute inventory, as defined below, before exempting the same from taxation.

"Rent to own" property such as furniture and television sets, are inventory and are exempt from property taxation by the Kansas Constitution (art. 11, § 1) and by K.S.A. 79-1439, provided:

1. such taxpayer is a "merchant" as defined by K.S.A. 1991 Supp. 79-201m;
2. such inventory was purchased primarily for resale;
and
3. such inventory is not depreciated on the merchant's federal income tax return.

Other rental items, such as video tapes, tools and equipment purchased for rental only and not purchased primarily for resale, are not inventory and are taxable.

Approved: November 30, 1992

A handwritten signature in dark ink, appearing to read "David C. Cunningham", is written over a horizontal line.
David C. Cunningham
Director of Property Valuation