



Testimony of the Kansas Association of Counties
To the House Committee on Taxation
Assessing the Transition from COTA to BOTA

January 21, 2015

Mr. Chairman and Members of the Committee:

In 2014, the Kansas Association of Counties collected information from a collection of county officials to evaluate the proposals in House Bill 2614, which proposed a comprehensive overhaul of the tax-appeals system. In spring of 2014, Governor Brownback signed House Substitute for SB 231 enacting the COTA-BOTA changes. In response to the changes, KAC sought feedback from the individuals who participated in the 2014 legislative process to assess the current system. This testimony touches on the responses dealing with procedural matters in the Board of Tax Appeals.

Pre-trial Conferences

The primary procedural concern under the new system is the elimination of status conferences and pre-trial conferences. Historically, these hearings allowed BOTA to track filings to see which cases have multiple years, which subsequently led to consolidation of cases. The hearings also provided an opportunity for discovery deadlines and pre-trial orders. But since the new law, BOTA immediately sets the cases for a one-hour hearing without consulting the parties. The result is a reverse process to determine discovery deadlines and a burden on the parties to track cases for multiple years in order to file motions to consolidate. It is a poor use of taxpayer dollars to try the same property twice, sometimes weeks apart. Our county counselors have experienced difficulty in coordinating a schedule that works for all the involved parties. Consequently, the counties would like to see a return to status conferences or pre-trial conferences to set realistic discovery and trial dates.

Timeline for Hearings

KAC also received multiple objections to the one-hour requirement for tax-appeal hearings. The county counselors who practice before BOTA noted that complex commercial property is simply too complex to realistically and thoroughly finish in a 60-minute period. When a docket includes back-to-back hearings over multi-million-dollar properties, the result is essentially a triage list to determine which cases can be dismissed, which will be stipulated, and which will go forward to trial. As a result, the parties must file a proposed modified scheduling order with three alternative dates in an effort to secure sufficient time before BOTA for each property. The pre-trial hearings would help with this, but changes should also

include some cases receiving more than a one-hour hearing. These two changes would result in better predictability and consistency for both the taxpayer and the county.

General Observations

Finally, KAC heard a theme of caution against pursuing significant further changes at this time. As suggested above, there are concerns worth addressing, but BOTA, the taxpayers, and the counties are still determining the intricacies of the new BOTA process. As always, our local officials are available and pleased to provide any additional information that may prove useful in assessing the tax-appeals process.

Respectfully,

Nathan Eberline, Legal Counsel