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To: House Taxation Committee

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Subject: **HB 2472** – Supporting Proposed Changes to Clarify the Meaning of a "De Novo" Trial and to Restrict the Right to Request a "De Novo" Review Trial in District Court to Aggrieved Taxpayers

Chairman Kleeb and members of the House Taxation Committee, thank you for the opportunity to provide written testimony today on behalf of the Kansas Association of REALTORS® in support of **HB 2472**, which would modify the language found in **K.S.A. 74-2426** pertaining to the appeal of decisions from the Board of Tax Appeals (BOTA) by clarifying that, among other things, a "de novo" trial is a new trial on the issue and that only aggrieved taxpayers have the right to request a de novo review by a district court.

KAR is the state's largest professional trade association, representing nearly 8,500 members involved in both residential and commercial real estate and advocating on behalf of the state's 700,000 property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

HB 2472 Will Provide More Options to Taxpayers Attempting to Contest Unreasonable Property Valuations

During the 2014 Legislative Session, the Kansas Legislature passed legislation to allow aggrieved taxpayers to seek a de novo review of a property tax valuation decision from the Board of Tax Appeals (BOTA) in district court. As drafted, **HB 2472** clarifies that a "de novo" trial means that the district court will be required to review the entire matter on appeal rather than just reviewing the findings and record from BOTA.

Under previous law, property tax appeals could only be taken to the Kansas Court of Appeals (skipping the district court level) and the Kansas Court of Appeals could only review BOTA's decision to determine if BOTA arbitrarily, capriciously or incorrectly applied the law to the facts of the case. However, the Court of Appeals did not have the authority to review the actual facts of the case and make judgments on the facts. This severely limited the ability of aggrieved taxpayers to challenge an erroneous ruling of BOTA.

Unfortunately, certain counties have attempted to narrow the application of the de novo trial option for property owners in court by asserting that the district courts only have the authority to review the record of the case from BOTA and not conduct a brand new trial on the matter. Traditionally, the term "de novo" means that the court has the ability to conduct a brand new trial and is not limited to a simple review of the record.

Accordingly, **HB 2472** is needed to amend the statute to clarify that the term "de novo" trial means that the courts shall review the entire matter of the property tax appeal by conducting a new trial on the matter and will not be limited to a simple review of the record from BOTA. This would ensure that taxpayers are allowed to present new evidence and arguments at the trial to increase their chances of overturning an unreasonable property valuation established by the county and an unfavorable opinion on the property's valuation from BOTA.

Conclusion

In closing, we would respectfully request that the members of the House Taxation Committee support **HB 2472**, which would help create more fairness in the property tax appeals process for taxpayers by clarifying that an aggrieved taxpayer has the right to request a de novo review trial in district court and that municipalities do not have the option of requesting a de novo review trial. Thank you for the opportunity to provide written comments on this very important issue.