

Approved February 25, 1992

Minutes of the House Committee on Taxation. The meeting was called to order by Joan Wagnon, Chairperson, at 9:10 a.m. on Thursday, FEBRUARY 6, 1992 in room 519-S of the Capitol.

All members were present except:

Rep. Ken Grotewiel, excused.

Committee staff present:

Tom Severn & Chris Courtwright, Legislative Research; Bill Edds and Don Hayward, Revisors; Linda Frey, Committee Secretary; Douglas E. Johnston, Committee Assistant.

Conferees appearing before the committee:

Larry Clark, Wyandotte County Appraiser  
Representative Mary Jane Johnson  
Vic Miller, Shawnee County tax attorney  
David Cunningham, Director of Property Valuation  
Bev Bradley, Deputy Director of the Kansas Assoc. of Counties  
Representative Marvin Smith  
Representative Alex Scott  
Dana Hummer, Topeka taxpayer  
Paul Rodvelt, Horton property owner  
Joe Conley, Delia property owner  
Bernard Barr, Topeka property owner  
Larry Fischer, representing Kansans for Fair Taxation  
Dan Cain, Shawnee County property owner

Hearings were opened on HB 2813, HB 2820, HB 2811, HB 2812 and HB 2768.

Larry Clark, Wyandotte County Appraiser, discussed HB 2811 (Attachment 1). As a representative of the Kansas County Appraisers Association, Clark discussed HB 2813. He said the association favored permanent appointment of county appraisers. In regard to HB 2820, he said the association favored the bill. Clark had no comment on HB 2812.

Rep. Vancrum said the terms "substantial and compelling" in HB 2812 would give county appraisers too much latitude in the determination of what the changes in fair market values were from year to year, but that such changes were rare. Clark agreed. He also said appraisers should not change values simply because values were changed on a computer.

Rep. Krehbiel stated that in some counties it is not a rare occurrence that changes are made based on an appraisers determination of fair market value change.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Thursday, February 6, 1992.

Rep. Mary Jane Johnson testified in favor of HB 2812 (Attachment 2).

Rep. Johnson said rules and regulations could be established which would define "substantial and compelling."

Vic Miller, Shawnee County tax attorney, testified in regard to HB 2811 (Attachment 3). He said that after an appeal the burden of proof should lie with the county to determine fair market value. He spoke against leaving the responsibility to PVD to set up rules and regulations that would establish what "substantial and compelling" means. He said that would not be necessary if the burden of proof were put on the county appraiser where values have been determined on appeal. Miller said he was not opposed to establishing statutory criteria determining the definition, but that HB 2811 did not do that.

Miller testified in regard to HB 2820. He said the bill would do what the PVD already does. He discussed a sample of preliminary ratio study reports from several unnamed counties (Attachment 4).

David Cunningham, Director of Property Valuation, discussed HB 2820 and HB 2812 (Attachment 5). He said HB 2812 was necessary because the PVD did not have the enforcement authority to get uncooperative counties to follow PVD directives. Currently the department's authority is insufficient.

Cunningham said current law gives his department the authority to audit counties and that that was currently being done. He said HB 2820 was not really necessary for that reason.

Bev Bradley, Deputy Director of the Kansas Association of Counties, testified against HB 2812 (Attachment 6).

Cunningham said the special fund could be used to do the work of a county not in compliance or to educate the county appraisers so that they will comply.

Rep. Marvin Smith testified in favor of HB 2768 (Attachment 7). Rep. Smith described the property tax problems of one of his constituents. He said the constituent had appealed the values on two of his properties. One of those appeals was successful, but half of the \$2,200 saved in property taxes after the appeal was taken by the constituent's consultant as a fee.

Rep. Alex Scott testified in favor of HB 2768 (Attachment 8).

Dana Hummer, Topeka taxpayer, testified in favor of HB 2768

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Taxation, room 519-S, State-house, at 9:10 a.m. on Thursday, February 6, 1992.

(Attachment 9). He included with his testimony tax documents for his property owned in Topeka for which he appealed the valuation. He asked the committee to act to cut the interest rate on delinquent taxes from 18 percent to 1% above the prime rate.

There were several questions regarding Hummer's property tax problems and whether or not his problems were solely symptomatic of high mill levies or high valuations. In response to questions, Hummer said he had considered selling the property.

Paul Rodvelt, Horton property owner, testified in favor of HB 2768 (Attachment 10).

Joe Conley, Delia property owner, testified in favor of HB 2768.

Bernard Barr, Topeka property owner, testified in favor of HB 2768 (Attachment 11).

Larry Fischer, representing Citizens for Fair Taxation, testified in favor of HB 2768 (Attachment 12).

Dan Cain, Shawnee County property owner, testified in favor of HB 2768. He related his property tax problems to the committee.

The public hearings on HB 2813, HB 2820, HB 2811, HB 2812 and HB 2768 were closed.

The chair requested and received unanimous consent for the introduction of a bill for a statewide uniform mill levy.

The meeting adjourned at 10:55 a.m. The next meeting will be February 7.



GUEST LIST

COMMITTEE: Hausjagatien

DATE: 2/6/92

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Alan Steppat	Topeka	Pete McGill & Associates
Dan P. Cunn	"	Commercial Producers
VIC MILLER	"	SELF
Heidi DeVore	"	Vic Miller
HAROLD PITTS	"	AARP-CCTF
Nora Hummer	"	Retired
Donald W. Cook	"	Citizen
Larry Fischer	"	Citizen
Jack Benga	"	AAFT
KAREN FRANCE	"	KAR
BEN BRADLEY	TOPEKA	KS ASSOC of Counties
Barbara Butts	"	Dept of Admin
Art Brown	KC.	KS Lumber Dealer
Carolyn Johnson	Topeka	Board of Tax Appeals
Bob Corkins	"	KCCI
Mark Tallman	Topeka	AAAS
Michelle Lester	Topeka	KBC
Russell A. FREY	Topeka	Ks Vet Med Assoc
Patricia Steichen	Marion	HDFS - Practitioner
Tom Whitaker	Topeka	Ks Motor Coaches Assn.
Henry Larson	Hays	Ellis Co Clerk
Donna Maskus	Hays	Ellis Co Clerk's Office
Donetta Reshan	Hays	" " " "
Juli Ford	Topeka	Hein Ebert, Rosen





**KANSAS COUNTY APPRAISERS ASSOCIATION**

**P.O. Box 1714  
Topeka, Kansas 66601**

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GARY COLEMAN  
(Southwest Region)  
Hamilton County Courthouse  
Syracuse, Kansas 67878  
316-384-5451

To: House Taxation Committee

From: Larry Clark, Wyandotte County Appraiser

Date: February 6, 1992

Madame Chairperson and honorable members of this committee I appreciate the opportunity to offer testimony on the bills listed below.

My name is Larry Clark and I am here representing the Kansas County Appraisers Association as their president. Our executive board met briefly January 29 to discuss many of the proposals discussed below. I will deal with them as shown on the committee calendar.

House Bill 2768 - Appraisal of property at fair market value assumes a point in time. For ad valorem property tax purposes that has always been January 1 of the tax year. To fix a value for more than one year ignores the fact of change in the market and therefore violates the requirement to appraise at fair market value. For that reason the Kansas County Appraisers Association opposes this legislation.

House Bill 2811 - The appraisers association questions the term "substantial and compelling". We are required as a part of the annual review of

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property values to examine the real estate market for any changes and to adapt to them. If that study produces reasons to change values, that, in the minds of most county appraisers, is substantial and compelling. If county appraisers are allowed to make changes consistent with the market under this legislation we will support it.

If, on the other hand, the term "substantial and compelling" is used to hold values to a some figure established in a hearing, even it was done in error, we strongly oppose it on the grounds that it subverts the standard of fair market value.

House Bill 2813 - This bill appears to eliminate the four year appointment process currently in effect and call for the appointment of full time appraisers in counties having more than 10,000 parcels. The appraisers' association supports the idea of appointment without a term of years. This would require the county commission to show cause for terminating the employment of an appraiser as opposed to the current situation of the position essentially being vacated every four years.

Our association would extend the second provision to require a full time appraiser in all counties regardless of size. It is one thing to have one appraiser serving two counties, which would result in effectively serving each individual county on a part time basis. It is entirely different for one person to hold two or more entirely separate jobs and expect either to be performed adequately.





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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

ROBERT T. STEPHAN  
ATTORNEY GENERAL

October 29, 1991

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 91- 134

The Honorable Clyde D. Graeber  
State Representative, Forty-First District  
2400 Kingman  
Leavenworth, Kansas 66048-4230

Re: Taxation--Property Valuation, Equalizing Assessments, Appraisers and Assessment of Property--Powers and Duties of Director of Property Valuation; Force and Effect of Directives

Synopsis: The July 2, 1990 directive issued by the director of property valuation that requires county appraisers to consider the final results of the hearing and appeals processes for tax years 1989 and 1990 in estimating fair market value and use value for tax year 1991 is binding on all county appraisers. The "final result" is the value reached at the last step taken in the processes. In order to alter the value of property, the value of which was set in the 1989 or 1990 hearing and appeal process, the county appraiser must have documented substantial and compelling reasons to prove the altered value reflects current fair market or use value. Cited herein: K.S.A. 79-1401; 79-1404, as amended by L. 1991, ch. 278, § 1; K.S.A. 79-1456; K.S.A. 1990 Supp. 79-1476.

\* \* \*

Dear Representative Graeber:

By letter dated July 17, 1991, this office brought to your attention the existence of a directive issued by the director

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of property valuation to all county boards of equalization and all county appraisers. The directive, dated July 2, 1990, directs local officials to take into consideration the values reached through the previous years' appeals processes when estimating fair market value or use value for tax year 1991. You ask that we address this directive in a formal opinion, and that we respond to the following questions:

"1. Does the July 2, 1990, PVD Directive requiring 'due deference' to the final results of the 1989/1990 hearing and appeals process except where substantial and compelling reasons to deviate therefrom are demonstrated, apply not only to those values determined by the Board of Tax Appeals, but also to those values established at both the informal hearing and board of equalization levels of appeal?

"2. Absent substantial and compelling reasons to deviate therefrom, may a county increase the valuation when that property's value for the prior year had been determined at either the informal or the county board of equalization hearing levels?

"3. How is the phrase 'substantial and compelling reasons' defined and applied in the context of determining whether due deference shall be given to the final results of the hearing and appeals process in regard to the fair market value of property?"

The July 2, 1990 directive states in part:

"Except for land devoted to agricultural use and a few other exceptions, real property in Kansas is required to be valued at its 'fair market value,' which is defined in K.S.A. 79-503a as 'the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming the parties are acting without undue compulsion.' K.S.A. 79-503a further provides that sales shall not be used as the sole criteria of 'fair market value,' but that other factors shall be considered in finding 'fair market value.' Therefore, in my opinion, due deference should be given to the final results of the 1989/1990 hearing

and appeals process in finding 'fair market value' or 'use value.' The presumption is that these final results represent the 'fair market value' or 'use value' of the property. . . .

"County appraisers are directed to carefully analyze the final results of the hearing and appeals processes for both tax years 1989 and 1990 in estimating 'fair market value' and 'use value' for tax year 1991. Only when substantial and compelling reasons to deviate from such 1989 and 1990 final values have been documented should such value be increased for tax year 1991."

The directive does not distinguish between results of a hearing before the board of tax appeals and results of an informal hearing with the county appraiser, or of an appeal at any other stage. The results at any stage will be considered "final" if not timely appealed further. Also, it is the goal at each stage to achieve fair market value (or use value for land devoted to an agricultural use), so the presumption is that at any of the stages the result, if final, represents fair market value or use value.

By your second question, you essentially ask whether county appraisers may ignore the directive or if it is binding on them. Several statutes give the director of property valuation the power to direct county and district appraisers. K.S.A. 79-1401 provides that "[t]he director of property valuation shall have general supervision and direction of the county assessor's in the performance of their duties and shall regulate and supervise the due performance thereof." (Emphasis added.) The director has the power and authority to exercise general supervision over county and district appraisers to the end of uniform assessments at fair market value; "to require all county and district appraisers . . . under penalty of forfeiture and removal from office" to assess at fair market value; "[t]o confer with, advise and direct county and district appraisers . . . as to their duties under the statutes of the state"; and "to make any order or direction to . . . any county or district appraiser as to the valuation of any property. . . ." K.S.A. 79-1404, as amended by L. 1991, ch. 278, § 1 (emphasis added). K.S.A. 79-1456 requires county appraisers to "follow the policies, procedures and guidelines of the director of property



valuation in the performance of the duties of the office of county appraiser." K.S.A. 79-1458 and 79-1404 First as amended, require county and district appraisers to maintain all data relating to appraisal of property as may be required by the director. In Garvey Grain, Inc. v. MacDonald, 203 Kan. 1, 12 (1969), the Kansas Supreme Court stated:

"The director of property valuation is an administrative official and his decisions in all matters within the scope of his supervisory power, involving administrative judgment and discretion, are conclusive upon subordinate taxing officials. In the exercise of his powers, the director must of necessity interpret the tax laws and such interpretations are prima facie binding."

See also McManaman v. Board of County Commissioners, 205 Kan. 118, 126, 127 (1970).

Based on the above-cited authorities, it is our opinion that county and district appraisers are bound to follow a directive of the director of property valuation when the directive is issued to assist the appraisers in determining fair market or use value or performing any of their other duties. The July 2, 1990 directive in question specifically addresses determination of fair market or use value for properties which have gone through the hearing and/or appeals processes in 1989 or 1990. Further the directive mandates the maintenance of data by appraisers in that it requires them to document adjustments. Since these are areas within the director's scope of authority, we believe the directive in question is binding on county and district appraisers.

Finally, you seek our interpretation of the phrase "substantial and compelling reasons" in the context of determining whether the final results of a previous year's hearing and appeals process may be altered by the county appraiser. We believe the intent of this language was to place on the county appraiser the burden of documenting and proving that the value assigned a piece of property through a prior year's hearing or appeals process is not its current fair market or use value. This interpretation takes into account the county appraiser's duty to update appraisals on an annual basis (K.S.A. 1990 Supp. 79-1476), but at the same time requires the appraiser to account for any change in value. The reasons given for altering the value from that reached in

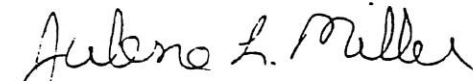
the appeals process must be compelling; the presumption is that the values finally arrived at in the hearing and appeals processes were the fair market or use values in that those were the values agreed to be such by the taxpayer and the government officials charged with the responsibility of setting such values. However, if the appraiser can in specific instances prove by demonstrative evidence that fair market value was not achieved through the processes or that changes have occurred in the property or the market, the value can be altered. Such analysis and documentation must occur prior to issuance of a change of value notice, the point being that the appraiser should not be changing the value of such property without having demonstrable reasons for doing so.

In conclusion, the July 2, 1990 directive issued by the director of property valuation that requires county appraisers to consider the final results of the hearing and appeals processes for tax years 1989 and 1990 in estimating fair market value and use value for tax year 1991 is binding on all county appraisers. The "final result" is the value reached at the last step taken in those processes. In order to alter the value of property, the value of which was set in the 1989 or 1990 hearing and appeal process, the county appraiser must have documented substantial and compelling reasons to prove the altered value reflects current fair market or use value.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General

RTS:JLM:jm

Testimony Before the House Tax Committee  
February 6, 1992

Madam Chairman,

My name is Vic Miller; you know me. While I am in agreement with what I believe to be the intention of House Bill 2811, I am opposed to the bill as presently worded. The language "documented substantial and compelling reasons", without definition, does nothing but to perpetuate the legal quagmire begun a couple of years ago by a previous Property Valuation Division director. A directive was issued without citation to any case or statute and without any clarification as to the meaning of the words.

Since then, there has been a grand debate as to what is meant by the phrase, but I have yet to see any clarity provided by the authorities charged with doing so. Meanwhile, the system stalls while everyone argues.

I do empathize with the frustration experienced by taxpayers who mount successful appeals only to have the results undone the following year. I suggest that in such instances, the usual burden of proof attached to the taxpayer be shifted to the county. If the county wishes to deviate from the value determined on appeal, it may do so only after overcoming the presumption of validity of the prior year's value.

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<u>Co. No.</u>	<u>No. of Sales</u>	<u>Mean Ratio</u>	<u>Std. Dev.</u>	<u>Med. Ratio</u>	<u>COD</u>
000	Many	100.00	0.00	100.00	0.00
046	81	76.62	29.65	82.15	30.01
087	76	92.84	52.90	95.14	37.67
005	38	115.46	54.28	102.21	30.39
089	30	89.98	24.16	96.42	17.25
105	24	99.13	24.40	101.17	15.78
023	15	119.15	57.99	100.00	32.85
078	14	118.42	43.37	109.83	28.56
028	11	91.89	26.84	92.21	21.77
052	11	115.21	36.22	106.27	20.43
063	11	130.69	67.53	102.53	43.89
067	11	94.90	36.01	89.45	24.49
011	10	108.23	70.06	88.01	42.59
066	10	92.03	17.05	96.87	11.90
008	9	135.33	53.22	128.67	23.24
085	9	104.39	27.48	98.41	20.19
021	8	112.47	17.87	113.91	13.94
030	8	98.23	16.50	99.77	12.87
032	8	102.22	11.26	96.64	7.27

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Attachment 4  
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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*

MEMO

To: Kansas House Committee on Taxation  
From: David C. Cunningham, Director  
Subject: Validation Guidelines  
Date: February 6, 1992

The determination to accept a sale as valid or invalid is based upon accepted guidelines of the International Association of Assessing Officers. The appraiser considers the following in invalidating a sale for the sales ratio. Any sale that is affected by these considerations is not included in the study.

1. The sale involved more than one parcel.
2. The property was not exposed to the open market or that the marketing time for the property could be considered abnormal.
3. The physical characteristics or highest and best use of the property has changed since the sale, or that construction and/or demolition of improvements has taken place since the transaction occurred.
4. The parties of the transaction were either related individuals or corporations.
5. The cause of the transaction was either a liquidation of assets or a forced sale.
6. The sale involved abnormal financing or that the transaction was a land contract arrangement.
7. The amount shown is a construction cost, only used for verification of cost schedules.
8. The sale included an excessive amount of personal property, or any other situation that would make the sale a non "arm's-length transaction."

One sale, however, is not sufficient to draw any statistically valid conclusions about the over all effectiveness of a reappraisal program. Thus recent sales are necessary to have an adequate study.

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*"Service to County Government"*

To: Representative Joan Wagnon, Chairperson  
Members House Taxation Committee

From: Bev Bradley, Deputy Director  
Kansas Association of Counties

Re: HB 2812

The Kansas Association of Counties opposes HB 2812 which would allow the director of property valuation to order the state treasurer to withhold all or a portion of the reappraisal reimbursement funds and all or a portion of the county's entitlement to local ad valorem tax reduction funds or city county revenue sharing funds upon finding the county is not in compliance with statutes, rules, regulations or directives governing property taxation.

What provision is there for a county to "fine" if you will, the state when the division of property valuation makes a mistake? What will be gained by being punitive? This, in our opinion will not help to encourage cooperation between local appraisers and the division. This, in our opinion, will not encourage improvement in the appraisal system. There is already statutory authority for the state to take over a county, do the appraisal and then withhold funds to cover the costs incurred if the county is not doing the work in an appropriate manner.

To withhold funds based on disobeying a rule or directive is a scary situation. I understand in the past there have been many directives issued which are contradictory. We have had several directors in the years since the reappraisal bill was passed. The field staff that is supposed to oversee the counties has changed more times than I can count and a shortage of state funds has caused a reduction in numbers of the field staff. I am not saying that every county appraiser is 100 percent accurate or efficient, but they are selected from a state approved list and trained by state staff in state approved classes. They are guided by the PVD division and supervised by PVD field staff. If directives are not followed the county as a whole, the ad valorem tax payers, and the remaining offices in the court house should not be penalized.

We would urge you to vote against HB 2812.

TSB2812

House Taxation  
Attachment 6  
02-06-92



STATE OF KANSAS

MARVIN E. SMITH  
REPRESENTATIVE, FIFTIETH DISTRICT  
JACKSON AND SHAWNEE COUNTIES  
123 N.E. 82ND STREET  
TOPEKA, KANSAS 66617-2209  
(913) 484-3417  
CAPITOL-ROOM 155E  
TOPEKA, KS 66612  
(913) 296-7646



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

February 6, 1992

HOUSE TAXATION COMMITTEE

HB 2768

Madam Chairman, thank you for scheduling the hearing today.

I have introduced the two year MORATORIUM on reappraisal of real property somewhat out of FRUSTRATION and sincere hope Kansas could let the "over-heated" engine of reappraisal "cool down". It seems the hotter the engine gets, the more inequity spews out.

Approximately a year ago the commercial property owners around the square in Holton received large increases on the valuation notice of the land on which their 75-100 year old buildings were located.

It seems P.V.D. determined the land had been grossly undervalued because a long time vacant lot with a prime location on the northwest corner of the square had been sold for a good sale price. The lot had been sold to construct a Casey's - 18 hour operation of fuel pumps, groceries, and the usual merchandise. It appeared P.V.D. used one or two isolated prime location sales as a factor to "jack-up" the land values of all the commercial property in Holton.

Many of the business owners, having just received a jolt from the original reappraisal and classification two years previously, were angered, frustrated, and ready to "hang it up!" So, another round of appeals, Board of Equalization hearings, and stress for business owners and county officials.

Here in Shawnee County the annual harassment of property valuation increases continued to crank out. Many property owners who had just won reduction in values in 1990 were faced with new higher values in 1991. Many of these new 1991 values increased from 5% to 15%.

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Taxation Committee Hearing  
HB 2768 on February 6, 1992  
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According to reports I requested from David Cunningham, which we received last week, you can see on the attached sheets Jackson County increased 7.4% and Shawnee County increased \$46,545,655 or a 6.01% increase from 1990 to 1991.

Last week Director Cunningham indicated to our Tax Committee it would take five years to get reappraisal "fine-tuned".

Yesterday's February 5th Capital-Journal reported Shawnee County Commissioners hired twelve part-time workers at a cost of \$20,000 to help in hearings on the 3,940 properties that taxpayers paid under protest for 1991. The real cost is to the taxpayers in time, frustration, stress, and sense of futility. Taxpayers are losing thousands of dollars in time away from business, work, travel and some hired tax consultants. Many senior citizens have just accepted the increased values out of frustration and have become complacent with LESS respect for government at all levels!

It's time to shut down the engine, let it cool off and "fine-tune".

Madam Chairman, I hope we have time for the other conferees and maybe I could answer questions later!

Marvin E. Smith

MARVIN E. SMITH  
 REPRESENTATIVE, FIFTIETH DISTRICT  
 JACKSON AND SHAWNEE COUNTIES  
 123 N.E. 82ND STREET  
 TOPEKA, KANSAS 66617-2209  
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TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER EDUCATION  
 TAXATION  
 TRANSPORTATION

**The Topeka Capital-Journal**

**Wednesday, February 5, 1992**

## Extra help approved for tax hearings

By FREDRICK JOHNSON  
 The Capital-Journal

Shawnee County property owners who paid 1991 taxes under protest have about a month to fine-tune arguments they plan to use during appeal hearings.

Those hearings will be conducted during March and April by temporary employees specifically hired for the task by the county appraiser's office.

County commissioners created 12 temporary positions for the office Tuesday on a 2-1 vote.

Property owners have paid 1991 taxes under protest on about 3,940 properties to appeal the valuations on which taxes were based.

The appeal process begins with hearings at the county appraiser level and proceeds, if necessary, to the county commission then Kansas Board of Tax Appeals.

County financial administrator Dennis Taylor told commissioners current employees would begin the scheduling process next week with a goal of opening hearings on March 2.

Taylor estimated the cost of handling the hearings with temporary employees at \$20,000.

The cost of handling the hearings with temporary employees has been estimated at \$20,000.

He also said the equivalent of eight full-time hearing officers for the two-month period and perhaps one or two clerical workers should be sufficient for the task.

However, clerical help won't be hired unless the workload proves too much for the appraiser's regular clerical staff and other county employees who might be assigned to lend a hand, Taylor said.

According to deputy county appraiser Rick Stuart, almost 700 of the appeals to be heard were filed by Lario Enterprises on its properties in the Montara subdivision.

The appraiser's permanent staff will consolidate and handle the Lario filings, Stuart said, leaving the temporary hearing officers a case load of about 3,300 hearings.

Taylor said the temporary employees would have authority to render decisions on property valuations but the county appraiser would retain authority to review and monitor their work.

The dissenting vote on authorizing temporary positions was cast by Commissioner Eric Rucker, who said he thought the hearings would continue a history of limiting participation by property owners.

The county appraiser has turned initial hearings into a one-sided process by making decisions outside the presence of property owners, Rucker said, and that issue should be settled before more hearings begins.

He said standard practice has been for the appraiser or appointed hearing officer to listen to the property owner's case but not make a decision until later, after reviewing the county's file on the property.

The property owner, Rucker said, should be able to review with the appraiser all documents on which a decision is based and be present when a decision is made.

1990-JULY 1991/NOVEMBER 1991 TOTAL VALUATION PERCENT CHANGES

COUNTY NAME	90 TAXABLE	91 JULY TAXABLE	Jul-91	7/91 %	NOV 91 TOTAL	NOV.-91	11/91 %	NOV. 91 FROM	11/91 %
	ASSD. VALUE	ASSD. VALUE	FROM 1990	CHG. FROM 11/90	ASSD. VALUE	FROM 1990	CHG. 11/90	Jul-91	CHG. 7/91
FRANKLIN	76,592,162	81,303,049	4,710,887	6.15%	81,545,675	4,953,513	6.47%	242,626	0.30%
GEARY	86,150,161	86,032,333	-117,828	-0.14%	86,118,017	-32,144	-0.04%	85,684	0.10%
GOVE	34,339,257	34,552,218	212,961	0.62%	34,490,119	150,862	0.44%	-62,099	-0.18%
GRAHAM	37,724,255	38,759,850	1,035,595	2.75%	38,731,123	1,006,868	2.67%	-28,727	-0.07%
GRANT	235,792,610	256,262,953	20,470,343	8.68%	256,378,677	20,586,067	8.73%	115,724	0.05%
GRAY	44,765,518	45,671,159	905,641	2.02%	45,697,351	931,833	2.08%	26,192	0.06%
GREELEY	25,934,441	27,561,913	1,627,472	6.28%	27,564,628	1,630,187	6.29%	2,715	0.01%
GREENWOOD	43,513,439	43,870,185	356,746	0.82%	43,920,878	407,439	0.94%	50,693	0.12%
HAMILTON	41,938,298	42,335,287	396,989	0.95%	42,334,847	396,549	0.95%	-440	0.00%
HARPER	54,541,327	53,689,076	-852,251	-1.56%	53,808,819	-732,508	-1.34%	119,743	0.22%
HARVEY	117,900,500	124,336,453	6,435,953	5.46%	123,625,115	5,724,615	4.86%	-711,338	-0.57%
HASKELL	117,042,506	116,392,386	-650,120	-0.56%	116,405,144	-637,362	-0.54%	12,758	0.01%
HODGEMAN	25,218,137	26,345,280	1,127,143	4.47%	26,354,738	1,136,601	4.51%	9,458	0.04%
JACKSON	36,424,979	39,118,875	2,693,896	7.40%	39,111,556	2,686,577	7.38%	-7,319	-0.02%
JEFFERSON	58,024,134	60,355,520	2,331,386	4.02%	61,262,156	3,238,022	5.58%	906,636	1.50%
JEWELL	27,099,838	26,520,687	-579,151	-2.14%	26,511,090	-588,748	-2.17%	-9,597	-0.04%
JOHNSON	2,564,309,568	2,686,868,035	122,558,467	4.78%	2,725,876,105	161,566,537	6.30%	39,008,070	1.45%
KEARNY	197,602,283	185,150,567	-12,451,716	-6.30%	185,166,017	-12,436,266	-6.29%	15,450	0.01%
KINGMAN	75,417,113	72,916,309	-2,500,804	-3.32%	73,133,670	-2,283,443	-3.03%	217,361	0.30%
KIOWA	47,513,927	50,419,087	2,905,160	6.11%	50,434,850	2,920,923	6.15%	15,763	0.03%
LABETTE	72,556,038	70,842,117	-1,713,921	-2.36%	70,873,102	-1,682,936	-2.32%	30,985	0.04%
LANE	26,430,489	26,847,462	416,973	1.58%	26,874,291	443,802	1.68%	26,829	0.10%
LEAVENWORTH	193,222,314	199,918,000	6,695,686	3.47%	200,109,991	6,887,677	3.56%	191,991	0.10%
LINCOLN	23,084,283	22,851,864	-232,419	-1.01%	22,837,469	-246,814	-1.07%	-14,395	-0.06%
LINN	128,832,199	130,125,357	1,293,158	1.00%	130,051,403	1,219,204	0.95%	-73,954	-0.06%
LOGAN	25,759,042	25,634,123	-124,919	-0.48%	25,648,039	-110,953	-0.43%	13,966	0.05%
LYON	121,314,934	127,406,563	6,091,629	5.02%	125,822,541	4,507,607	3.72%	-1,584,022	-1.24%
MARION	58,596,203	57,844,097	-752,106	-1.28%	57,945,116	-651,087	-1.11%	101,019	0.17%
MARSHALL	52,105,365	53,251,589	1,146,224	2.20%	53,254,422	1,149,057	2.21%	2,833	0.01%

fr-6



1990-JULY 1991/NOVEMBER 1991 TOTAL VALUATION PERCENT CHANGES

COUNTY NAME	90 TAXABLE ASSD. VALUE	91 JULY TAXABLE ASSD. VALUE	Jul-91 FROM 1990	7/91 % CHG. FROM 11/90	NOV 91 TOTAL ASSD. VALUE	NOV.-91 FROM 1990	11/91 % CHG. 11/90	NOV. 91 FROM Jul-91	11/91 % CHG. 7/91
SEWARD	153,891,628	166,039,751	12,148,123	7.89%	164,837,172	10,945,544	7.11%	-1,202,579	-0.72%
SHAWNEE	774,790,235	821,335,890	46,545,655	6.01%	814,050,185	39,259,950	5.07%	-7,285,705	-0.89%
SHERIDAN	28,484,497	28,335,164	-149,333	-0.52%	28,326,995	-157,502	-0.55%	-8,169	-0.03%
SHERMAN	48,309,032	46,750,936	-1,558,096	-3.23%	46,776,556	-1,532,376	-3.17%	25,720	0.06%
SMITH	28,489,039	29,269,967	780,928	2.74%	28,407,237	-81,802	-0.29%	-862,730	-2.95%
STAFFORD	59,823,344	59,026,874	-796,470	-1.33%	60,893,413	1,070,069	1.79%	1,866,539	3.16%
STANTON	75,147,241	67,321,856	-7,825,385	-10.41%	67,314,426	-7,832,815	-10.42%	-7,430	-0.01%
STEVENS	281,621,765	296,396,768	14,775,003	5.25%	296,336,776	14,715,011	5.23%	-59,992	-0.02%
SUMNER	109,499,380	109,990,969	491,589	0.45%	109,984,949	485,569	0.44%	-6,020	-0.01%
THOMAS	60,274,756	60,724,592	449,836	0.75%	60,853,522	578,766	0.96%	128,930	0.21%
TREGO	31,001,133	31,655,118	653,985	2.11%	31,778,936	777,803	2.51%	123,818	0.39%
WABAUNSEE	32,577,628	32,585,621	7,993	0.02%	32,718,469	140,841	0.43%	132,848	0.41%
WALLACE	22,680,881	21,356,992	-1,323,889	-5.84%	21,371,755	-1,309,126	-5.77%	14,763	0.07%
WASHINGTON	42,154,676	41,188,169	-966,507	-2.29%	41,199,836	-954,840	-2.27%	11,667	0.03%
WICHITA	25,834,496	26,122,155	287,659	1.11%	26,142,607	308,111	1.19%	20,452	0.08%
WILSON	42,642,831	40,098,699	-2,544,132	-5.97%	40,735,210	-1,907,621	-4.47%	636,511	1.59%
WOODSON	23,204,444	23,309,188	104,744	0.45%	23,372,430	167,986	0.72%	63,242	0.27%
WYANDOTTE	566,743,496	584,694,969	17,951,473	3.17%	588,886,058	22,142,562	3.91%	4,191,089	0.72%
STATE TOTALS	14,189,612,669	14,599,859,505	410,246,836	2.89%	14,630,325,836	440,713,167	3.11%	30,466,331	0.21%

7-5

TESTIMONY PRESENTED TO  
HOUSE TAXATION COMMITTEE

HB 2768

February 6, 1992  
Representative Alex Scott

HB 2768 provides stability and maintains an evenness of property taxes so households and businesses can budget with some certitude. Many of my constituents complain that valuations have been increasing unjustifiably. The total tax paid, of course, depends on the mill levy, but it reduces the variables by one.

This bill includes a provision for taxing major (over 50%) improvements in the property, but this may already be considered where building permits are filed.

As an added advantage, this should give appraisers for the various counties time to refine their appraisal process and consider a wider range of property sales which, when averaged, offer a norm of property value. The bulk of property would have new values which could be announced simultaneously in February, 1994.

I rise to support HB 2768.

House Taxation  
Attachment 8  
02-06-92

Dana Hummer  
3301 SW Arnold Street  
Topeka, Kansas 66614

February 5, 199

Madam Chairman and Members of the Legislative Body:

As some of you recall, I appeared before a committee such as this in 1989, I believe and at that time I asked for your consideration for a moratorium on the tax reappraisal situation.

Some of you said "If you think this is a bad bill, you should have seen the one we didn't pass!" and then you looked me in the eye and said this is a good bill and when it shakes down you will like it.

I am here this morning to tell you that the shake down has not occurred, and your words of our 1989 meeting have not yet come true; however, on the brighter side some of you have now expressed that you don't like it either.

To some of us who have commercial property, the present tax structure feels to be similar to a runaway freight train without an engineer. My personal fears for next year's taxes is the same fear of a person in the path of a runaway freight train and I'm hoping that this committee can take action to eliminate my and other property owners fears immediately!

I believe that the people of this community have no voice in these tax structures because the legislature has given the courts the power to overrule any petition against these tax increases. I can site many examples but time is limited.

I am submitting to you my taxes for 1989, 1990, and 1991, for West 29th Street, Block A, Lot 1 of Hummer Acres #2. In 1989, I protested the high increase in my taxes from 1988. I received a decrease in 1990 of \$ 915.00. In 1991, I received an increase from 1990 taxes of \$ 2,668.00. These figures only show one piece of property. I have submitted several more property locations as examples of our unfair tax structure for property owners in Topeka.

I know I am not the only property owner in the City of Topeka who protested only to receive an even greater tax levy the following year. We must have resolution of this problem before property owners are unable to pay the property taxes due and are forced to turn their property over to the County for back taxes.

House Taxation  
Attachment 9  
02-06-92

Does the County have the reserves to operate County Government if people abandon their property and all tax revenues are lost? In addition, does the county have the reserves to maintain these abandoned properties?

When a moratorium is put into place to freeze property taxes, leave us the latitude to protest the present property taxes of 1991.

In closing, I want to Thank you for your time.

*Wona L. Hummer*



*Copy to  
Mary Norton  
Porch*

*M. Norton*



9-3

*Example #1*

INFORMATION BLOCKS				TAX STATEMENT				YEAR		PROPERTY ADDRESS			
A	B	C		SHAWNEE COUNTY, KANSAS				1989		3074 W 29TH			
15,000	35,000	13,000											
D	E	F	G	H	TAXED ITEMS	CLS	%	ASSESSED VALUATION	LATE FILING PENALTY	GENERAL TAXES	LOAN CO. 16	LOAN NUMBER 0000000000000000	
55													
W 29TH ST BLK A LOT 1 HUMMER ACRES #2 SUBDIVISION HUMMER ACRES # 2 LAND IMPROVEMENTS											SPECIAL ASSESSMENTS.		
					TAX UNIT	MILL LEVY	ASSESSED VALUATION			GENERAL TAXES	TOTAL SPECIALS	TOTAL TAXES DUE	
					001	155.80	67140			10460.41		10460.41	
					REAL ESTATE			1411103001030000		STATEMENT # 89 55308			
GENERAL TAX BREAKDOWN													
STATE 100.71			COUNTY 1905.43			TOPEKA CITY 2265.97			HUMMER LOUISE M 55308				
TOWNSHIP			SCHOOL 4787.75			OTHER 1400.55			3301 SW ARNOLD TOPEKA KS 66614				
SECOND PAYMENT						FIRST PAYMENT							
											FIRST HALF INTEREST 5230.21		
											SECOND HALF INTEREST 5230.20		
SEE INSTRUCTIONS ON BACK													

DATA-COMP. KC. MO. 816-221-9511

*MAN-LOW*

W.L.

INFORMATION BLOCKS A 15,000 B 35,000 C 13,000			TAX STATEMENT SHAWNEE COUNTY, TOPEKA, KANSAS 66603-3959			YEAR 1990	PROPERTY ADDRESS 3074 SW 29TH ST				
D 55	E 25%	F 18%	G	H	TAXED ITEMS	CLS	ASSESSED VALUATION	LATE FILING PENALTY	GENERAL TAXES	LOAN CO. 18	LOAN NUMBER 0000000000000000
W 29TH ST BLK A LOT 1 HUMMER ACRES #2										SPECIAL ASSESSMENTS	
SUBDIVISION HUMMER ACRES # 2										PRE-SORT FIRST CLASS MAIL U.S. POSTAGE PAID TOPEKA, KS PERMIT NO. 336	
LAND										OU 30 15525 2593.14	
IMPROVEMENTS										OU 30 41625 6952.62	
II7/SC55										TOTAL TAXES DUE 9545.76	
CO# 000000001										MILL LEVY 1.07.03	
REAL ESTATE										GENERAL TAXES 9545.76	
1411103001030000										TOTAL SPECIALS	
STATEMENT # 90 56177										1ST HALF 4772.88	
GENERAL TAX BREAKDOWN										2ND HALF 4772.88	

SEE INSTRUCTIONS ON BACK

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

ADDRESS CORRECTION REQUESTED  
ENCLOSE ONLY ONE PORTION WITH PAYMENT

1990 REAL PROPERTY TAX STMT# 90 56177  
ID# 1411103001030000 1ST HALF 4772.88  
2ND HALF 4772.88

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KANSAS  
PERMIT NO. 336

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

ADDRESS CORRECTION REQUESTED  
ENCLOSE-ONLY ONE PORTION WITH PAYMENT

1990 REAL PROPERTY TAX STMT# 90 56177  
ID# 1411103001030000 1ST HALF 4772.88  
2ND HALF 4772.88  
P 910107 0123101 TTTN 000477288

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KANSAS  
PERMIT NO. 336

HUMMER LOUISE M  
3301 SW ARNOLD  
TOPEKA KS 66614

HUMMER LOUISE M  
3301 SW ARNOLD  
TOPEKA KS 66614

1/6 2.  
9-5

# TAX STATEMENT

SHAWNEE COUNTY, TOPEKA, KANSAS 66603-3959

YEAR 1991	PROPERTY ADDRESS 3074 SW 29TH ST					
TAXED ITEMS	CLAS %	ASSESSED VALUATION	LATE FILING PENALTY	GENERAL TAXES	LOAN CO.	LOAN NUMBER
						0000000000000000

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KS  
PERMIT NO. 336

W 29TH ST BLK A LOT 1 HUMMER ACRES #2  
SUBDIVISION HUMMER ACRES # 2  
LAND IMPROVEMENTS CU 30 LOT 1 BLOCK A  
DU 30 13170 53970 2395.75 9817.68

SPECIAL ASSESSMENTS
TOTAL TAXES DUE 12213.43

STATE 100.71	COUNTY 2133.04	TOPEKA CITY 2206.22	TAX UNIT 001	MILL LEVY 181.91	GENERAL TAXES 12213.43	TOTAL SPECIALS	12/20/91 6106.72
TOWNSHIP	SCHOOL 5922.42	OTHER 1851.04	TYPE REAL ESTATE	ID 1411103001030000	STATEMENT # 91 55357		6/20/92 6106.71

GENERAL TAX BREAKDOWN

SEE INSTRUCTIONS ON BACK

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

ADDRESS CORRECTION REQUESTED

ADDRESS CORRECTION REQUESTED

ENCLOSE ONLY ONE PORTION WITH PAYMENT

ENCLOSE ONLY ONE PORTION WITH PAYMENT

1991 REAL PROPERTY TAX	STMT# 91	55357
ID# 1411103001030000	12/20/91	6106.72
	6/20/92	6106.71
TOTAL		12213.43

1991 REAL PROPERTY TAX	STMT# 91	55357
ID# 1411103001030000	12/20/91	6106.72
	6/20/92	6106.71
TOTAL		12213.43

HUMMER LOUISE M  
3301 SW ARNOLD  
TOPEKA KS 66614

HUMMER LOUISE M  
3301 SW ARNOLD  
TOPEKA KS 66614

Example #2

9-6

Place stamp

INFORMATION BLOCKS

TAX STATEMENT  
SHAWNEE COUNTY, KANSAS

YEAR 1985

PROPERTY ADDRESS

A 15,000 B 35,000 C 13,000

D 55 E F G H

TAXED ITEMS

CLS

% ASSESSED VALUATION

LATE FILING PENALTY

GENERAL TAXES

LOAN CO.

LOAN NUMBER

SPECIAL ASSESSMENTS

W 29TH ST BLK A LOT 4 HUMMER ACRES #2

SUBDIVISION HUMMER ACRES # 2 LOT 4 BLOCK A  
LAND 00 50 32500  
IMPROVEMENTS 00 50 77490

TAX UNIT	MILL LEVY	ASSESSED VALUATION	GENERAL TAXES	TOTAL SPECIALS	TOTAL TAXES DUE
001	155.80	50000	15578.44		15578.44

TYPE	ID	STATEMENT #
REAL ESTATE	1411163061028000	39 26446

GENERAL TAX BREAKDOWN		
STATE	COUNTY	TOPEKA/CITY
143.98	207.72	3374.66
TOWNSHIP	SCHOOL	OTHER
	1430.28	2085.80

HUMMER BARA L & LOUISE H 26446  
3301 ARKLD  
TOPEKA KS 66614-5542

SECOND PAYMENT

FIRST PAYMENT

FIRST HALF INTEREST	7789.22
SECOND HALF INTEREST	7789.22

SEE INSTRUCTIONS ON BACK SIDE



DO NOT REMOVE THIS STUB

TO SEAL - REMOVE TRANSFER TAPE AND FOLD FLAP OVER



Crosspoint Ministries

INFORMATION BLOCKS

A 15,000 B 35,000 C 13,000

TAX STATEMENT  
SHAWNEE COUNTY, TOPEKA, KANSAS 66603-3959

YEAR 1990

3124 SW 29TH

PROPERTY ADDRESS

D 55 E 25% F 18% G H

TAXED ITEMS CLS ASSESSED % VALUATION

LATE FILING PENALTY

GENERAL TAXES

LOAN CO.

LOAN NUMBER

ST

00000000000000

SPECIAL ASSESSMENTS

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KS  
PERMIT NO. 336

W. 29TH ST BLK A LOT 4 HUMMER ACRES #2

SUBDIVISION HUMMER ACRES # 2

LAND IMPROVEMENTS

OU 30  
OU 30

LOT 4 BLOCK A  
19125  
65565

3194.45  
10951.32

GENERAL TAX BREAKDOWN	TAX UNIT	MILL LEVY	GENERAL TAXES	TOTAL SPECIALS
REAL ESTATE	001	167.03	14145.77	
SEE INSTRUCTIONS ON BACK			STATEMENT #	
			90 25664	

TOTAL TAXES DUE  
14145.77

1ST HALF 7072.89  
2ND HALF 7072.88

SHAWNEE COUNTY TREASURER  
10 EAST SEVENTH  
TOPEKA, KANSAS 66603-3959



REMOVE TRANSFER TAPE FROM ADHESIVE SEAL AND AFFIX YOUR FIRST CLASS

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

ADDRESS CORRECTION REQUESTED  
ENCLOSE ONLY ONE PORTION WITH PAYMENT

1990 REAL PROPERTY TAX STMT# 90 25664

ID# 1411103001028000

1ST HALF 7072.89  
2ND HALF 7072.88

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KANSAS  
PERMIT NO. 336

PLACE STAMP  
HERE  
The Post Office  
will not deliver  
mail without  
postage.

HUMMER DANA L & LOUISE M  
3301 ARNOLD  
TOPEKA KS 66614-3342

(Handwritten mark)

*Stella's Design & Alterations M*

8  
J

# TAX STATEMENT

SHAWNEE COUNTY, TOPEKA, KANSAS 66603-3959

YEAR 1991 : 3124 SW 29TH PROPERTY ADDRESS ST

TAXED ITEMS	CLS	%	ASSESSED VALUATION	LATE FILING PENALTY	GENERAL TAXES	LOAN CO.	LOAN NUMBER
							0000000000000000

PRE-SORT  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
TOPEKA, KS  
PERMIT NO. 336

29TH ST BLK A LOT 4 HUMMER ACRES #2  
SUBDIVISION HUMMER ACRES # 2  
LAND OU 30 : 15675  
IMPROVEMENTS OU 30 : 74253

SPECIAL ASSESSMENTS

2851.44
13507.36
<b>TOTAL TAXES DUE</b>
<b>16358.80</b>

STATE 134.89	COUNTY 2857.01	CITY 2935.03	TAX UNIT 001	MILL LEVY 181.91	GENERAL TAXES 16358.80	TOTAL SPECIALS	12/20/91	8179.40
TOWNSHIP	SCHOOL 7992.55	WATER 279.32	REAL ESTATE	1411103001028000	91 34352	6/20/92	8179.40	

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

FROM: SHAWNEE COUNTY TREASURER  
200 E. 7TH, ROOM 101  
TOPEKA, KANSAS 66603

ADDRESS CORRECTION REQUESTED

ADDRESS CORRECTION REQUESTED

ENCLOSE ONLY ONE PORTION WITH PAYMENT

ENCLOSE ONLY ONE PORTION WITH PAYMENT

1991 REAL PROPERTY TAX STMT# 91 34352

ID# 1411103001028000	12/20/91	8179.40
	6/20/92	8179.40
<b>TOTAL</b>		<b>16358.80</b>

1991 REAL PROPERTY TAX STMT# 91 34352

ID# 1411103001028000	12/20/91	8179.40
	6/20/92	8179.40
<b>TOTAL</b>		<b>16358.80</b>

HUMMER DANA L & LOUISE M  
3301 ARNOLD  
TOPEKA KS 66614-3342

HUMMER DANA L & LOUISE M  
3301 ARNOLD  
TOPEKA KS 66614-3342

52,250.00  
247,510  
299,760

dam Chairman  
Members of the Taxation Legislative Committee.

I am Paul Rodvelt, live near Horton, and own property in both Atchison and Brown Counties. I organized the "Brown County Taxpayers for fair and equal valuations" Our group addressed the unfair vlaues on property in Horton, which the Appraisal Company, CKB, revalued. When the taxpayers realized the positive progress that was being made, the group reorganized and became the Brown County TaxWatch. The Taxwatch group had many meetings with PVD Personnel, the Brown County Commissioners and taxpayers, regarding the unfair valuations on homes, businesses, farm buildings, pastureland being appraised as farmland instead of grassland, and no wasteland. The Taxwatch group studied the PVD guidelines and was able to convince the Commissioners and PVD that the appraisal guidelines were not being used correctly. Some farm land was in the wrong productivity groups and not typed correctly. The Brown County SCS soils book was over 40 years old, and, as a result the State SCS started verifying the soils types, and found some soils were typed wrong, and even gave new names to some soils. This SCS study is still not complete in Brown County.

In 1990, Brown County was reappraised, and certified to the State PVD.

Yet this year, in 1991, many properties increased in value. I have personally appealed the values of three houses, one of which was purchased from a realator in 1991, the values had increased approximately 25% each. When I met with the maintenance officers for the county appraisor and we noticed that the "computer" had used comparable houses with sales dated from June 1990 to February of 1991. They agreed to use comparable houses with sales in the last four years and put the comparables through the computer. The three houses I had appealed, now showed only about a 1% increase from the 1990 certified values, after that computer run.--I wonder, how many houses, not only in Brown County, but maybe through the state, has the "COMPUTER" increased values.

I gave testimony to the Taxation Committee, November 28, 1989, addressing soils classified in the wrong productivity groups and I quote from that appearance " Legislators, We want to focus your attention to these and other soil types, which have apparently been classified in the wrong productivity groups. After going to PVD and the State Board of tax-appeals, we now know that we must have your help in initiating the classifying of soils in the correct productivity groups." The Atchison County Commissioners had problems with their appraisor, so, in 1990, PVD sent personnel there to help them for approximately 6 months until they hired a new appraisor. Most of the following testimony will be regarding the time during which the PVD personnel were helping with the appraisal in Atchison County. I had always been told to use the appeals system to get a fair valuation on my property, which I did. I found this statement was erroneous and the system did not work for me.

ATCHISON COUNTY USE VALUE FARMLAND:

I appealed two farms 6 times, formally and informally in Atchison County -2 farms to the State Board of Tax appeals once; one farm twice and never received an answer to my question. During the Atchison County Appeals process the State SCS were requested to verify the soil types on 6 different farms. Changes were made, in the soil types on five farms, three were major changes.

Farm #1 had PD Pawnee Clay Loam-eroded, this soil type has pebbles and cobblestones listed in the soil type. The question I asked, is how big is a pebble or a cobblestone? We have rocks (boulders!) weighing 200 pounds or more in this soil. The PVD Could Not, or Would Not give me an answer. Therefore the County Commissioners would not use Adverse Influences, which I felt should have been given to this type of soil, because of machinery breakage, and the cost of annually removing these "cobblestones".

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At the State Board of Tax appeals, would you believe, they came up with the size of c blesstones as being 10 inc s in diameter! Needl to ay, if any of you committee members have farm backgrounds, you wil ealize what a rock of that size does to machinery.

After viewing the same pictures that were used at the County Appeals hearings, the Board of tax appeals finally did grant an Adverse Influences factor.

Farm #2 has Vinland Silty Clay Loam soil. The stocking rate in the Atchison County SCS shows it as having the next to the lowest stocking rate, yet, PVD has the soil rated in productivity group J- next to the highest. My question, at all Appeals Hearings, was, why is Vinland Soil, classified in Grassland Group J, when using the Atchison County SCS book, figures, should be classified in group L or lower?

Again PVD personnel did not give an answer, therefore, the Atchison County Commissioners stated they did not have the power to change classification of productivity groups, that I would have to appeal to the State Board of Tax Appeals. I met with the State Board of Tax Appeals, giving them all the information, except the page from the Atchison County SCS book. The Boards decision was not to lower the productivity rating of the Vinland Soil from J to L. I then wrote to the board, giving them all the information plus the page from the Atchison County SCS book. They had a hearing, they wrote back and said that I did not give them enough information to change the Vinland Soil. Later, I went to the Board of Tax Appeals' office and talked to Mr. Jim Davidson, attorney for the board, and asked what kind of information I needed to present to the board. He said the case was closed, the Board of Tax Appeals knew the answer, my only course of action was to the District Court, or the Appeals System again. Since I did not receive an answer, I hope you understand why I say that the Appaelals System does Not work!

I felt I was back to square one. I decided to go through the appeals system again, because I had spent too many hours researching and appealing the Vinland Soil, plus I could not put the value in dollars for all the mileage, and phone calls, plus my time. I decided the PVD and State Board of Tax Appeals were telling me to get other state agencies to spend more time and money to help <sup>for</sup> more information for them. I went to the PVD office to talk to Mr. Bob Walters, since he was out, they sent me to another man (whose name I do not recall) and asked him for help. I asked him for a request, which he started to write. I was asking him to request the State SCS Agronomist to come to Atchison County and verify the stocking rate of Vinland Soil. He stopped writing, threw his pencil down, leaned back in his chair, looked at me, and commented, "No way, Paul, do you realize you're stepping on some Big Boy's toes?"

My comment to him was that I didn't care, because the Big Boys were not only stepping on my toes, they were stomping on my toes, and reaching into my billfold and taking my money without a gun. He informed me that PVD had corrected only one soil error, and I commented that I knew of another one that sure needed to be corrected. Needless to say that ended our meeting. I went home, wrote a letter to Carol Neihardt, Atchison County Appraiser, sending her the page from the SCS book, and requesting to have the State SCS Agronomist check the stocking rate of Vinland Soils on my farm. When she received my letter, she called and now admitted she understood my question that I had been asking, and agreed to send a letter to the State SCS office. About two weeks later, Atchison County Soil Conservationist, Lowell Moser called and wanted to know if I knew of any other Vinland Soil that was being used for hay. We discussed some and he located other fields, which later, the State Resource Conservationist, Lonnie L. Schulze conducted a check on the AUM's assigned to the Vinland Soils.

A letter documenting his findings, is attached and I am quoting his decision as follows: Paul Rodvelt's concern was that the range production on the Vinland soils, is less than the amount used by the appraiser's office.



Several areas of the Vinland Map unit was checked to verify the soils in that map unit. It was found that there are three potential map units included in the Vinland Silty clay loam, 4 to 15 percent slopes. The survey describes inclusions that covers the full range. The use of the survey then becomes broad when used for tax appraisal. On a field basis these differences can be separated out for production purposes. The Vinland soils should have a .8AUM assigned to them, whereas the map unit has a 1.0 AUM. For those that have a true vinland soil, this is a significant difference.

It was found that Paul Rodvelt has the true Vinland soil on his farm.

I think this should prove that the SCS and other farm owners, know the productivity of the different types of soils. This also should prove that the remarks, I made, over two years ago, were on target. In January of this year, at the informal appeal, Atchison County Appraiser, Carol Neihardt, with the letter as evidence, lowered the productivity grouping from J to L on my farm. I hated to reveal this, in this testimony, because, since the State PVD and the State Board of Tax Appeals-as far as I know, have not changed the productivity from J to L, and they could raise it back up again.

Will Vinland Soil be changed to L on all Atchison County Farms, or will each farmer have to spend their money and 2 years of their time to prove what I have proved from my research.

If any PVD or State Board of Tax Appeals <sup>member is</sup> present, this is an error that definitely should be corrected. I believe that Carol Neihardt is the only person, who took the time to understand the question, and is the only person to change the Vinland to the correct productivity group, according to substantiated evidence.

TAXATION MEMBERS-I DEFINITELY FEEL THERE NEEDS TO BE A MORATORIUM ON THE PROPERTY TAX ISSUE, UNTIL PVD AND THE STATE BOARD OF TAX APPEALS HAS A BETTER UNDERSTANDING OF THEIR OWN REGULATIONS AND GUIDELINES. So other taxpayers wouldn't have to endure the same harrassment that I feel that I have been forced to cope with.

Property Owners should not have to appeal their valuations almost yearly, and can spend their time trying to make a living, instead of going to the Courthouse and to Topeka, correcting errors and proving fair market value of their property.

Paul Rodvelt  
Gordon, Kansas

UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

SOIL  
CONSERVATION  
SERVICE

444 Quincy, Room 100  
TOPEKA, KANSAS  
66683

---

DATE: December 9, 1991

Carol A. Neihardt  
Atchison County Appraiser  
Atchison County Courthouse  
Atchison, Kansas 66002

Dear Ms. Neihardt:

This is in response to your request dated October 3, 1991 regarding the recheck of the soil classification and the stocking rate of the Vinland soil on the Paul Robinson farm. Stanley A. Glaum made a field visit to check the Vinland map unit. Lonnie L. Schulze, State Resource Conservationist conducted a check on the AUM's assigned to the Vinland soils.

The area is glacial till with a loess cap all over limestone and shale bedrock. The ridge top and upper side slopes are Grundy and Pawnee and the lower side slopes are Pawnee, Shelby, Vinland, and Martin. The alluvial land associated with these soils is Kennebec.

Paul Rodvelt's concern was that the range production on the Vinland soils is less than the amount used by the appraisers office. Several areas of the Vinland map unit was checked to verify the soils in that map unit. It was found that there are three potential map units included in the Vinland silty clay loam, 4 to 15 percent slopes. The Survey describes inclusions that covers the full range. The use of the survey then becomes broad when used for tax appraisal. On a field basis these differences can be separated out for production purposes. The Vinland soils should have a .8 AUM assigned to them whereas the map unit has a 1.0 AUM. For those that have a true vinland soil, this is a significant difference.

It was found that Paul Rodvelt has the true Vinland soil on his farm.

Sincerely,



Kenneth W. Hoffman  
Area Conservationist

cc:

Lowell A. Moser, Effingham  
Stanley Glaum, Topeka  
Paul Rodvelt, Horton

10-4

I first got into Tax appeals when I had  $\frac{1}{4}$  acre of waste Land that had been valued at \$10 revalued at 9,600. This was land that the county Sheriff had sold to my Dad to get it back on the tax rolls. They then valued it at \$100 tax value because this was the lowest their computer would go. I Told them to let the sheriff sell it again if he could. They then decided to put it in with my other Land which is 147 acres with my house and buildings and a 13 acre field that has 9 acres of farm land and 4 acres of waste land and creek. Since 1989 this field has had 5 different tax values \$2700, \$1900, \$2400, \$1800 and now again up to \$2000.

January 17, 1991 Gary Smith and I agreed on a value for the 147 acres & house of \$83,095 this was approved by the state Board of Tax Appeals on Feb. 1, 1991 for the years 1989 and 1990. Taxes. on March 20 I received my 1991 values of \$98,090.

After several attempt to call Gary Smith he finally returned my call and told me to write him a letter and request him to correct the value. I did not receive a reply. I called again and he told me he had not read my letter but I would have to go through the appeal process again. I am!

I have yet to talk to a county appeal officer who has any knowledge of farm land.

I believe anything that can be done to stop changing of valuations every year would help.

I favor House Bill No 2768

Bernard Barr

1046 S.W. Valencia Rd

Topeka, Kansas 66615

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**Political Accountability** Tax increases should not be hidden. Instead, state and local legislative bodies should have to approve them deliberately—and publicly. Citizens should know how much they owe and when it must be paid. For example, many state income taxes are silently hiked as wages rise in response to cost-of-living increases. After accounting for inflation, taxpayers make the same income as they did before, but they are driven into a higher income bracket for tax purposes. This phenomenon, known as bracket creep, can be eliminated by indexing income tax rates to changes in the cost of living.

### *Major State and Local Taxes*

The principal types of taxes are property, sales, and income taxes, and user charges.

**Property Tax** In 1942, taxes on personal and corporate property accounted for 53 percent of all state and local tax revenues. By 1986, they represented less than 30 percent. States hardly utilize the property tax at all today—it accounts for less than 2 percent of their total revenues—but local governments continue to depend on it for three-quarters of all their own-source revenues. Interestingly, average property tax rates have not decreased. Instead, other revenue sources have augmented the property tax, so that its proportionate contribution has diminished. As always, there is considerable state-by-state variation. New Hampshire, which has no sales or income taxes, depends on property taxes for 60.7 percent of its total tax revenues. The state least committed to this particular tax is New Mexico, which derives 11.5 percent of state and local tax revenues from property taxes.<sup>11</sup>

The best thing about the property tax is that it is certain; owners of property must pay it or the government will seize and sell their land, buildings, or other taxable possessions. But it has lost favor in recent years because it tends to be regressive, lacks political accountability, and is hard to administer. At first thought, it seems that property taxes cannot be truly regressive, because only those people who own property pay taxes on it directly; however, renters pay property taxes indirectly through their monthly checks to the landlord. When property tax assessments climb, so do rental charges. Property taxes can also violate the ability-to-pay principle, when housing values spiral upward, as they have done recently in parts of California, New Jersey, and Connecticut. Homeowners on fixed incomes, such as retired people, discover with alarm that their annual property tax bills are rising sharply as housing prices escalate.

Just this sort of situation helped precipitate Proposition 13 in California. In the Los Angeles and San Francisco Bay areas during the 1970s, property taxes doubled and then tripled in only a few years. Some senior citizens were forced to sell their homes in order to pay their property tax. Proposition 13 reduced property tax bills by approximately \$7 billion in the first

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year, and California dropped from the eighth highest property tax state to the twenty-eighth. This illustrates the problem of political accountability: when property values rise to lofty heights, taxpayers' bills keep pace, even though elected officials do not explicitly vote to hike property taxes.

Property taxes are difficult to administer and somewhat arbitrary. The process of levying an annual fee on "real property" (land and buildings) begins with a government assessor making a formal appraisal of the market value of the land and the buildings on it. Then property values are "equalized" so that similarly valued real estate is taxed at the same level. Time is set aside to make corrections and to review appeals on appraisals that the owner believes to be too high. Next, an assessment ratio is applied to the property. For instance, houses might be assessed for tax purposes at 80 percent of market value. A rate is placed on the assessed value to calculate the annual tax amount. This might strike you as fairly straightforward, but ultimately the appraised market value depends on the findings of the assessor, who may or may not be properly trained for the job or fully aware of conditions in the local housing market. Property can be underappraised or overappraised. For the sake of equity, property should be appraised regularly (for example, every five years).

Property tax systems are further criticized for exempting certain types of real estate and buildings. Government buildings such as hospitals and state offices are not taxed, even though they receive police and fire protection and other local government services. Churches and church-owned property are also exempted in the vast majority of jurisdictions.

In an effort to make property taxation more equitable and more in keeping with ability to pay, thirty-two states have enacted some form of circuit breaker. For instance, the property of low-income individuals is excluded from taxation in some states; others assign lower assessment ratios to the homes of senior citizens or set a top limit on the tax according to the owner's income (for example, 4 percent of net income). At least ten states have promoted political accountability by enacting provisions for rolling back property tax rates as appraised values rise rapidly.<sup>12</sup> Many also offer homestead exemptions, in which owner-occupied homes are taxed at lower rates than rental homes or business property.

Despite such attempts to make property taxes fairer, differences in property values among cities, counties, and school districts still have important implications for the quality and distribution of services. Jurisdictions with many wealthy families or capital-intensive industries can provide high levels of services with low tax rates, while areas with weak property tax bases must tax at high rates just to yield enough revenues to maintain minimal services. To alter the unequal distribution of property values is essentially beyond the control of local governments. As a result, "wealthy suburbs remain wealthy, poor communities remain poor, and services remain unequal."<sup>13</sup>

**Sales Tax** Mississippi was the first state to adopt this form of taxation, in 1932. Others followed suit very rapidly, and states collect more of their



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**Property Taxation and the Illinois Constitution** by John H. Beck,

Professor at Gonzaga University in Spokane, Washington, Nov 3, 1988

Illinois' state constitution now allows governments in Cook County to tax different classes of real estate at different levels. The rates range from 15% for residential property to 39% for commercial. There is mounting evidence this practice harms homeowners and renters, the very taxpayers it was intended to protect.

How **should** different classes of real estate--residential, commercial, and industrial--be treated under the property tax? Prior to the 1960s, all but three states in the U.S. taxed on the principle of uniformity. Property taxes were the same percent of market value regardless of whether the property was a home, an apartment building, a retail store, or a factory. But times change, and today Illinois is one of twenty states that authorizes unequally taxation of different classes of real estate.

(skip paragraph)

**Classification** in Chicago was adopted in the name of tax relief for homeowners. The rapid rise in housing prices during the 1960s and 1970s caused a general increase in the market value of housing vis a vis other properties, which would have left homeowners shouldering a larger share of the total property tax burden. The classification system allowed Cook County to create the appearance of offsetting this shift by lowering residential rates and raising the rates on other forms of property.

While legislators may have claimed that they were acting in the voters' interest by implementing the classification system, it is now clear that classification has done more harm than good. High taxes on business property have imposed on individual homeowners and renters substantial burdens that may be less obvious but are more significant than burdens posed by a uniform tax system.

**First**, higher tax rates discouraged construction of new apartment buildings in the county, which has led to higher rents. Potential renters who are searching for apartments bid up the price of the smaller number of units on the market. The tax on "commercial" property is, in fact, passed along to renters.

The transfer of tax burden to renters is doubly bad because renters tend to have lower incomes than homeowners, meaning the tax shift is regressive. The group of people who are least able to afford the tax, the poor, are being asked to pay a larger share of it.

A **second** cost of classification is measured in jobs and income. Property tax relief for homeowners has come at the expense of manufacturers and other businesses. This increased tax burden has discouraged firms for locating or expanding in Cook County, and has led many firms to locate in lower-tax suburban counties or in other

states....

Manufacturers, as a rule, are more sensitive to differences in tax burdens than are homeowners. Manufacturers compete with businesses located in other states, and so cannot easily shift higher local taxes to their consumers. Homeowners, on the contrary, are likely to select a community in which to live based on family, employment, or school considerations, and then shop only among houses within that community. The consumers of manufactured goods make many small purchases and so can regularly comparison shop for the lowest price; the average home buyer makes a purchase only a few times in his or her life, and is likely to stop comparison shopping once a house has been purchased. All this means that when local governments tax businesses at higher rates, local residents suffer more through reduced wages and lost job opportunities than they gain from lower taxes on housing.

This story of shifting property tax burdens and sensitivity tells us that the economic health of a locality is best ensured by a system that taxes manufacturing property at equal or lower, not higher, rates than residential property. For ... political reasons noted earlier, this is not likely to happen. Instead, governments have a tendency simply to create more and more classes of property once the principle of uniformity has been violated. Minnesota, which has had a classified property tax system since 1913, has created so many classes and subclasses of property that experts cannot agree on the number of classes. The count varies from 20 to 70.

Clearly, public policy needs to be constrained by simple, intelligible constitutional rules that prevent politicians and special interest groups from enacting legislation contrary to public interest. The principle of uniform taxation of property is one such rule. It is already considered good for the rest of the state and most of the nation...

January 29, 1992

To: Representatives Wagnon, Graeber, Cates  
Senators Petty, Parrish, Salisbury, Theissen

From: Larry Fischer

Subject: Property Tax Lien Sale

I request a bill be introduced requiring that any property being sold for failure to pay property taxes have a minimum bid of the value established by the taxing agents as the fair market value, as defined by KS 79-503a.

Without this minimum bid the property could not be sold. The property essentially could be sold for a bid equal to, or more than, the county's appraised value. The earliest date would be moved from 3 years under the present system to 1 year under the proposed system. If the property cannot be sold within one year, the case must be re-submitted to the appeals process. The value established by each subsequent appeal would allow one of two options:

The taxpayer could pay all back taxes and re-acquire the property or,

secondly, allow the property to be placed immediately for sale again at the new value.

Interim interest would be the prevailing rate charged by banks for an instalment loan.

\*\*\*\*\*  
Discussion:

Fact: Very few lending institutions will use the county appraiser's value for loans. This lends credence to the idea such county values have been, and will continue to be, inaccurate.

The only reason, according to the Lockean concept of the "Social Compact," for an individual to be part of society is the additional protection such society provides for the ownership of property. Without this guarantee, man would be better off not being part of society. Granted, this concept is historical, but interestingly enough, the arcane subject of property ownership is being revived by contemporary authors and attorneys. For instance, the book Takings, by Richard Epstein, University of Chicago Law School professor, goes into great detail. Basically, we are left with the idea, especially in eminent domain and taxation, that unless there is a proportional benefit, where public use is concerned, to contribution, there exists an illegal taking of property. Proportional benefit is difficult to evaluate but there is no denying property tax is a public-use tax. Consequently, taxation of this type must come under the Fifth Amendment to the U.S. Constitution. Epstein writes



2

"All the elements found in the analysis of takings reemerge in the taxation context: takings, justification (in the control of crime or civil delinquency), public use, and implicit compensation."

Einstein further quotes Thomas Cooley who stated

"Everything that may be done under the name of taxation is not necessarily a tax; and it may happen that an oppressive burden imposed by the government, when it come to be carefully scrutinized, will prove, instead of a tax, to be an unlawful confiscation of property, unwarranted by a principle of constitutional government."

In *Norwood v. Baker* (172 U.S. 269 (1898)) the court held

"In our judgement, the exaction from the owner of private property of the cost of a public improvement in substantial excess of the special benefits accruing him is, to the extent of such excess, a taking, under the guise of taxation, of private property for public use without compensation."

More recently in *Northern Natural Gas v. Williams and Great Northern Railroad v. Meeks*, it was stated

"It is clear that grossly excessive valuation of property for ad valorem tax purposes contravenes the due process clause of the 14th Amendment of the United States Constitution and requires no showing of discrimination."

In essence, no property may be taken for public use without just compensation. Paying the fair market value would satisfy this criterion.

With this concept, there could never be a scenario such as Kansas has just passed through--no appraisal for 20 years. Allowing property values to remain the same level over time would surely cause a scramble to buy any property that came on the auction block if inflation were prevalent. Additionally, the property owner would be very aware that this could happen and would not allow property taxes to remain unpaid.

Reducing the time span needed before the tax-lien sale from 3 years to 1 year establishes the adversarial position much quicker. This would lead to better collection efficiency. Several outcomes could occur:

First, a property with delinquent taxes cannot be sold on the open market by auction for fair market value within one year. This would mean the value was probably too high. This would lead to another negotiation with the appeals process. The lower value, which would probably occur under such circumstances, would allow the property to either be

placed on the auction block again, or allow the taxpayer to agree to the lower value and pay taxes and interest.

Second, the property is sold at auction at fair market value or higher. The taxes and interest would be paid from the proceeds. The money left would be the remainder of the owner's equity, less the taxes and mortgages due. This would satisfy the Takings Clause of the 5th Amendment and Due Process Clause of the 14th Amendment..

Yet another advantageous point is the concept that the county appraiser would be held to the highest quality of work. His values would necessarily be contemporaneous with the market. The trick would be to not get values too low.

With erroneously high fair market values, people would stop paying property taxes. At this point the system would begin to react by raising the mill levy. Public pressure would then rise rapidly demanding low, fairer values. This allows real local control to property values.

Lets take control of the property tax monster by putting people, rather than bureaucracy, back in control.

For your consideration,

Larry Fischer, DVM  
1132 SW Wanamaker  
Topeka, KS 66604  
913-273-0401

PS

So great moreover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community. Sir William Blackstone, Commentaries on the Law, 1783

The reason why men enter into society is the preservation of their property. John Locke, Treatises on Government, 1690

The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. Adam Smith, The Wealth of Nations, 1776

The right to property being inviolable and sacred, no one ought to be deprived of it except in cases of evident public necessity legally ascertained, and on condition of a previous just indemnity.

Declaration of the Rights of Man by the French National Assembly  
1789

The protection of the right to own property by men with different abilities (all men) is "the first object of government".  
James Madison, Federalist No. 10.

Every man has by nature the right to possess property of his own.  
Pope Leo XIII, Rerum novarum, 1891

Property rights are of course human rights...The introduction of the wholly false distinction between property right and human rights in many policy discussions is surely one of the all time great semantic flimflams. M. Jensen and W. Meckling, Journal of Financial Economics, 1976

The right to hold property is a natural right. It is the safeguard of family life, the stimulus and the reward of work.  
Pastoral Letter of the French Roman Catholic Hierarchy, 1919

The security of property, next to personal security against the exactions of government, is of the essence of liberty.  
Justice Joseph McKenna, Block v. Hirsh, 256 U.S. 135, 165

Our social system rests largely upon the sanctity of private property; and that state or community which seeks to invade it will soon discover the error in the disaster which follows.  
Justice William Henry Moody, Mayor v. Knoxville Water Co.  
212 U.S. 1, 18

Property is the fruit of labor. Property is desirable; is a positive good in the world: Let not him who is houseless pull down the house of another, but let him work diligently and build one for himself...  
Abraham Lincoln, 1861

The moment the idea is admitted into society that property is not as sacred as the laws of God, and there is not force of law and public justice to protect it, anarchy and tyranny commence.  
John Adams, 1821, Second President of the United States

It as an axiom of our Founding Fathers and free Englishmen before them that the right to own and control property was the foundation of all other liberties...  
Ronald Reagan, 1988

We have rediscovered the idea that toppled the Berlin Wall...This system, built upon the foundation of private property, harnesses our powerful instincts for creativity. It gives everyone an interest in shared prosperity, in freedom, and in respect.  
George Bush, 1991

(T)he true friends of liberty and the greatness of man ought constantly to be on the alert to prevent the government's power from lightly sacrificing the private right of individuals to the general execution of its designs.  
Alexis de Tocqueville

...think there is substantial merit in the concept but there is also substantial room for scull-duggery.

The concept assumes:

- 1) ...appraisal errors are all positive errors.
- 2) ...all appraisers are honest.
- 3) ...all appraisers friends and relatives are honest.
- 4) ...all taxing entities are morally correct in their intent to remove someone from their property.

Obviously, there is no way to legislate for all contingencies, but some circuitry would be required for the less ethical element(s) of our (public service) society.

Larry, at times I am completely and utterly disillusioned by the whole system of property tax - particularly as it is applied in the State of Kansas under the awful and punitive applications of "Classification."

As I see it from within the system, nothing is likely to change until it is recognized that the causes of property tax disenchantment are:

- 1) Too much reliance on that source of revenue.
- 2) It [the value assignment] is too (arguably) subjective in its origin for the assignment of a specific amount of tax.
- 3) It's l-u-m-p-y. It falls due all at once (around Christmas). And is therefore more noticeable than other (even more costly) forms of taxation. The difference is that those other forms are predominantly incremental in payment - hence less noticeable.
- 4) In Kansas, the property tax is pitifully unfair and inequitable. A nifty way to measure that unfairness is to compare the market/sales value of to the actual amount of tax dollars paid for different classes of property.

ex:

Class	Mkt Value	Rate	Assessed	Tax	(%)
Home	100,000	12%	\$12,000	\$1,800	1.8%
Busin	100,000	30%	\$30,000	\$4,500	4.5%
Farm	100,000	30%(use)	\$11,000	\$1,100	1.1%
Car	25,000	30%(loan)	\$7,500	\$ 937	3.7%

Note: Assumes 150 mills for urban.  
 Assumes 100 mills for rural.  
 Assumes 125 mills for average (auto)

As you can plainly see the system under which we are presently operating is flawed from the outset. No amount of "appraisal correctness" is going eliminate the cause of the problem.

Our little movement here is still making its way. We now have two good and publicly supportable candidates in the running.

*received from a county appraiser west of Shawnee county*

*Florida has a similar idea*



TORIG  
ANITA NETZ  
LARRY FISCHER  
JACK BENOIE

SECRETARY  
LARRY SMITH  
TREASURER  
DON CLOK

# KANSANS FOR FAIR TAXATION INCORPORATED

THE PROTECTION OF THE ABILITY TO OWN PROPERTY IS THE FIRST OBJECT OF GOVERNMENT.....



## "TAKINGS" CLAUSE MAKES TAXING FOR REDISTRIBUTION UNCONSTITUTIONAL

Llewellyn H. Rockwell, Jr., president of the Ludwig Von Mises Institute, in the November, 1991 edition of *Free Market*, incisively analyzes Judiciary chairman Joe Biden's critique of Richard Epstein's book, *Takings*, in the course of his cross examination of Supreme Court nominee Clarence Thomas.

"Epstein leads 'a fervent area of scholarship,' said Biden, 'that basically says, "Hey, look, we, the modern-day court have not taken enough time to protect people's property, the property rights of corporations, the property rights of individuals, the property rights of businesses.'"

"Every American---with 45% of his income taken by governments and with his economic life regulated to a Mussolinian extent---knows just how absurd that view is," Rockwell points out.

"Epstein thinks the Fifth Amendment means what it says: that 'private property' shall not 'be taken for public use without just compensation.' This dangerous idea, says Biden, would undermine government's ability 'to have zoning laws..., pollution laws..., laws protecting the public welfare.'

"Private property once may have been conceived as a barrier to government power,' writes Epstein, 'but today that barrier is easily overcome, almost for the asking.' Nevertheless, the 'public use' criterion ought to stop 'the entire array of government transfer payments in its tracks.'

"If Congress does identify a genuine police-power or public-use justification for a taking, says Epstein, compensation must be provided. That proviso makes much of government self-defeating. For every dollar in property taken, a dollar must be paid in compensation.

"Applied as written, the Fifth Amendment would level Leviathan. Epstein mentions welfare, social security, unemployment benefits, and anti-trust laws. It would also apply to inflation (a hidden tax), environmental policy (a war on economic progress), and civil rights (a war on private decision-making).

"The rights we hear championed in Washington: to welfare, to a job, to loiter, to immigrate, to health care---are pernicious nonsense because they trample on the will of property owners.

"Private property is the real human right, and the foundation of all freedom. If a church can't own its building, there can be no freedom of religion. If a newspaper can't own its press or newsprint, there can be no freedom of the press. If there is no private land, there can be no freedom of speech....

"...private property gives us the incentive to work and save for our families. It makes market prices possible, so we can tell the difference between profit and loss. It makes contracts possible, so that we don't battle our neighbors over who owns what. It is the foundation of peaceful human relations."



# Justices Should Defend a Revolutionary Idea—the Contract

Where does the following clause come from?

*“Every person enjoys property rights, including the right to own, use and dispose of property, both individually and jointly with other individuals. Ownership rights are guaranteed by law. The inalienable right to own property guarantees personal individual interests and freedoms.”*

- (A) Virginia Constitution.
- (B) French Declaration of the Rights of Man.

## Rule of Law

By L. Gordon Crovitz

- (C) Russian Constitution.
- (D) U.S. Constitution.

The answer, comrades, is that the world has indeed changed. What does it mean when the new Russian Constitution promises more economic rights than Americans now get in court? That the U.S. Supreme Court needs to enforce the economic rights our Founders intended, but that our judges have ignored for 50 years. Otherwise, we risk the Economic Rights Gap.

The justices have a chance to revive these rights in a case they will hear next Tuesday, *General Motors v. Romein*. GM and Ford Motor Co. object to a 1987 Michigan law that retroactively required them to increase benefits to workers. An earlier law let companies offset workers' compensation with other benefits, but at the behest of the auto unions, legislators created a \$25 million liability for the auto companies.

When a state retroactively rewrites private agreements, it raises the issue of the constitutional protection that from the Founding through the 19th century formed the basis of more Supreme Court decisions than any other provision. Call it the Mystery Clause because not one lawyer in 1,000 today could identify it. Hint: It didn't deal

with religious freedom, search-and-seizure law or ACLU-style arguments to stop all-male inner-city schools.

It was the Contracts Clause, which before 1889 accounted for 40% of the cases challenging the validity of state laws or regulations. The clause's broad protection for the sanctity of contracts makes it easy to see why. It prohibits a state from passing any "law impairing the obligation of contracts." As Chief Justice John Marshall wrote in 1819, the Founders "intended to establish a great principle, that contracts should be inviolable."

The Constitution's immediate concern was to ban "stay laws," where state legislatures rewrote debt agreements to give lenders moratoriums on repayments. James Madison wrote that when politicians interfere with contracts, they act "contrary to the first principles of the social compact and to every principle of sound legislation." He called the Contracts Clause a "constitutional bulwark in favor of personal security and private rights."

Until the New Deal, courts often stopped states from interfering with contracts between private parties or where a state was one of the parties. The justices blocked Georgia from revoking a land grant and invalidated a New York bankruptcy law that discharged a debt. The clause was written to apply only to the states, not to impairment of contracts by the federal government, probably because the Founders never thought the national government could grow so meddlesome. It's not clear that the Founders intended this either, but the courts invalidated only retroactive interferences, not laws that affect future obligations under contracts.

In 1886, British legal scholar Sir Henry Maine said the Contracts Clause was key to U.S. economic development. "In point of fact there is no more important provision in the whole Constitution," he wrote. "It is this prohibition which has in reality secured full play to the economical forces by

which the achievement of cultivating the soil of the North American Continent has been performed; it is the bulwark of American individualism against democratic impatience and socialistic fantasy."

Maine added, with some prescience, "We may usefully bear in mind that, until this prohibition, as interpreted by the federal courts, is got rid of, certain communistic schemes . . . have about as much prospect of obtaining practical realization in the U.S. as the vision of a Cloud-Cuckoo-borough to be built by the birds between earth and sky."

The justices started to build Cuckooland in 1934 when they upheld Minnesota's New Deal-era stay law to stop foreclosures on mortgages. Whatever "was said 100 years ago," the court ruled, "the reservation of the reasonable exercise of the protective power of the state is read into all con-

## Economic Rights and the Constitution-II

tracts." Even after the Depression, the Supreme Court ruled against every Contracts Clause claim between 1941 and 1977.

Instead of the absolute protection for contracts that the Constitution promised, the Supreme Court began applying a vague balancing test that upholds an impairment of a contract if it's "reasonable and necessary to serve an important public purpose"—whatever this means. (Imagine the outrage from First Amendment backers if the justices upheld censoring or established a national church because they decided it was "reasonable.") In a 1965 case letting Texas renege on a real-estate deal, Justice Hugo Black dissented "from this court's balancing away the plain guarantee" of enforced contracts.

The Supreme Court can invalidate the

Michigan statute in *GM v. Romein* without completely resurrecting the Contracts Clause, but some justices could be ready to restore this clause to the Constitution. Clarence Thomas embraced broad economic rights in his confirmation hearings. Justice Antonin Scalia offered a broad defense of the clause in a 1988 speech at the University of Cincinnati.

"I think it highly probable that over the past 200 years the Supreme Court . . . has in fact narrowed the Contracts Clause of the Constitution well short of its original meaning," Justice Scalia said. "Our modern society is undoubtedly not as enthusiastic about economic liberties as were the men and women of 1789, but we should not fool ourselves into believing that because we like the result the result does not represent a contraction of liberty."

It's clear from the Constitution that enforcing lawful contracts was supposed to be a main purpose of government. This year, Ronald Coase won the Nobel Prize in economics for noting how barriers to enforceable agreements create inefficient transaction costs; the Founders deserve to share in Mr. Coase's prize. An enforced Contracts Clause would make for an economic-growth program—especially if the justices also strictly enforce the Takings Clause ban on expropriation without full compensation, the subject of last week's column.

If the Supreme Court again embraces constitutional economic rights, legislators will no longer dictate labor agreements, rent control or obligations under financial instruments. A half-century of unconstitutional precedents would need review.

This is a tall order, but even former communists have become revolutionaries for constitutionally protected economic rights. It's time for the Supreme Court to join the trend by recognizing once again the genius of our own Constitution.

12-11



# Guest Editorials

## Property Taxes, Hidden Rent

By Larry Fischer

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Cicero said in 43 B.C. that "To be ignorant of what happened before you were born is to be ever a child." This is especially true where property taxes are concerned. Most of my recent acquaintances have an opinion on property taxes, but most are reactionary and lack depth. They have not studied history. If they had, they would probably be more upset than they are now!

John Locke was an English philosopher who developed concepts of property. He was widely studied, especially by our founding fathers. Locke believed man originally lived in a "natural state" where he was perfectly free but the hazards of life were a constant threat. He realized that man left this state of complete liberty by joining with others to form society. By doing so the ownership of property would be more secure. Ownership would not be subject to the whims of the stronger but subject to laws that treated all equally. That, if society ever made the ownership of property more difficult, then the rulers of that society put themselves "at war" with the people because they violated the very reason people entered into the "social compact." In his words "the great and chief end

therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property."

Property taxes were virtually unknown in early America. Direct taxation was forbidden to the federal government in the Constitution. States developed property taxes for one reason--that was where the dollars were. Since those early days, property has been divided into smaller parcels. Consequently the taxation of property has become an almost insurmountable task to accomplish accurately, fairly, and economically. Add to that the concept that wealth in our country has shifted dramatically to other areas and problems begin to eat at the foundations of the "social compact."

Contemporary writers such as Robert W. Whitehead, in his book *The Second American Revolution*, state that there is no such thing as "private" property when the state collects "rent" through property taxes. Failure to pay "rent" will lead to loss of property. The power of government under these circumstances is ultimate. The exercise of such power would be looked upon unfavorably by John Locke and those that followed. One's home was to be his castle and beyond reach of the state. Now we see in Kansas, as well as other states, older people on fixed incomes being forced to leave their

homes. We see small businesses and some farmers living and working in fear of losing their property. This is not the American way! This is a violation of Locke's social compact and the tranquility spoken of in the Constitution. The legislature has set itself "at war" with a significant number of Kansans and this war must be won by the citizens. As taxpayers and property owners, we must be reminded that history is on our side. In the words of John Locke, whenever the "legislature shall transgress this fundamental rule of society, and either by ambition, fear, folly, or corruption, endeavor to (put power into anyone elses' hands) over the lives, liberties, and estates of the people, by this breach of trust they forfeit their power."

What can be done? In my next column I will discuss the concept of majoritarian democracy and why our forefathers chose a constitutional republic. Later I will discuss how the legislature has forfeited the "power" to Political Action Committees and powerful lobbyists. Lastly we will seek possible solutions to excess property taxation and an improved "social compact."

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# Tax-and-spend virus is spreading

By PAUL CRAIG ROBERTS  
Scripps Howard News Service

The California Senate just voted to hike the state's sales tax from 6 percent to 7¼ percent. That follows an increase in the state's gasoline tax from 9 cents to 18 cents a gallon. The taxes are being piled on, because the state has been spending like crazy for the past decade and has no reserves to cover a \$14.3 billion budget deficit.

Though a big offender, California is not alone in its profligacy. As many as 35 states have spent their way into deficits. But politicians cannot admit that, because their solution to every problem is to spend more.

Instead of scrutinizing their own spending behavior, they blame cutbacks in federal aid, the recession and tax revolts that left their states "undertaxed." Instead, state politicians are praising one another for honesty in telling people how it is — taxes must go up.

But before buying this, consider these facts:

During the 1980s the states more than doubled their combined spending, which

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rose from \$258 billion in 1980 to \$525 billion in 1989. Arizona led the pack with spending rising 177 percent, followed by Connecticut (173 percent), Florida (170 percent), New Jersey (145 percent) and Massachusetts (137 percent). California was eighth among the biggest spenders with an increase of 121 percent, ahead of New York's 116 percent increase.

All of this spending has not solved any social problems, reduced crime or improved education, but it has left some states bankrupt. As New York Gov. Mario Cuomo has admitted, "We're broke to the marrow of our bones."

The states got in this trouble despite strong revenue growth. California, for example, enjoyed a healthy 8 percent annual increase in tax revenues for the past decade. The problem is that spending is rising by 11 percent annually.

A recent report from the Cato Institute in Washington reveals a disturbing new trend. Formerly fiscally conservative states in the South have joined the ranks of the big spenders. Georgia, North Carolina and Virginia all managed to achieve higher spending increases than New York, and Texas wasn't far behind.

Not all states have spent themselves silly, and a few still have surpluses — which proves that it can be done. However, it is easier to spend to meet all those political needs, and then to raise people's taxes while making taxpayers

feel guilty about their "decade of greed" as a result of Reagan tax-cutting.

In truth, per capita state tax burdens have doubled since 1980. Ironically, states with the fastest revenue growth tend to be in the worst fiscal shape, while low tax states do a better job of controlling spending.

Neither is federal aid a blessing. Since federal grant programs usually require matching state funds, the states are lured by "free" federal money into hiking their spending.

The real problem is that the tax-and-spend virus has spread from Washington, D.C., into the states and localities. Recently, the city of Bridgeport, Conn., succumbed and filed for bankruptcy after pushing property taxes to the point that many old people can't keep their homes. The city's government lacked the will to face up to spending cuts and layoffs and simply gave up the ghost.

State and local tax hikes are complicating the economy's recovery from recession. The taxes are reducing people's disposable incomes just at the time when the economy needs a lift from consumer spending, and they could backfire if they push taxpayers and the economy down further.

Yes, greed is loose in America — but not so much among wage earners. Sooner or later voters will learn that government spending isn't free.

*Have you ever heard of someone losing their home because of a sales tax?*