

Approved: 3/16/94
Date

MINUTES OF THE HOUSE COMMITTEE ON TAXATION.

The meeting was called to order by Chairperson Keith Roe at 9:00 a.m. on March 15, 1994 in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Larry Clark - Kansas County Appraisers Association
Bob Gardner - Wyandotte County Appraiser
Karen France - Kansas Association of Realtors
Bill Waters for David Cunningham, Director, Division of Property Valuation
Rebecca Sanders - General Counsel, Board of Tax Appeals

Others attending: See attached list

Chairperson Roe opened the hearing on SB 542.

SB 542 - property taxation; appraisal, actual viewing; protests for illegal levies.

Larry Clark, Kansas County Appraisers Association, testified in support of SB 542 and reviewed the history of this bill. Mr. Clark said the purpose of the Association for requesting these amendments was not just to gain additional time but to gain the resources in terms of the legal authority to focus on the property problems that they found within their counties (Attachment 1).

Bob Gardner, Wyandotte County Appraiser, testified in support of SB 542 and said this bill streamlines the appraisal process. Mr. Gardner said he approves of this bill as currently written and requested the Committee to pass it as written.

Karen France, Kansas Association of Realtors, testified in support of SB 542. Ms. France said the bill in its current form improves the appeal system for both taxpayers and counties and urged Committee support for the bill (Attachment 2).

Bill Waters testified for David Cunningham, Director, Division of Property Valuation (PVD), in support of SB 542. He said it represents a compromise position worked out by a group of people asked to look at the bill by the Senate Committee on Assessment and Taxation. Mr. Waters said BOTA is going to request an amendment requiring the Director to review valuation changes recommended by the county appraiser (Attachment 3).

Rebecca Sanders, General Counsel, Board of Tax Appeals, requested an amendment to SB 542. She said the amendment moves the oversight of valuation changes as a result of payment under protest hearings from BOTA to the Director of Property Valuation (Attachment 4).

Vice Chairperson Glasscock closed the hearing on SB 542.

The minutes of March 11 and March 14, 1994 were approved as read.

The meeting adjourned at 10:05 a.m. The next meeting is scheduled for March 16, 1994.

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REPRESENTING

[illegible]

SENATE BILL 542

HOUSE COMMITTEE ON TAXATION

MARCH 15, 1994

Mr. Chairman and members of the House Committee on Taxation, my name is Larry Clark and I am here representing the Kansas County Appraisers Association in support of Senate Bill 542.

Listed below are the proposed statutory changes followed by a description of the underlying reasons for the change.

K.S.A. 79-1460

1. Current

Individual physical inspection required to increase the value on any parcel

Change

The appraiser is required to review the record of the latest physical inspection, document the need for a change and make both available to the taxpayer.

Reason

The practical result of this was to require a physical inspection on every parcel every year, since it is during the final field review that values were established. This change would recognize the accuracy of existing records, while allowing the property owner to verify that accuracy.

2. Current

Values are reported separately for the land and buildings situated on such lands.

Change

Report the total appraised and assessed values for each class of property on the parcel.

Reason

The state board of tax appeals as well as district courts have made it clear that the distribution of value between land and buildings is irrelevant, that the total appraised value of each class is what is actually under appeal. Reporting the totals for each class will eliminate needless debate over this distribution and allow the property owner and the appraiser's office to focus on the true valuation and classification issues.

3. Current

The results of the most recent county sales ratio study are to be displayed by property class on the valuation notice.

Change

Eliminate this requirement from the notice. If the

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legislature feels this information is important to convey to the public, require it as part of the annual market analysis report.

Reason

Valuable hearing time is wasted explaining figures which have no bearing upon the current value estimates. The most recent study involves comparisons to the previous year's appraisal estimates, not the current estimates.

K.S.A. 79-1476

4. Current

Every parcel is required to be actually viewed and inspected every four (4) years.

Change

Extend the reinspection cycle to six (6) years.

Reason

Physical characteristics of real estate change slowly over time in the majority of cases. Once property valuation division is satisfied that the parcel records of a given county are accurate and remains satisfied through periodic checks that the county is maintaining the data in a satisfactory manner, that county should be allowed to take advantage of that fact, and by doing so, reduce the cost of appraisal maintenance to the taxpayers of his or her county.

K.S.A. 79-2005

5. Current

Any property owner may protest the valuation of his or her property by paying taxes that are outstanding at any time they remain outstanding. The county appraiser must conduct a hearing with the taxpayer and notify that taxpayer of the appraiser's recommendation. If the taxpayer is dissatisfied with that recommendation, he or she may request a hearing with the county commission or a hearing officer/panel the commission has appointed to hear such appeals. The county commission or hearing officer/panel must conduct a hearing and notify the taxpayer of the recommendation. Ultimately the state board of tax appeals must rule on the taxpayer's protest application and the recommendation of the county appraiser and, when chosen, the county commission or hearing officer/panel.

Change

Taxpayers who have not challenged their valuation in a given tax year through the provisions of 79-1448 (the informal hearing process conducted in the spring) may protest their valuation at the time of paying either all or the first one-half of their property tax liability. A protest application will be completed describing in detail the grounds for the protest and this will be relayed to the county appraiser. The appraiser will have 15 days to file a complete response to the protest with the taxpayer who then has 15

days to decide whether he or she desires a meeting with the appraiser. If a meeting is held, the appraiser must notify the property owner of the results. If no meeting is held, it will be the responsibility of the appraiser to forward the protest application to the state board of tax appeals, which body must rule on the application or set a hearing. In either event the final determination of the protest is left in the hands of the state board of tax appeals. In addition, language has been added to insure that the state board of tax appeals has the right to order a refund under an appeal commenced under 79-1448 without the taxpayer also paying taxes under protest.

K.S.A. 79-411 and 79-412

6. Current

These statutes have been interpreted by the property valuation division to require an annual physical inspection of all parcels in a county because all such parcels are subject to value changes.

Change

Language is inserted to allow the use of accepted mass appraisal techniques in the valuation of property.

Reason

Referring to the discussion under K.S.A. 79-1460, an accurate record of physical characteristics is absolutely essential to an accurate appraisal of real estate. However, modern mass appraisal techniques allow appraisers to take advantage of the nature of real estate to change slowly over time and maintain values in a manner that is efficient and, therefore, more cost effective to the taxpayers.



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TO: HOUSE TAXATION COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE: MARCH 15, 1994

SUBJECT: SB 542, APPRAISAL PROTESTS FOR ILLEGAL LEVIES

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support SB 542.

Initially, we were opponents of the bill in the Senate Committee. We were concerned about several provisions, such as, extending the time period for verifying physical characteristics from 4 to 8 years. We were also concerned about the removal of the ability to pay under protest in order to appeal the valuation of the property. However, we worked closely with the subcommittee which was assigned to study it. We believe the amendments made by that subcommittee answered many of our concerns.

We feel the bill, in its current form improves the appeal system for both taxpayers and counties. We urge your support for the bill in its current form.

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Attachment 2

STATE OF KANSAS

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Department of Revenue
Division of Property Valuation

M E M O R A N D U M

TO: Representative Keith Roe, Chairman
FROM: David C. Cunningham, Director of Property Valuation
DATE: March 15, 1994
SUBJECT: Senate Bill 542

Senate Bill 542 amends several statutes pertaining to the property tax hearing and appeals processes. It represents a compromise position worked out by a group of people asked to look at the bill by the Senate Committee on Assessment and Taxation.

K.S.A. 1993 Supp. 79-1460 is amended to eliminate the necessity to perform a so-called "drive-by" inspection as a prerequisite to mailing valuation notices on real property. Instead, a record of the latest physical inspection is required to be reviewed by the county or district appraiser and documentation is required to be maintained showing that any increase in valuation is in compliance with the directives and specifications of the Director of Property Valuation.

Building and land values no longer are required to be shown separately on the valuation notice; however, each property tax class, as identified in the Kansas Constitution, must be identified and shown separately with separate appraised and assessed valuations.

K.S.A. 1993 Supp. 79-1476 is amended to require a physical inspection once every six years, instead of once every four years, on real property. Since every parcel of real property will now have been physically reinspected at least once since reappraisal, requiring a physical inspection once every six years, will allow the appraiser to attend to other duties and should not appreciably affect the accuracy of real property appraisals.

K.S.A. 1993 Supp. 79-2005 is amended to:

(1) Limit protests to new appeals only. That is, if the taxpayer has filed an equalization appeal after receiving his or her valuation notice, a valuation protest will be precluded. An exception is created allowing subsequent owners to protest valuation, notwithstanding an earlier equalization appeal on the same property.

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(2) Limit protests to first half protests only. Preserve the right to protest delinquent taxes.

(3) Insert language guaranteeing the taxpayer's right to a refund of taxes, if the final resolution of an equalization appeal occurs after the time has passed to file a protest.

(4) Require the county appraiser to make a written recommendation concerning the resolution of the taxpayer's protest for submission to the taxpayer. The recommendation could either be accepted by the taxpayer or the taxpayer could request an informal meeting with the appraiser and proceed with his or her protest as before.

The Board of Tax Appeals is going to request an amendment requiring the Director of Property Valuation to review valuation changes recommended by the county appraiser. Under present law, the Director of Property Valuation reviews proposed valuation changes by hearing officers and panels during the equalization appeal process pursuant to K.S.A. 1993 Supp. 79-1481 and the Board of Tax Appeals reviews proposed valuation changes made during protest hearings (K.S.A., 1993 Supp. 79-2005). It would be more efficient to have one entity, either the Director of Property Valuation or the Board of Tax Appeals, review such proposed valuation changes. The Director of Property Valuation does not oppose the Board's amendment. The cost to the Division is undeterminable, however, given the changes in payment under protest procedures proposed by this bill.

M E M O R A N D U M

TO: House Committee on Taxation

FROM: State Board of Tax Appeals

DATE: March 15, 1994

RE: SB 542

The Board of Tax Appeals would like the committee to consider this amendment to Senate Bill 542. Basically, the amendment moves the oversight of valuation changes as a result of payment under protest hearings from the Board of Tax Appeals to the Director of Property Valuation. The procedure in the amendment is the same as the review procedure for equalization hearings which is set out in K.S.A. 79-1481.

We propose this amendment for several reasons. First, the general supervision for valuation of property lies with the Director of Property Valuation. It is not logical to have the oversight function of hearing results split between the Property Valuation Division for equalization hearings and the Board of Tax Appeals for protests.

Secondly, the Board of Tax Appeals' interpretation of the language for the review procedure has been challenged in District Court. Recently the District Court in Sedgwick County ordered cases dismissed that were pending at the Board of Tax Appeals because our procedure, in the opinion of the Court, did not comply with the provisions of K.S.A. 79-2005(f). To change our procedures in accordance with the Court order would be time consuming for present Board staff and could result in further delay of the Board's primary statutory function -- to hear and decide tax cases.

The Board of Tax Appeals believes this change in the current law is necessary. However, if the Committee prefers making changes in a separate bill, that is satisfactory to the Board of Tax Appeals.

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Within 15 days of the mailing of the county appraiser's recommendation, the taxpayer may accept the county appraiser's recommendation, or request an informal meeting with the county appraiser in which even the county appraiser shall forthwith schedule an informal meeting with the taxpayer or such taxpayer's agent or attorney with reference to the property in question. In the event the taxpayer does not request an informal meeting with the county appraiser within 15 days of the mailing of the county appraiser's recommendation, the county appraiser shall within five days thereafter forward a copy of the written statement of protest to the ~~board of tax appeals~~ *director of property valuation* for approval of such recommendation. In the event the taxpayer does request an informal meeting with the county appraiser, the county appraiser shall review the appraisal of the taxpayer's property with the taxpayer or such taxpayer's agent or attorney and may change the valuation of the taxpayer's property as required to assure that the taxpayer's property is valued according to law, and shall, within 15 business days thereof, notify the taxpayer and the ~~state board of tax appeals~~ *director of property valuation* in the event the valuation of the taxpayer's property is changed, in writing of the results of the informal meeting. ~~the state board of tax appeals shall within 45 days after receipt of notification of such change review such change and schedule a hearing thereon upon a finding that the taxpayer's property may not be valued according to law. If the state board of tax appeals approves the results of the informal meeting, the board shall notify the county appraiser and the taxpayer in writing.~~ *Such change in valuation of the taxpayer's property shall be conveyed on forms prescribed by the director of property valuation notifying the director of such change in valuation 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. 79-503q 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 change in valuation is not in compliance with K.S.A. 79-503q, and amendments thereto, the director shall order reinstatement of the appraiser's valuation. Any party aggrieved by the director's order may, within thirty 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. If the taxpayer remains aggrieved by the results of the informal meeting, the taxpayer may appeal such results to the state board of tax appeals within 30 days of the mailing of the approval of such results by the board, which shall conduct a hearing as provided in subsection (g).*