

Approved: February 8, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:10 a.m. on February 7, 1994 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

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

Conferees appearing before the committee: Larry Clark, Kansas Appraiser's Association
David Cunningham, Director, Property Valuation Division
Karen France, Kansas Association of Realtors
Ellen Ross, Kansans for Fair Taxation

Others attending: See attached list

APPROVAL OF MINUTES

Senator Tiahrt moved the minutes of February 7, 1994 be approved. The motion was seconded by Senator Martin. The motion carried.

SB 542--PROPERTY TAXATION; APPRAISAL PROTESTS FOR ILLEGAL LEVIES

Proponents

Larry Clark, Kansas Appraisers' Association, appeared in support of **SB 542**. (Attachment 1) He opened his remarks by a review of the background of the bill. He spoke of the chart on page 5 which shows the work load of the appraiser as spread over the year. He said the physical inspection is the single most expensive part of the appraisal cycle. The county appraiser should analyze the county and see where the problems are and then concentrate on those problems. He feels the appraiser is wasting resources and time in physical reinspections when there has been no change in the valuation. The proposal for change is to extend the reinspection cycle to eight years. He also said the requirement for a final physical review on every parcel should be eliminated. Another problem is time wasted in hearings discussing the division of value between land and improvements currently required. The recommendation was to print only the total value for each class of property on the valuation notice. In his remarks about Payment under Protest, he said the protests are filed during the time frame when counties are attempting to finalize values for the next tax year. He suggested following the recommendation of Legislative Post Audit committee to limit the number of times a property owner can go through the three level-appeals process for a particular year.

The committee had a number of questions for Mr. Clark regarding **SB 542**. Members of the committee felt the taxpayer would not have adequate information to argue their case if there is not breakdown in the division of land and improvements. Mr. Clark suggested using the sales comparison approach with a total selling price compared with properties that have been sold. Mr. Clark said they were not asking for the repeal of KSA 79-1460 but only to amend it in regard to physical inspections. He also stated his staff is not changing the values when there is only a fractional difference in the appraisal.

David Cunningham, Director, Property Valuation Division, spoke in support of **SB 542**. He had reviewed Mr. Clark's testimony and is in agreement with the suggested amendments.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:10 a.m. on February 7, 1994.

Opponents

Karen France, Kansas Association of Realtors, spoke in opposition to **SB 542**. (Attachment 2) She said some of the proposals have merit such as the proposed requirement for the change of value notice to reflect an estimate of the taxes due for the current year, based on the assessed valuation using the preceding year's mill levy. However, she opposed the 8 year rule because it puts the state in the position of condoning incorrect valuations for up to seven years. She also opposed the elimination of the ability to pay under protest in order to protest valuation. She requested the committee to study the very serious long term impacts of this bill.

Ellen Ross, Kansans for Fair Taxation, opposed **SB 542**. (Attachment 3) She said values could be raised without looking at the property. All that would be needed is data collectors and clerical staff. The bill also denies the taxpayer the right to pay their taxes under protest except to challenge the legality of the levy.

The hearing was closed.

Senator Langworthy announced a subcommittee would be appointed to work on **SB 541** and **SB 542**.

SB 543--EXEMPTING PROPERTY TAX LEVIES FOR PUBLIC SAFETY FROM AGGREGATE TAX LEVY LIMITATIONS

Senator Langworthy called for a clarification of the vote on SB 543 which was taken on February 1, 1994. The vote was miscounted at that time. The motion was restated and there was a majority of votes to pass the bill favorably.

The meeting adjourned at 12:05 p.m.

The next meeting is scheduled for February 8, 1994.

DATE: February 7, 1994

[illegible]

SENATE BILL 542

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

February 7, 1994

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

BACKGROUND

The proposals contained in this bill arose from discussions began at the conclusion of the last legislative session and continuing through the summer and fall. They began through the vehicle of Senate Bill 223 and the proposal to institute a two year appraisal cycle to replace the current one year cycle. The hope was to provide appraisers sufficient time to perform their appraisal functions in an efficient manner. Unfortunately, as the discussions among appraisers, PVD staff and legislators progressed more questions were asked than answered; and since the best appraisal is that which is accomplished as close to the appraisal date as possible, the actual estimation and finalization of values would be forced into the same short time frame in a two year cycle as is faced currently. The only real relief offered by a two year cycle would be on the physical inspection requirement.

Appraisers and PVD decided to try a different approach by establishing what an acceptable appraisal cycle would include and propose legislative changes which would allow that to occur. Beginning shortly after the conclusion of equalization hearings in the spring, each county would conduct an appraisal/sales ratio study to pinpoint those areas of the county, geographically and by property type, where appraisal problems were evident. Attention would then be focused on those areas and property types in terms of inspection and valuation model maintenance. After models were reviewed and changed as needed, another ratio study would be conducted on the new value estimates made using those models. Final field reviews would be conducted in those areas and on those properties whose values remained questionable. In other words, counties would concentrate their efforts and resources on solving outstanding problems as opposed to the more global approach currently taken, which tends to limit the resources available to any one area and/or property type.

Physical Inspection

That part of the appraisal maintenance cycle involving an individual field person performing an onsite inspection, measurement of improvements and recording of the data characteristics of the property. It is required by K.S.A. 79-1476 to be completed on every parcel in the county once every four years.

Problems Addressed

This is the single most expensive part of the appraisal cycle.

*Senate Assessment & Taxation
February 7, 1994
Attachment 1-1*

Physical property characteristics tend not to change significantly over a short period of time.

Counties have nearly all completed a second round of physical inspections.

Proposal

1. Extend the reinspection cycle to a longer period than four years; eight years is suggested by the Appraisers' Association. As with other activities covered in the property valuation division maintenance specifications, this extension would be contingent upon a county's ability to prove its data is accurate. This will require the change proposed in K.S.A. 79-1476 as contained in Section 2 of SB 542.

Final Field Review

That part of the appraisal maintenance cycle during which a member(s) of the appraiser's staff reviews value estimates while viewing the property being valued and finalizes the value estimate. It is differentiated from the physical reinspection in that the staff person does not take any measurements, record data characteristics or contact the occupant for an interview. This requirement is contained in PVD maintenance specifications due to an interpretation of K.S.A. 79-411 and 79-412 which require property to be valued from actual view and inspection.

Problems Addressed

Thousands of tax dollars are being spent every year to send county employees into the field to view the physical characteristics they have already been recorded and which do not in and of themselves make value.

As much time and taxpayer resources are being spent on parcels whose values are accepted by everyone involved, including the owner, to be accurate as those where there is a dispute. This results in a failure to concentrate appraisal resources on the problems, which, in turn, allows those problems to persist.

Proposal

2. Eliminate the requirement for a final physical review on every parcel. Allow the appraiser to concentrate limited taxpayer resources on areas or property types where there are problems in estimating value. This would not effect in any way the requirement to maintain accurate data characteristics under the program of reinspection discussed in proposal number 1.

It is for this reason that SB 542 proposes to strike the language in K.S.A. 79-1460 (a) contained in section 1 of that bill and modify the language in K.S.A. 79-411 and 79-412 as shown in sections 4 and 5.

Change of Value Notice

A notice, mailed to the owner of record of every parcel in every county each year on or before March 1, which contains information on the proposed value estimates for the new tax years, along with information on the appeal process.

Problems Addressed

Valuable taxpayer time is wasted in hearings discussing the division of value between land and improvements as they are currently required to be displayed on the notice. The state board of tax appeals and the courts have made it very clear that the focus of an appeal must be on the total value and there are very few instances when the division of value between land and improvements has any meaning in that appeal.

Additional time is wasted in hearings attempting to explain the ratio study figures displayed on the notice.

Property owners do not have any idea what impact a change in value will have on their property tax bill liability until they receive their bill the following November.

Proposal

3. Print only the total value for each class of property on the valuation notice. In other words, there would be one value for the residential portion and one for the agricultural portion on a farm homestead.

4. If the legislature feels it is important to report individual county ratio statistics, have them published as part of the annual market study, which is required to be published prior to mailing the valuation notices.

5. Show the calculation of the general property tax liability which will result if the values change and the mill levy remains the same as it exists at the time of mailing the valuation notices.

Payment Under Protest

The procedure by which a property owner may appeal the valuation or legality of the levy of a given property by paying the taxes due and filing a protest application with the county treasurer.

Problems Addressed

Most protests are filed during the time frame when counties are attempting to finalize values for the next tax year. The protests divert attention from this crucial function.

There is no real deadline for protesting, since protests may be filed at any time and for any year when taxes are due on a parcel.

The filing of protests on prior year's values at the time values are being finalized for the following tax year guarantees some instability of values.

Taxpayer time is wasted in the county hearings under a system which dictates that the final decision is left to the state board of tax appeals and the latter is not bound in any way to follow the recommendations of the county.

Proposal

6. The Kansas County Appraisers' Association supports recommendation 11 a of the Legislative Post Audit Committee report to "limit the number of times a property owner can go through the three-level-appeals process to protest a property's appraised value for a particular year." Section 3 of SB 542 is one suggestion to accomplish that.

QUESTIONS AND ANSWERS

Q: Do county appraisers want to value property without physically inspecting it?

A: No. We simply want to take advantage of the fact that physical characteristics of real estate change slowly over time. We feel the four year reinspection cycle is too short, and that the county who has conducted a thorough inspection of all property should be able to lengthen that time period and, by doing so, divert taxpayer resources to other appraisal functions.

Q: Do county appraisers want to take away taxpayer rights to know the division of value between land and improvements?

A: No. Any topic the taxpayer wants to discuss at a hearing will be discussed. Appraisers estimate the total value of each class of property, however, and that total value forms the basis for taxation. It wastes taxpayer time and money to debate something which the state board of tax appeals and courts have held is meaningless in terms of the final value.

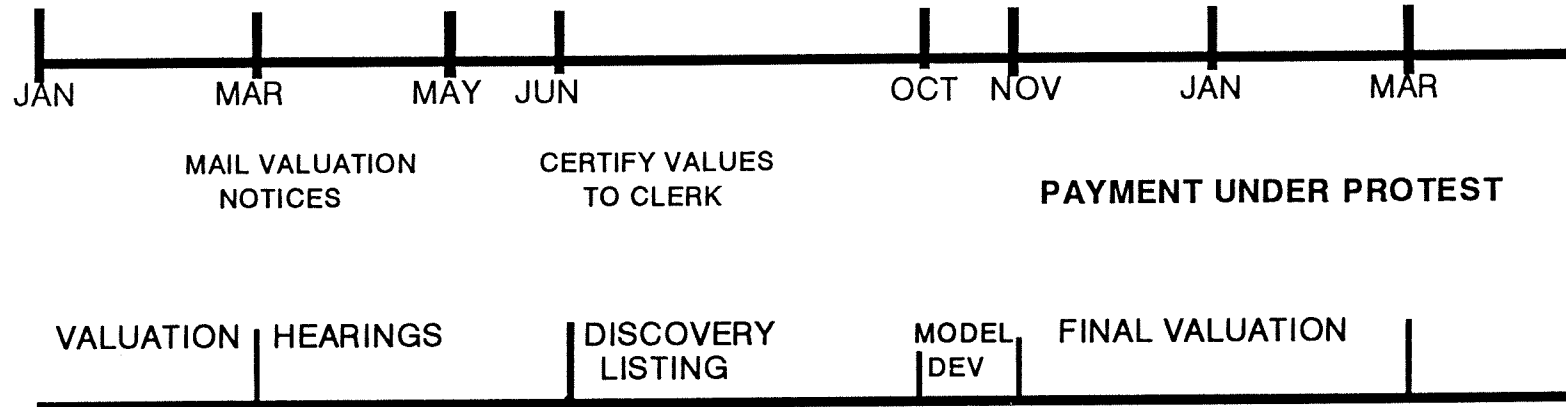
Q: Do county appraisers want to hide the results of the most recent ratio study?

A: The ratio study is a public record and therefore cannot be hidden by anyone. However, its meaning is difficult for many property owners to comprehend, even when the appraisal staff takes the time to explain it. Because the ratio study is not, and should not, be used to value property, any time spent in a hearing discussing its meaning wastes taxpayer time. The number of appeals filed and the time frame in which they have to be done will already restrict the amount of time available to any one taxpayer without filling it with unnecessary discussion.

Q: How can appraisers propose to eliminate the protest rights of taxpayers?

A: The right of any person to protest anything their government does is protected by the Kansas and federal constitutions. Appraisers cannot and do not want to eliminate that. This proposal is not intended to reduce taxpayer rights any more than the 1989 amendment to 79-2005, which first inserted local hearings into the protest process, expanded those rights. We do propose, however, to amend a procedure which, according to studies by the International Association of Assessing Officers and the Legislative Post Audit committee "diverts appraiser's office resources from more important tasks" (IAAO Report on Sedgwick County) or "unnecessarily ties up appraisal staff time that could be better used performing other duties." (Legislative Post Audit report) Appraisers are ready, willing and able to defend their value conclusions. We cannot, however, value property at the same time we are hearing appeals.

APPRAISAL TIMELINE





DATE: 02/02/94 ** JOHNSON COUNTY KS RESIDENTIAL DATA SHEET **

PARCEL NUMBER: LEGAL:

APPRAISED VALUE: \$ 88,500

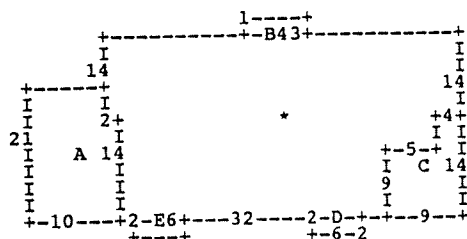
OWNER:
PROPERTY ADDRESS:

SALE DATE TYPE PRICE SOURCE VALIDITY COV#
04/93 2 8 X 049983

STORY HEIGHT: 1.0 EXTERIOR WALL: WD FRAME
STYLE: RANCH ROOF MATERIAL: ASPHALT SH.
YEAR BUILT: 1942 REMODELED: 19
BASEMENT/FOUNDATION WALL: STONE BASEMENT: FULL
CENTRAL HEAT: 4 FUEL: GAS SYSTEM TYPE: WARM AIR
TOTAL ROOMS: 06 BEDROOMS: 02 FAMILY ROOM: 0
THREE FIXTURE BATHS: 1 TWO FIXTURE BATHS: 0
ATTIC: 1
FLOOR COVERING: 2 INTERIOR WALLS: 2
BUILT-IN GARAGE CAPACITY: UNFINISHED AREA:
FINISHED BASEMENT LIVING AREA: BEC ROOM AREA:
MASONRY FIREPLACE: CHIMNEYS 1 OPENINGS 1 PREFABRICATED UNITS:
BASEMENT GARAGE CAPACITY:

GROUND FLOOR LIVING AREA: 1,075 TOTAL LIVING AREA: 1,106
GRADE: C+ PHYSICAL CONDITION: AVERAGE CDU: VG

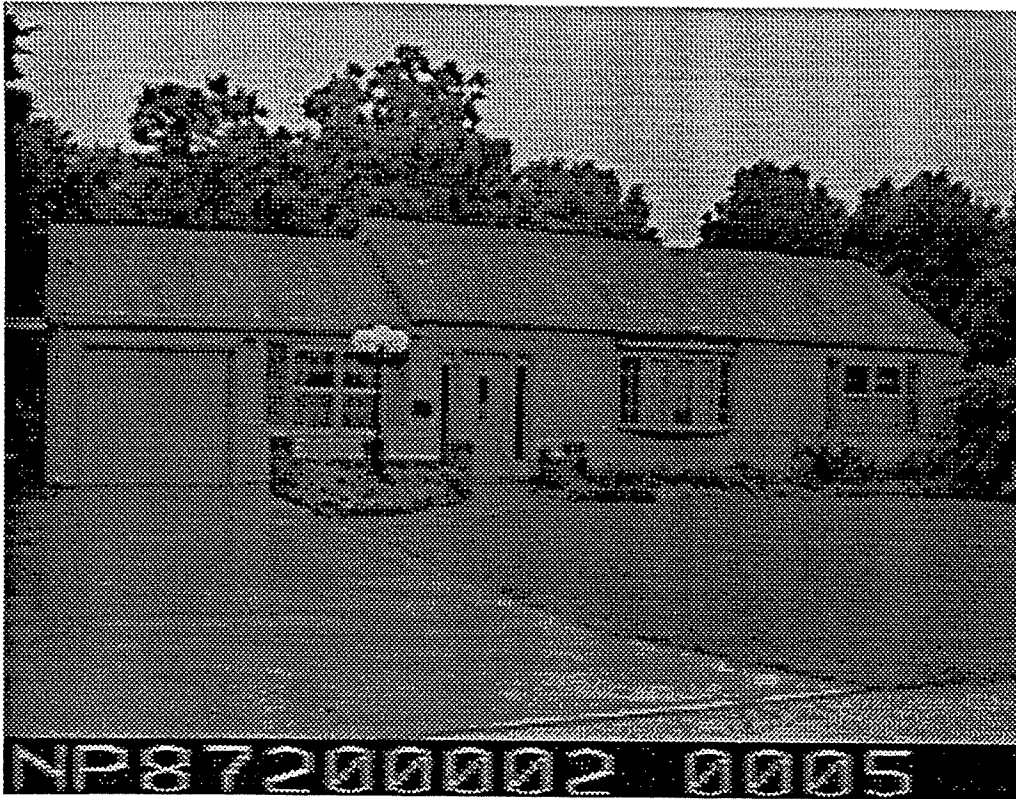
LOT SIZE: 065 X 130 SQ.FT.: ACREAGE:



RT4 01 42 04X007 A 00
RT2 01 50 16X012 A 00
RT1 01 85 000030 A 00
RT2 01 50 07X008 A 00

***** COST LADDER *****
RCN+ADDS+GRADE+INDEX 68,980
GRADE FACTOR C+ 1.08
COUNTY INDEX 1.035
YR BUILT 1942 CDU VG %GD 0.89
RCNLD 61,390
TOTAL OB&Y VALUE 290
BUILDING VALUE 61,680
LAND VALUE 30,970
COST EXTIMATE 92,650

[illegible]



DATE: 02/02/94 ** JOHNSON COUNTY KS RESIDENTIAL DATA SHEET **

PARCEL NUMBER:

LEGAL:

APPRAISED VALUE: \$ 58,600

OWNER:
PROPERTY ADDRESS:

SALE DATE	TYPE	PRICE	SOURCE	VALIDITY	COV#
03/93	2		8	X	049284

STORY HEIGHT: 1.0 EXTERIOR WALL: COMPOSITION
STYLE: RANCH ROOF MATERIAL: ASPHALT SH.
YEAR BUILT: 1949 REMODELED: 19
BASEMENT/FOUNDATION WALL: BLOCK BASEMENT: CRAWL
CENTRAL HEAT: 4 FUEL: GAS SYSTEM TYPE: WARM AIR
TOTAL ROOMS: 04 BEDROOMS: 02 FAMILY ROOM: 0
THREE FIXTURE BATHS: 1 TWO FIXTURE BATHS: 0
ATTIC: 1
FLOOR COVERING: 1 INTERIOR WALLS: 1
BUILT-IN GARAGE CAPACITY: UNFINISHED AREA:
FINISHED BASEMENT LIVING AREA: . BEC ROOM AREA: .
MASONRY FIREPLACE: CHIMNEYS OPENINGS PREFABRICATED UNITS: .
BASEMENT GARAGE CAPACITY: - -

GROUND FLOOR LIVING AREA: 1,197 TOTAL LIVING AREA: 1,197
GRADE: D+ PHYSICAL CONDITION: GOOD CDU: FR

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LOT SIZE: 100 X 139          SQ.FT.:
      +-----+-----+
      | 3-----42-----+
      | +-11-+-9-+      |
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      | 21  | 21  |      |
      | | A |  I |      |
      | |  |  I |      |
      | |  |  I |      |
      | +-11-+-51-----+

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ACREAGE:				-	
RT1	01	90	000400	A	00
RC1	01	90	12X012	D	00
RZ1	01	90	000080	G	00
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***** COST LADDER *****
RCN+ADDS+GRADE+INDEX          49,900
GRADE FACTOR D+                0.85
COUNTY INDEX                  1.035
YR BUILT 1949  CDU FR %GD 0.68
RCNLD                          33,930
TOTAL OB&Y VALUE                2,480
BUILDING VALUE                  36,510
LAND VALUE                      18,670
COST ESTIMATE                   55,180

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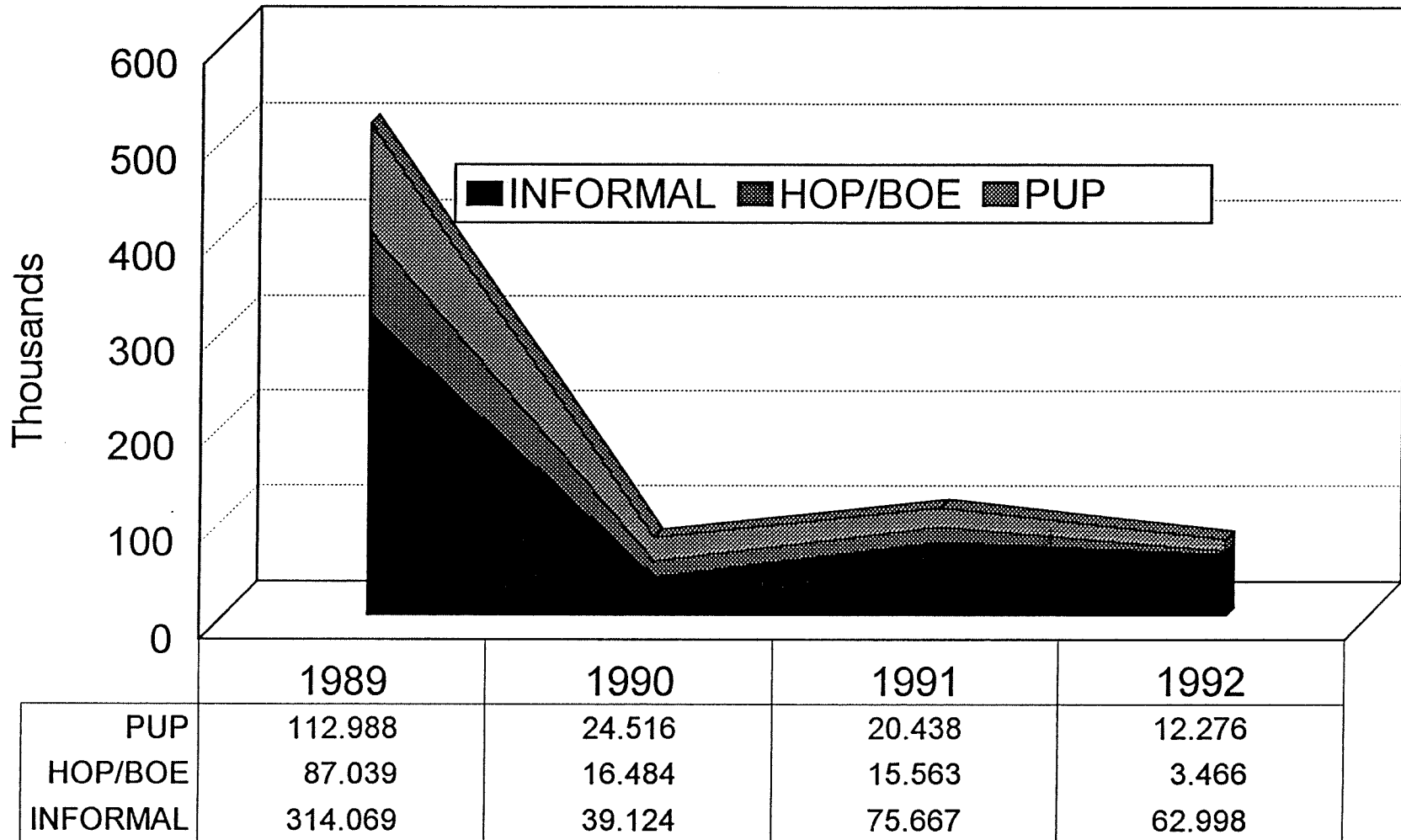


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RT1	01	70	16X012	P	00
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***** COST LADDER *****					
RCN+ADDS+GRADE+INDEX					76,780
GRADE FACTOR C 1.00					
COUNTY INDEX 1.035					
YR BUILT 1950 CDU FR %GD 0.68					
RCNLND					52,210
TOTAL OB&Y VALUE					190
BUILDING VALUE					52,400
LAND VALUE					21,060
COST ESTIMATE					73,460

1-0

HEARINGS BY YEAR AND TYPE

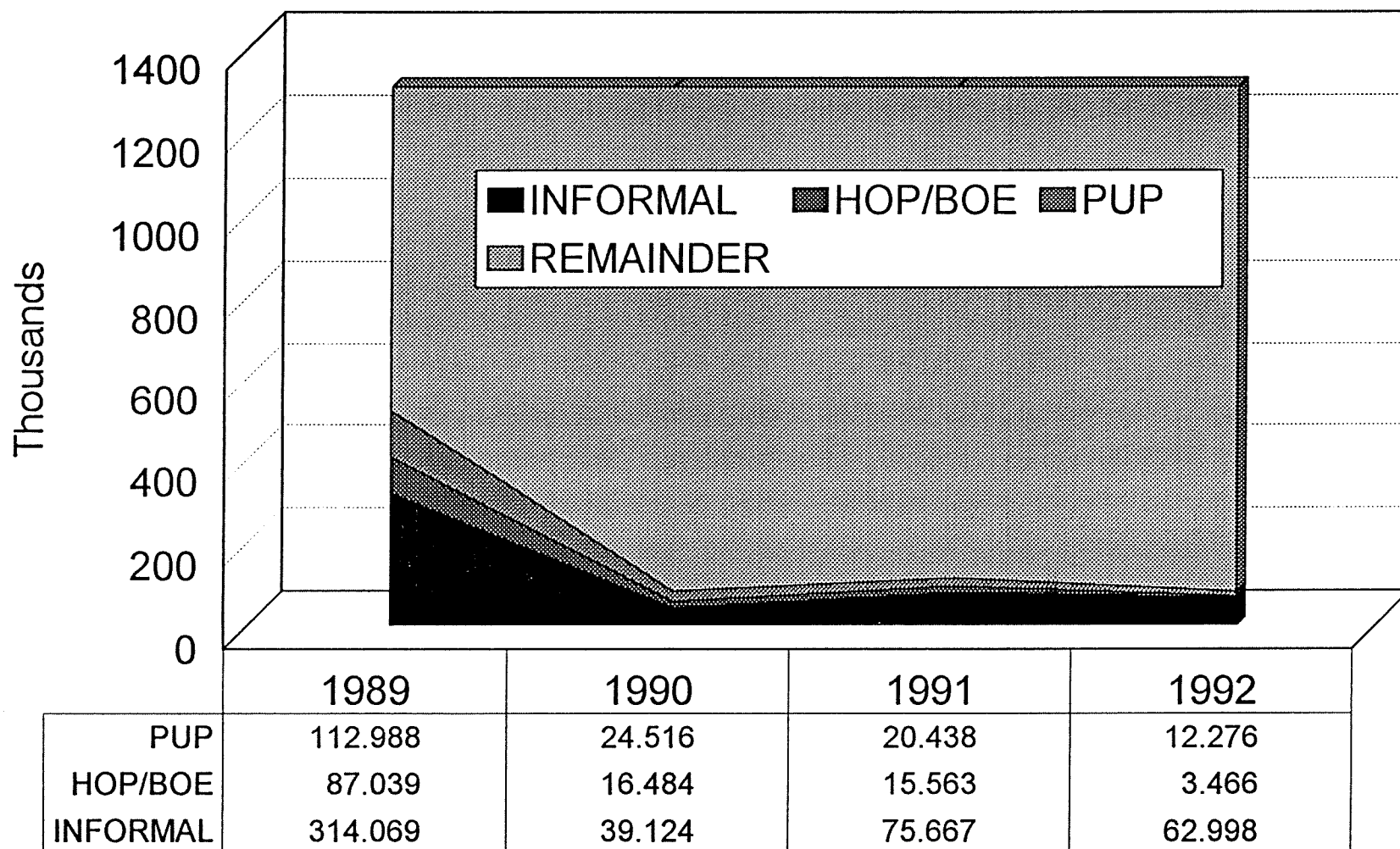
STATE OF KANSAS



PROPERTY VALUATION DIVISION STATISTICS

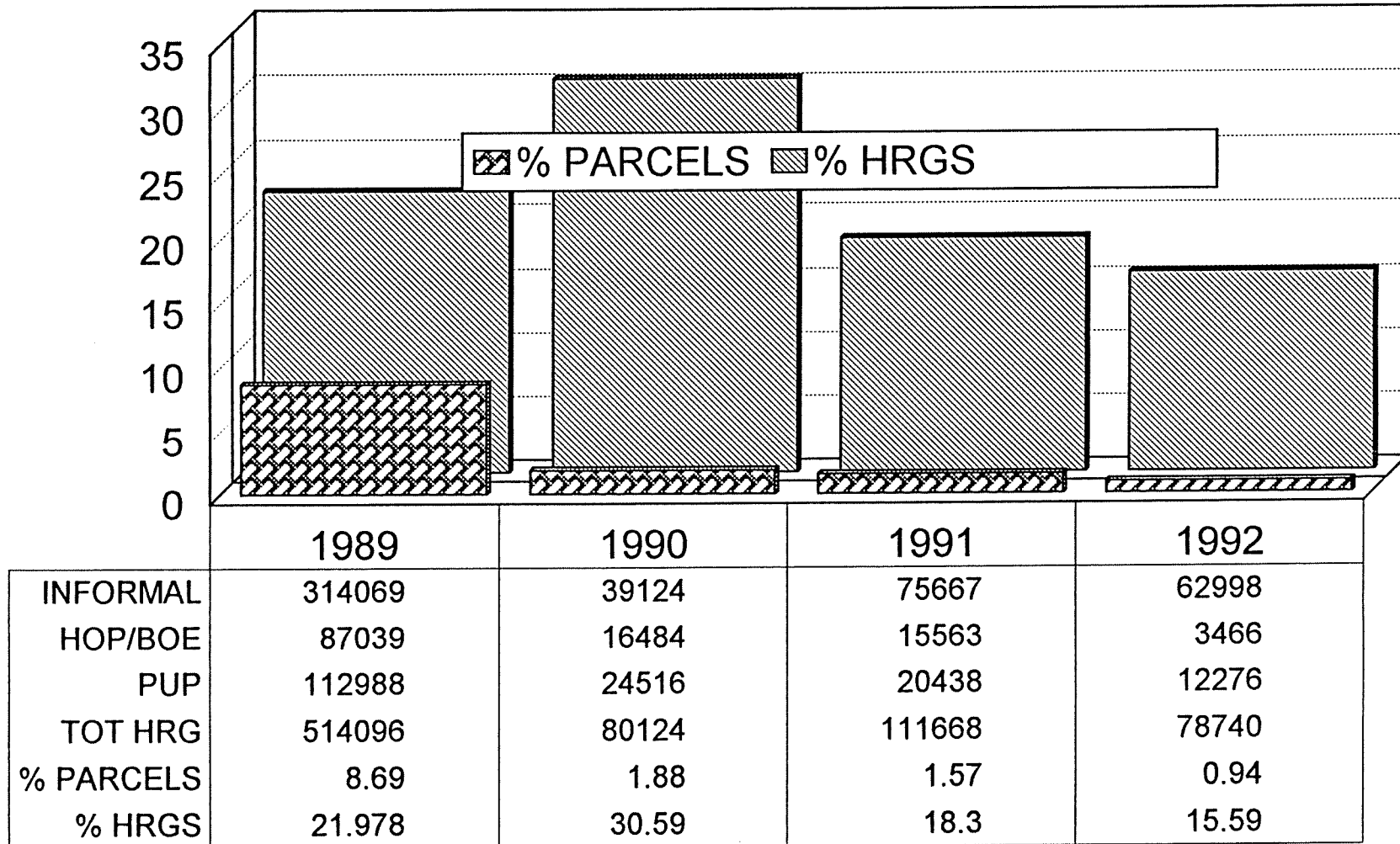
HEARINGS BY YEAR AND TYPE

STATE OF KANSAS



HEARINGS BY YEAR AND TYPE

STATE OF KANSAS





Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611-2098
Telephone 913/267-3610
Fax 913/267-1867

TO: SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS

DATE: FEBRUARY 7, 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 oppose SB 542.

We are fully aware of the ongoing struggle in which county appraisers and the legislature have been engaged, in an attempt to "fine tune" the problems caused by the infamous reappraisal process. We know that this bill is directed at this "fine tuning" and we think some of these proposals have some merit. However, we believe this bill also proposes some dangerous changes to the current system, rather than solving problems.

We like the proposed requirement for the change of value notice to reflect an estimate of the taxes that would be due for the current year, based on the assessed valuation of the taxpayer's property using the preceding year's mill levy. We think that this will assist taxpayers in knowing what sort of tax bill they might expect to receive in December. However, we do not feel that this change justifies the other tradeoffs proposed in the bill.

We feel the extension for verifying the physical characteristics of a property from 4 to 8 years puts the state in the position of condoning the perpetuation of incorrect valuations for up to seven years. This is not only potentially detrimental to the county who stands to lose revenue, but also to the taxpayer. I have attached a copy of K.S.A 79-1475 to my testimony. This statute provides that, in the event a county appraiser "discovers" property which had been inadvertently omitted from the tax rolls, the county appraiser must recoup the back taxes from the current owner of the property, even if the current owner is an innocent purchaser.

If this 8 year rule goes into effect it means, that, if a county appraiser inadvertently "missed" an outbuilding on agricultural property for 8 years, it could come back at the end of 8 years and collect the back taxes from the current owner--even if the current owner only owned the land for one year. While the underlying statute I have cited for you has its own problems, the 8 year rule will only magnify them, to the detriment of the innocent property owner.

We also oppose the elimination of the ability to pay under protest in order to protest valuation. We think this removes an important safety catch in the system. What is a property

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taxpayer who purchases the property after the change of value notice is mailed supposed to do? If no change of value notice is received the next year, when is this property owner supposed to appeal their value? It appears the opportunity will be gone if you pass this legislation. While we can appreciate that some people abuse the system by appealing for no real reason again and again, it seems the solution proposed here throws out the wheat with the chaff.

We ask that you study the very serious long term impacts of this bill and ask what is really in the best interest of taxpayers. Thank you for the opportunity to testify.

taxable real property appraisals and the exempt real property appraisals to the county clerk continually upon the completion thereof.

Upon completion of transmission of such appraisals to the county clerk, on or before June 15 of each year, the county appraiser shall deliver a document certifying that such appraisals constitute the complete appraisal rolls for real property.

The taxable real property appraisal roll shall consist of all property records which in aggregate list all taxable land and improvements located within the county.

The exempt real property appraisal roll shall consist of all property records which in aggregate list all exempt land and improvements located within the county.

History: L. 1982, ch. 391, § 13; L. 1992, ch. 282, § 5; Jan. 1, 1993.

CASE ANNOTATIONS

1. Noted in holding BOTA erred in allowing taxes on building improvements separate from underlying land, contrary to 79-412. In re Tax Protest of Spangles, Inc., 17 K.A.2d 335, 337, 835 P.2d 699 (1992).

79-1467. Transmission of completed personal property appraisals to county clerk, when; contents. Commencing on January 1 of each year, the county appraiser shall transmit the taxable personal property appraisals to the county clerk continually upon the completion thereof. Upon completion of transmission of such appraisals to the county clerk, on or before June 15 each year, the county appraiser shall deliver a document certifying that such appraisals constitute the complete appraisal rolls for personal property except for personal property which may be subject to investigation and valuation pursuant to law or personal property which may have escaped appraisal in any year, in which cases the appraiser shall transmit to the clerk, upon completion, the appraisals of such property and the clerk shall add the same to the taxable personal property roll at such time.

The taxable personal property roll shall consist of all personal property forms rendered by taxpayers to the county appraiser, personal property forms completed by the appraiser in cases described in K.S.A. 79-1422, and amendments thereto, and cases involving escaped appraisal in any year and any other records prepared by the county appraiser for the listing and appraisal of taxable personal property located within the county.

The exempt personal property roll shall include all personal property that is exempt from

ad valorem taxation except those specific types of property set forth in K.S.A. 79-201c and 79-201j and amendments to such sections. The exempt personal property roll shall consist of all exempt personal property forms rendered by taxpayers to the county appraiser and other records prepared by the county appraiser for the listing and appraisal of all exempt personal property within the county.

History: L. 1982, ch. 391, § 14; L. 1985, ch. 315, § 2; L. 1987, ch. 377, § 1; L. 1992, ch. 282, § 6; Jan. 1, 1993.

79-1469.

CASE ANNOTATIONS

1. Noted in holding BOTA erred in allowing taxes on building improvements separate from underlying land, contrary to 79-412. In re Tax Protest of Spangles, Inc., 17 K.A.2d 335, 337, 835 P.2d 699 (1992).

79-1472.

Attorney General's Opinions:

Property assessments; appraisals and valuations; installation and maintenance of records; open to public inspection. 91-145.

79-1473.

Attorney General's Opinions:

Property valuation director's power to require use of assessment tools by county and district appraisers. 91-136.

Property assessments; appraisals and valuations; installation and maintenance of records; open to public inspection. 91-145.

79-1475. Duties of county appraiser and clerk regarding property discovered to have been omitted from tax rolls. Whenever the county appraiser discovers that any real property subject to taxation has been omitted from the tax rolls, such property shall immediately be listed and valued by the appraiser, and returned to the county clerk. The county clerk, upon receipt of the valuation for such property, shall place such property on the tax rolls and compute the amount of tax due based upon the mill levy for the year in which such tax should have been levied, and shall certify such amount to the county treasurer as an added or escaped appraisal. The amount of such tax shall be due immediately and payable within 45 days after the issuance of an added or escaped property tax bill by the county treasurer. No interest shall be imposed unless the tax remains unpaid after such 45-day period. Taxes levied pursuant to this section which remain unpaid after such 45 day period shall be deemed delinquent and the county treasurer shall proceed to collect and distribute such tax in the same manner as prescribed by law for the collection

and distribution of other taxes levied on property which are delinquent. No property shall be assessed pursuant to this section to any person other than the current owner unless such property was acquired by will, inheritance or gift.

History: L. 1985, ch. 315, § 3; L. 1990, ch. 346, § 2; July 1.

Attorney General's Opinions:

Merchants' and manufacturers' inventory; recertifying valuations of public utility property; time for collection. 90-8.

CASE ANNOTATIONS

2. Section does not apply to property mistakenly listed as tax exempt. In re Harry Turner and Associates, Inc., 153 B.R. 573, 577, 578, 579 (1992).

STATEWIDE REAPPRAISAL

Law Review and Bar Journal References:

"Kansas Property Classification and Reappraisal: The 1986 Constitutional Amendment and Statutory Modifications", Nancy Ogle, 29 W.L.J. 26, 46 (1989).

79-1476. Statewide reappraisal of real property; duties and authorities of state director of property valuation and county and district appraisers; methods of establishing valuations; time of application of valuations. The director of property valuation is hereby directed and empowered to administer and supervise a statewide program of reappraisal of all real property located within the state. Except as otherwise authorized by K.S.A. 19-428, and amendments thereto, each county shall comprise a separate appraisal district under such program, and the county appraiser shall have the duty of reappraising all of the real property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. In the case of multi-county appraisal districts, the district appraiser shall have the duty of reappraising all of the real property in each of the counties comprising the district pursuant to such guidelines and timetables and of updating the same on an annual basis. Commencing in 1990, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every four years. The director shall require the initiation of such program of statewide reappraisal immediately after the effective date of this act.

Compilation of data for the initial preparation or updating of inventories for each parcel of real property and entry thereof into the state computer system as provided for in K.S.A. 79-1477, and amendments thereto, shall be com-

pleted not later than January 1, 1989. Whenever the director determines that reappraisal of all real property within a county is complete, notification thereof shall be given to the governor and to the state board of tax appeals.

Valuations shall be established for each parcel of real property at its fair market value in money in accordance with the provisions of K.S.A. 79-503a, and amendments thereto.

In addition thereto valuations shall be established for each parcel of land devoted to agricultural use upon the basis of the agricultural income or productivity attributable to the inherent capabilities of such land in its current usage under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of property valuation using criteria established by the United States department of agriculture soil conservation service. For all taxable years commencing after December 31, 1989, all land devoted to agricultural use which is subject to the federal conservation reserve program shall be classified as cultivated dryland for the purpose of valuation for property tax purposes pursuant to this section. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the soil conservation service, and any other sources of data that the director considers appropriate.

The share of net income from land in the various land classes within each county or homogeneous region which is normally received by the landlord shall be used as the basis for determining agricultural income for all land devoted to agricultural use except pasture or rangeland. The net income normally received by the landlord from such land shall be determined by deducting expenses normally incurred by the landlord from the share of the gross income normally received by the landlord. The net rental income normally received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the basis for determining ag-

ricultural income. The net rental income which is normally received by the landlord shall be determined on the basis of the average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not exceeding 2.75%.

Based on the director of property valuation's determination of the average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels.

For the purpose of this section, agricultural use includes, regardless of whether the land is incorporated in a corporate entity, the production of agricultural products, including but not limited to: Forages; grain; and dairy products; beef cattle; and apiary products; fruits, nuts; floral, ornamental; Land devoted to include those used for recreational purposes, rural home plots whose primary use is for recreation; and properties used for

Kansans For Fair Taxation

1132 S.W. Wanamaker Road

Topeka, Kansas 66604

Kansans For Fair Taxation stands in strong opposition to Senate Bill 542. This bill attempts to eliminate beneficial provisions that many people worked very hard to establish and that the taxpayers rely on in order to achieve fair and equitable property values.
SPECIFICALLY--

SECTION 1 Removes from K.S.A. 79-1460 the requirement that property values can not be increased unless a physical inspection of the property takes place. If amended, all that will be required is to have a record of the latest physical inspection.

VALUES COULD BE RAISED WITHOUT LOOKING AT THE PROPERTY.

SECTION 2 Removes from K.S.A. 79-1476 the requirement to actually view and inspect the property once every 4 years. If amended, all that will be required is to check for accuracy the record of the physical characteristics of the property every 8 years. It will also allow property values to be raised by 'statistical analysis' in any year as long as the County has looked up one eighth of the parcels in that County.

TO ADD INSULT TO INJURY, THE ONE EIGHTH OF THE PARCELS COULD BE OF ANY CLASS, INCLUDING VACANT PARCELS.

SECTION 3 If amended, the result is a complete denial on the part of the taxpayer to pay their taxes under protest EXCEPT to challenge the legality of the levy. This leaves equalization as the only basis for protesting values.

It is not hard to see why County Appraisers and the PVD support SB 542 It will provide for less work, more money and no protests or appeals. It seems rather peculiar that just about a year ago, the County Appraiser and PVD insisted they have the authority to go inside people's homes to perform interior inspections in order to provide accurate property appraisals. With the proposed amendments of SB 542, why the sudden change regarding physical inspections. Within the last 3 weeks, PVD asked legislators to approve additional funding for educational incentives. The reason given was to allow Counties to retain the services of quality, educated appraisers. If SB 542 passes, the 'statistical analysis' will not require high dollar, highly educated appraisers.

ALL THAT WILL BE NEEDED IS DATA COLLECTORS AND CLERICAL STAFF.

We understand that legislation can not regulate attitudes or guarantee that the laws will be followed. It is important that legislators understand why statutes such as 79-1460 are so important to the taxpayers.

- 1) We are told to appeal to BOTA, so we do. There we wait in line while a Shawnee County Commissioner can resolve 8 of his cases in 7 minutes while others much older are still to this day waiting.
BUT THE TAXPAYERS DEAL WITH IT.

*Senate Assessment + Tax
February 7, 1994
attach 3-1*

2) In my possession is a tape recorded conversation with David Cunningham, PVD Director. ON this tape, a KFFT board member asks Mr. Cunningham if he intends to abide by the Attorney General's opinion. His response is 'ONLY IF HE LIKES IT'. BUT THE TAXPAYERS DEAL WITH IT.

3) We have the infamous 45 day rule. According to Mr. Cunningham, the mandatory action by BOTA to within 45 days take action can be the action to simply delay. BUT THE TAXPAYERS DEAL WITH IT.

THE TAXPAYERS DEAL WITH THESE ISSUES THROUGH THE COURTS.

We have the 'and then there were none' case that caused the tax statements to be mailed late.

We have the 750 property owners that had their values increased by a 2 to 1 vote of the Shawnee County Commission.

We have mandamus action pending regarding the 45 day rule.

We have attorneys writing to their clients warning them of SB 542.

We have taxpayers spending thousands of dollars in legal fees to see that statutes are being followed.

BUT THE TAXPAYERS DEAL WITH IT.

We can deal with these situations because at least the law is clear even if the County Appraiser or PVD choose to ignore it. SB 542 will gut the only hope the taxpayers have to achieve fair and equitable property values. We hope you will see the plight of the taxpayers if this bill passes.

We ask you do NOT support Senate Bill 542.

Thank You

Kansans For Fair Taxation Board of Directors
Larry Fischer
Ellen Ross
Jack Bengel

Kansans For Fair Taxation
1132 S.W. Wanamaker Road
Topeka, Kansas 66604

KS 79-1460 amended by 1992 legislature

May 1992 - Attorney General's response to Sen. Phil Martin's letter - i.e. comply with KS79-1460

June 1992 - Attorney General's lawsuit
- press release, page 3, item 4
..."defendants must perform their statutory duties"...

July 1993 PVD Director Cunningham states he will abide by A.G.'s opinion only if he likes them (taped)

July 1993 Shawnee County Commissioner, 2:1, vote increases in property value in violation of new KS79-1460 implemented in January.

October 1993 the PVD raises values on 36 commercial properties, 14 of which violate KS79-1460

January 1994 PVD seeks to essentially "gut" KS79-1460.

The legislature must respond

- DEFEAT SB542 -

The instant case is not one in which the Plaintiffs have lodged a challenge to the interpretation or application of a statute.

→ K.S.A. 79-1460 provides in part:

"The county appraiser shall notify each taxpayer in the county annually on or before May 1 for real property ... of the classification or appraised valuation of the taxpayer's property, except that for tax year 1993, and each year thereafter, the valuation for all real property shall not be increased unless: (a) A specific review thereof is conducted, including an individual physical inspection of such property by the county or district appraiser or such appraiser's designee provided that no such inspection shall be required to change the valuation of land devoted to agricultural use; (b) a record of such inspection is maintained, including documentation for such increase, and such record is available to the affected taxpayer; and (c) for the taxable year next following the taxable year that the valuation for real property has been reduced due to a final determination made pursuant to the valuation appeals process, documented substantial and compelling reasons exist therefor and are provided by the county appraiser..."

The Defendants have not interpreted K.S.A. 79-1460. The Defendants have conciously ignored K.S.A. 79-1460, increased valuations without complying with K.S.A. 79-1460 and hence have taken action without authority.

The Kansas Supreme Court, in J. Enterprises, clearly set forth the distinction between two types of tax cases:

"It is important, we believe, that the question on appeal involves the interpretation of a tax exemption statute. Neither the district court nor the parties question the validity of the statute. All parties accept that this is the law in Kansas. The question is whether the County enoneously interpreted the statute and has little to do with the legality of the County's actions." J. Enterprises, at 857 (emphasis by the court)

The Defendants correctly noted that the Kansas Supreme Court, in Mobile Oil Corporation v. McHenry, 200 Kan. 211,



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

May 29, 1992

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-375
TELECOPIER: 296-6296

Mr. Mark Beshears
Secretary of Revenue
Kansas Department of Revenue
3rd Floor, Docking State Office Building
Topeka, Kansas 66612

Mr. David C. Cunningham, Director
Division of Property Valuation
Kansas Department of Revenue
5th Floor, Docking State Office Building
Topeka, Kansas 66612

Re: Reappraisal Litigation

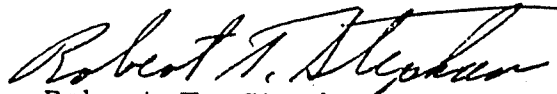
Dear Mr. Secretary and Director:

On March 26, 1992, Senator Phil Martin and Representative Denise Everhart, along with a number of other legislators, wrote to me urging me to file suit against you to compel compliance with Attorney General Opinion 92-13, interpreting K.S.A. 79-1460, which requires a final review of property before the appraised value of that property may be increased. On April 10, 1992, following a meeting between us on this subject, among other reappraisal related issues, I responded to these concerned legislators by stating my intention to wait until the legislative session was completed in order to determine whether or not the Legislature would take any action in regard to the problem before taking any legal action. ↙

The Legislature has now adjourned and has taken no action. In addition, further information has been brought to my attention that calls into serious question the constitutionality of reappraisal property values in many counties throughout the State of Kansas.

The purpose of this letter is to solicit from you any set of facts or law which would negate the need to file appropriate legal action on behalf of the State of Kansas against yourselves for failure to take appropriate action pursuant to your statutory duties to assure the uniform and equal appraisal of real property in the State of Kansas.

Sincerely,


Robert T. Stephan
Attorney General

RTS:bls

cc: Senator Phil Martin
Senator Ed Reilly, Jr.
Senator Marge Petty
Representative Denise Everhart
Representative George Gomez
Representative Joan Hamilton
Representative Al Ramirez
Representative Stevi Stephens
Representative Joann Flower
Representative Clyde Graeber
Representative Anthony Hensley
Representative Marvin Smith
Representative Bill Wisdom
Representative Bill Roy
Representative Kenneth King
Representative Vince Snowbarger
Representative James E. Lowther
Representative Kathleen Sabelius
Representative Eloise Lynch
Representative Mary Jane Johnson
Representative Gwen Welsheimer
Representative Ann Cozine
Representative Mike O'Neal

Robert T. Stephan
Re: Reappraisal Lawsuit
June 15, 1992

As a result, I have filed suit requesting that the court find that:

1) the current implementation of statewide reappraisal is in direct contravention of the laws of the constitution of Kansas,

2) the Secretary of the Department of Revenue and the Director of Property Valuation have failed to perform their duties with respect to the administration and supervision of the statewide reappraisal program,

3) because of the defendant's failure to perform their legal duties, the valuation and assessment of real property throughout the state of Kansas is not in substantial compliance with the law,

4) the Kansas Constitution requires that the defendants must perform their statutory duties in such a manner as to insure to the fullest extent practical that the appraisal of all real property throughout the state is at a fair market value on a uniform and equal basis, and

5) the collection of revenues generated from taxes on real property based on non-uniform and unequal basis is in violation of the state constitution.

I am also asking the court to issue an injunction to compel the defendants to carry out their statutory duties so that all real property throughout the state is appraised at fair market value on a uniform and equal basis.

LAW OFFICES
CARPENTER PROFESSIONAL ASSOCIATION

WOODRIDGE OFFICE BUILDING
2921 SW WANAMAKER DRIVE
TOPEKA, KANSAS 66614

EDWIN P. CARPENTER
DAVID C. CARPENTER
DAVID N. HOLSTEAD
DANIEL M. WELCH
R. GREG WRIGHT

MAILING ADDRESS:
P. O. BOX 4287
TOPEKA, KANSAS 66604-0287

TELEPHONE
AREA CODE (913)
273-4170
TELEFAX NO.
(913) 273-9138

January 28, 1994

Client

Topeka, Kansas 66614

RE: PROPOSED - - Senate Bill 542

Dear Jack:

I am enclosing, for your information, a copy of Senate Bill 542, which is currently before the Legislature in its Senate Assessment and Taxation Committee. This is a bill that attempts to dramatically alter the status quo, and defeats a number of the benefits in certain statutes which we have worked hard for over the last number of years. The concerns specifically would be as follows:

I. Section One of the Bill amends K.S.A. 1993 Supp. 79-1460 to remove the requirement that property values cannot be increased unless a specific review of property is conducted, including an individual physical inspection of the property by the County. Instead, all they have to do is have a record of "the latest physical inspection". In essence, they do not have to look at your property before they increase the value.

II. Under the statutes as they currently exist, the County Appraiser is required to actually view and inspect property once every four years. Section two of the Bill proposes to amend K.S.A. 79-1476 to no longer requires the County to actually view and inspect your property, ever, much less once every four years. Instead, the statutory changes state that commencing in 1994, the County only be required to "check for accuracy" the "record of physical characteristics" of your property, and only do so once every eight years. Furthermore, it allows your property values to be increased by "statistical analysis" in any other year, as long as the County has looked at one-eighth of the parcels in the County. To expand upon the lunacy of this theory further, as the statutory change is proposed, the one-eighth of the properties reviewed could all be vacant parcels, agricultural parcels, or residential parcels, and the County increase the values of all of the commercial parcels by their so-called "statistical analysis".

III. Section Three of this Senate Bill is probably the most offensive to me. It affects, on a wholesale basis, a complete denial on the part of taxpayers to pay their taxes under protest, except where one is challenging the legality of the levy, which essentially leaves equalization appeals as the only methodology of protesting values. The passage of this provision would make it an even sadder day in the State of Kansas for commercial property owners.

Please take note of these proposed changes, review the Senate Bill, and contact the local legislators and oppose the passage of this Bill. It would also be helpful if you could contact the members of the Senate Assessment and Taxation Committee.

Should you have questions, please give me a call.

Yours truly,

CARPENTER PROFESSIONAL ASSOCIATION



David C. Carpenter

Enclosure

DCC:bal

1:58:57
/23/92

Kansas State Board of Tax Appeals
DOCKET for 01/13/1993

1APL30
Page 1

Cases Scheduled by the Board of Tax Appeals in the
Board's Office, Hearing Room A, 4th Floor, Room 400-S,
Docking State Office Building, Topeka, Kansas.

Jolene Ruediger, Attorney

Minutes scheduled
for B.O.T.A - 2
days after Commish
vic took office.

DOCKET NUMBER	TYPE	CNTY	TAX PAYER / PARCEL ID NUMBER	TIME	DATE
91-011340	EQ	SN	Fidelity State Bank & Trust 089-109-31-0-40-02-006.00-0	1:30pm	1/13/1993
92-013748	EQ	SN	Fidelity State Bank & Trust 089-142-04-0-30-07-004.00-0	1:31pm	1/13/1993
91-011338	EQ	SN	Fidelity State Bank & Trust 089-142-04-0-30-08-011.01-0	1:32pm	1/13/1993
91-011339	EQ	SN	Fidelity State Bank & Trust 089-145-15-0-10-01-002.00-0	1:33pm	1/13/1993
91-011341	EQ	SN	Fidelity State Bank & Trust 089-109-31-0-40-02-005.00-0	1:34pm	1/13/1993
91-011342	EQ	SN	Fidelity State Bank & Trust 089-109-31-0-30-09-001.00-0	1:35pm	1/13/1993
92-006023	PR	SN	Fidelity State Bank 089-142-03-0-10-01-001.00-0	1:36pm	1/13/1993
016926	PR	SN	Fidelity State Bank 089-142-04-0-30-07-004.00-0	1:37pm	1/13/1993

* * END OF REPORT

* * B.O.T.A. ends day at

1 minute!
1 minute!
1 minute!
1 minute!
1 minute!
1 minute!
1 minute!
7 minutes

10/13/92 12:28:34

Current listing of 'open' cases pending before BOTA

PAGE 15

DKT NR	DATE	CASE	YRS	STATUS	TXP	YER	CONTACT NAME	PARCEL ID NUMBER	VALUE AT ISSUE	TAX AT ISSUE
11338EO	91	21	SN	Fidelity State Bank & Trust	Victor W Miller, Attorney at Law	089-142-04-0-30-08-011.01-0	78,944	0		
11339EO	91	21	SN	Fidelity State Bank & Trust	Victor W Miller, Attorney at Law	089-145-15-0-10-01-002.00-0	125,760	0		
11340EO	91	21	SN	Fidelity State Bank & Trust	Victor W Miller, Attorney at Law	089-109-31-0-40-02-006.00-0	21,820	0		
11341EO	91	21	SN	Fidelity State Bank & Trust	Victor W Miller, Attorney at Law	089-109-31-0-40-02-005.00-0	85,732	0		
11342EO	91	21	SN	Fidelity State Bank & Trust	Victor W Miller, Attorney at Law	089-109-31-0-30-07-001.00-0	6,407	0		