

MINUTES OF THE HOUSE COMMITTEE ON TAXATION..

The meeting was called to order by Chairperson Phill Kline at 9:00 a.m. on March 5, 1997 in Room 519-S of the Capitol.

Committee staff present: Chris Courtwright, Legislative Research Department
Tom Severn, Legislative Research Department
Shirley Sicilian, Department of Revenue
Don Hayward, Revisor of Statutes
Ann McMorris, Committee Secretary

Conferees appearing before the committee:
Craig Simons, Harvey County Administrator
Kenneth Meier, Harvey County Commissioner
Rod Neitzel, Harvey County Appraiser
Jim Siemens, Reno County Appraiser
D. Clarence Unrau, Newton
F. D. Loganbill, Newton
John Grace, Ks. Assn. of Homes & Services for the Aging
Chris McKenzie, League of Kansas Municipalities
Rep. Vernon Correll
Todd Sheppard, Kansas Land Title Association

Others attending: See attached list

Moved by Rep. Donovan, seconded by Rep. Johnston, introduce a bill imposing an excise tax upon the privilege of transporting freight by railroad in this state. Motion carried.

Chair opened hearings on:

HB 2489 - Expiration of property tax exemption for housing for the elderly

Proponents:

Craig Simons, Harvey County Administrator (Attachment 1)
Kenneth Meier, Harvey County Commissioner (Attachment 1)
Rod Neitzel, Harvey County Appraiser (Attachment 1)
Jim Siemens, Reno County Appraiser (Attachment 2)
D. Clarence Unrau, Newton (Attachment 3)
F. D. Loganbill, Newton

Opponents:

John Grace, Ks. Assn. of Homes & Services for the Aging (Attachment 4)
Chris McKenzie, League of Kansas Municipalities (Attachment 5)

Chair requested information on HUD benchmarks from Legislative Research for committee.

Chair closed hearing on **HB 2489** and opened hearing on:

HB 2113 - Tax Lien Dormancy

Proponents:

Rep. Vernon Correll (Attachment 6)
Todd Sheppard, Kansas Land Title Assn. (Attachment 7)

Chair closed hearing on **HB 2113**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TAXATION, ROOM 519-S Statehouse, at 9:00 a.m. on March 5, 1997.

Moved by Rep. Shriver, seconded by Rep. Larkin, approval of minutes of Taxation Committee meetings on Jan. 29, 30, 31, Feb. 4, 5, 6, 10, 11, 12, 13, 14, 17, 18, 19, 20, and 24. Motion carried.

The next meeting is scheduled for March 6, 1997.

Adjournment.

Attachments - 7

TAXATION COMMITTEE GUEST LIST

DATE: March 5-1997

NAME	REPRESENTING
Lesla Foster	KS Land Title Assoc.
Tom Deppard	Kansas Land Title Assoc.
ROD NEITZEL	HARVEY COUNTY
CRAIG SIMONS	HARVEY COUNTY
MAX GRABER	HARVEY COUNTY
Ron Meier	Harvey County
Lin Siemens	Reno County Appraiser
Richard Trites	Cowley County
R. Dale Long	ACFD
Jerome Robinson	Cowley County
Lawrence Cowan	Cowley County
Jerry D. Keefe	Cowley Co.
Lara Heimitz	Cowley Co.
Lusia Kincaid	Cowley Co.
Art Campbell	John. Co.
PA Woodward	John. Co.
John Debe	Rep Debe
Samuel E. Miller	Harvey County
Louise Langewalter	Harvey County

TAXATION COMMITTEE GUEST LIST

DATE: 3/5/97

NAME	REPRESENTING
May Shivers	Harvey County
Elaine Loganbill	Harvey County
D. Clarence Strawn	Harvey County
Harley J Stricky	Harvey County
Ed Loganbill	Harvey County
Chris McKenzie	Chris McKenzie
John Bura	KATSA
DW Zehr	KATSA
Harold Pitts	OBSERVE
TK Shively	KANSAS LEGAL SERVICES
Mr & Mrs IL Johnson	Memphis Ks
Bill Rhedd	Ge Soto, Ks. Jr. Co.
Raini Lerner	Johnson County
Paul Stechin	" "
Steve Montgomery	Greater KC Chamber

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE IN FAVOR
OF PASSAGE OF HOUSE BILL NO. 2489

MARCH 5, 1997

HARVEY COUNTY ADMINISTRATOR CRAIG SIMONS,
HARVEY COUNTY APPRAISER, ROD NEITZEL,
AND HARVEY COUNTY COMMISSIONER KENNETH MEIER

Harvey County, and other counties in Kansas, have experienced the increase of elderly housing units owned by non-profit retirement communities. This new housing is a welcome addition to the community, however, these elderly housing units owned by non-profit retirement communities have been exempted from property taxation. In Harvey County, five retirement communities own housing for the elderly in addition to an adult care facility. In most cases, the residents of this elderly housing sign what is termed a "life lease" with the retirement community, and the housing remains in the ownership of the retirement community, and exempted from property taxes. As you will soon view in a video filmed by Harvey County Appraiser Rod Neitzel, there are blocks and blocks of housing, and whole subdivisions of housing which are not on the property tax-rolls. As you will see in the video, in many cases this is very expensive housing, including duplexes and single family homes. I would stress House Bill No. 2489 does continue the policy of exempting adult care facilities including nursing homes from property taxation, and there are good public policy reasons to continue this exemption. However, we believe the housing units surrounding the nursing facility should be paying property taxes. Many elderly persons living across the street or near these retirement communities in their own homes, and paying property taxes, are asking why the residents of these expensive homes are not paying property taxes? Other citizens in Harvey County are asking the same question, and I have attached copies of letters from taxpayers in Harvey County concerned about the residents of this retirement community housing not paying their share of property taxes. This is a question of fairness and equity. We believe this is a property tax exemption loophole which is far out of hand, as you will see in the video. Schowalter Villa, a retirement community in Harvey County, located in the City of Hesston, has plans to build an additional twenty acres of housing at their retirement community. As more and more of this housing is constructed, this issue of fairness and equity will continue to be a problem in Harvey County and throughout the State.

I would ask the Harvey County Appraiser, Mr. Rod Neitzel, to play a video, a picture is worth a thousand words. Mr Neitzel will then present numbers as to the scope of this problem in Harvey County. I would then ask if I could return to present more detailed information on House Bill No. 2489.

ELDERLY LIVING
RESIDENTIAL EXEMPT PROPERTIES
CITY OF NEWTON, KANSAS

CURRENTLY THERE ARE 165 INDEPENDENT LIVING UNITS LOCATED IN THE CITY OF NEWTON AT THREE HEALTH CARE FACILITIES. (KANSAS CHRISTIAN, PRESBYTERIAN MANOR & FRIENDLY ACRES)

BASED ON AN AVERAGE VALUE OF \$60,000 PER LIVING UNIT TIMES 165 UNITS EQUALS \$9,900,000 ESTIMATED APPRAISED VALUE.

CALCULATION OF APPROXIMATE TAXES

\$ 9,900,000	APPRAISED VALUE
X	.115 STATE RESIDENTIAL ASSESSMENT RATE

\$ 1,138,500	ASSESSED VALUE
X	.141000 1996 ESTIMATED MILL LEVY

\$ 160,528	ESTIMATED TAXES PER YEAR
	=====

BREAKDOWN OF APPROXIMATE TAX DOLLARS PER TAXING DISTRICT

CITY OF NEWTON	=	\$ 67,422
USD 373	=	52,974
HARVEY COUNTY	=	37,725
STATE OF KANSAS	=	1,605
SANDCREEK WATERSHED	=	802

TOTAL	=	\$ 160,528

HARVEY COUNTY
RESIDENTIAL EXEMPT PROPERTIES
ELDERLY LIVING - HEALTH CARE FACILITIES

LOCATION	TYPE	# OF BLDGS	# OF LIVING UNITS
KANSAS CHRISTIAN	SINGLE FAM	10	10
	DUPLEXES	15	30
	4-PLEXES	4	16
		---	---
		29	56
SCHOWALTER VILLA	SINGLE FAM	2	2
	DUPLEXES	26	52
	4-PLEXES	11	44
	6-PLEXES	5	30
		---	---
		44	128
PRESBYTERIAN MANOR	SINGLE FAM	10	10
	DUPLEXES	1	2
	APT BLDG	1	30
		---	---
		12	42
FRIENDLY ACRES	SINGLE FAM	27	27
	DUPLEXES	16	32
	4-PLEXES	1	4
		---	---
		44	63
	TOTALS	129	289

CALCULATION OF APPROXIMATE TAXES

BASED ON A AVERAGE VALUE OF \$55,000 PER LIVING UNIT TIMES
289 UNITS EQUALS \$15,895,000 ACTUAL VALUE.

\$15,895,000 TIMES 11.5% ASSESSMENT RATE EQUALS \$1,827,925
ASSESSED VALUE. This is 3% of the total residential value in Harvey County.
Harvey County has 62,065,000 assessed value in residential property.

THE ASSESSED VALUE OF \$1,827,925 TIMES AN AVERAGE MILL LEVY
OF 128 MILLS EQUALS \$234,000 (ROUNDED) IN TAXES PER YEAR.

1-3

The following Kansas statutes apply to the exemption of elderly housing units:

- 1) K.S.A. 79-201a Sixth - This statute exempts housing property acquired and held by any municipality under the municipal housing law, (K.S.A. 17-2337 et seq.). The intention of the municipal housing law is to provide housing for lower income persons. No changes are proposed in House Bill 2489 for this statute, as the intentions are to provide housing for lower income persons.
- 2) K.S.A. 79 - 201b, Second - This statute exempts adult care facilities defined in K.S.A. 39-923, and operated by a non-profit corporation. K.S.A. 39-923, includes nursing home facilities. No changes are proposed in House Bill No. 2489 for this statute. Many nursing home facilities do provide services to the community such as meals on wheels, transportation services, etc. In addition, non-profit nursing home facilities do provide care for patients even at a loss in monies. As a result, there are good public policy reasons to exempt the nursing home facility itself. However, we do not believe the exemption should extend to the elderly housing units.
- 3) K.S.A. 79-201b Fourth - This statute exempts housing property used by elderly and handicapped persons having a limited or low income, and assistance for financing the housing was received under 12 U.S.C.A. 1701 et seq., or under 42 U.S.C.A. 1437 et seq. The 12 U.S.C.A. 1701 is the National Housing Law. The intention of the law is to provide housing for lower income elderly and handicapped persons, and House Bill No. 2489 does not change this statute.
- 4) K.S.A. 79-201b Fifth - This statute is the statute which needs to be altered. House Bill No. 2489 changes this statute. This statute exempts all property used for elderly housing and operated by a non-profit corporation, regardless of the income of the elderly resident or the dollar value of the elderly housing unit. The statute also requires the non-profit corporation to charge the lowest feasible costs to the residents. House Bill No. 2489 would require all such housing and personal property constructed or purchased after December 31, 1997 to be placed on the property tax rolls. Housing constructed or purchased before December 31, 1997, and having an existing lease would be placed on the property tax rolls after the lease expires. By allowing a lease to expire before the housing is placed on the property tax rolls, House Bill 2489 honors the capital - investment decision of the elderly residents living in the housing units as well as the non-profit retirement community. By allowing the lease to expire, the non-profit retirement community is able to pass the property tax charges to the housing unit occupants, similar to other leased/rental

units. There is a precedence for such legislation. In 1992, the Kansas Legislature approved K.S.A. 79-201s, which allows leases to expire before levying property taxes on certain airport properties.

We believe that most of the residents of the retirement community housing are very capable of paying property taxes, and many would gladly pay property taxes, if asked. We believe the non-profit retirement community would not be detrimentally affected as the property taxes would be passed through for the residents to pay. The life leases we have seen have clauses requiring the residents to pay property taxes, if such taxes are ever levied.

We believe the proper way to address this issue of fairness and equity is through legislation such as House Bill No. 2489. The Kansas Legislature needs to address the issue. Presently, the Kansas League of Municipalities and the Kansas Association of Homes and Services for the Aging have an agreement to negotiate payments in-lieu of taxes and services in-lieu of taxes in each city. The negotiations are between the retirement community and the local taxing jurisdictions. We object to this approach as the negotiations could produce a hodge-podge of different payments across the State. Presently, two retirement communities in Harvey County are making in-lieu of property tax payments to two different cities. No payments are paid to other taxing jurisdictions. This is an example of the hodge-podge situation. We also object to the guidelines of this agreement for the following reasons:

- 1) The guidelines for the negotiations are only to involve housing units built on or after January 1, 1990. This eliminates most of the units from consideration in the negotiation process, if the guidelines are followed.
- 2) The guidelines recommend only a value of the housing above a certain HUD value are to be considered for payment of in-lieu of taxes or services in-lieu of taxes for those units built on or after January 1, 1990. In the Wichita area for example, you would subtract \$51,196 from the value of a one-bedroom unit, and subtract \$79,031 from the value of a single-family house. This eliminates a sizeable portion of the value of the property. An elderly person living in the community in their own house, not a part of a non-profit retirement community, is not allowed to deduct value off of the property when calculating property taxes. They certainly must also pay taxes on property built prior to January 1, 1990. Again, this is an issue of fairness and equity.
- 3) The method of arriving at a value of the property is unclear in the agreement guidelines, and no method is listed to solve a disagreement over the value of the property.

- 4) The guidelines in the agreement point out whatever amount is remaining can be further reduced by "services in-lieu " of tax payments. In most cases, the nursing home facility is providing these services, and the nursing home facilities remain exempt under House Bill No 2489. The elderly housing units themselves are providing little or no services to the community.

The non-profit retirement communities attempt to justify the property tax exemption by stating all operations are combined and should not be separated for tax purposes. The non-profit retirement communities use as their example the federal income tax provisions which exempt income taxes on the combined operations of the non-profit retirement community. We believe there are major differences between the property tax and the income tax, and the one tax cannot be explained away by the other tax. In reality, the persons living in the housing units will pay the property tax.

For the reasons listed above, we believe the agreement between the Kansas League of Municipalities and the Kansas Association of Homes and Services for the Aging is not a good public policy approach to the problem. We do not believe the taxpayers in Harvey County and other counties will be satisfied receiving only a small portion of taxes which should be paid on this property. This agreement has only served to cloud and confuse the issue. We believe the issue is rather simple - this elderly housing property should be placed on the property tax rolls. The adult-care facility would remain exempt. House Bill No. 2489 provides a method which is fair to the elderly living in the housing units, and fair to the non-profit retirement community.

79-1439. Appraisal of real and tangible personal property at fair market value in money; exceptions; rate of assessment.

(a) All real and tangible personal property which is subject to general ad valorem taxation shall be appraised uniformly and equally as to class and, unless otherwise specified herein, shall be appraised at its fair market value, as defined in K.S.A. 79-503a, and amendments thereto.

(b) Property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(1) Real property shall be assessed as to subclass at the following percentages of value:

(A) Real property used for residential purposes including multi-family residential real property and residential real property used partially for day care home purposes if such home has been registered or licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto at 12%;

(B) land devoted to agricultural use valued pursuant to K.S.A. 79-1476, and amendments thereto, at 30%;

(C) vacant lots at 12%; and

(D) all other urban and rural real property not otherwise specifically subclassed at 30%.

(2) Personal property shall be classified into the following classes and assessed at the percentage of value prescribed therefor:

(A) Mobile homes used for residential purposes at 12%;

(B) mineral leasehold interests at 30%;

(C) public utility tangible personal property at 30%. As used in this paragraph, "public utility" shall have the meaning ascribed thereto by K.S.A. 79-5a01, and amendments thereto;

(D) all categories of motor vehicles listed and taxed pursuant to K.S.A. 79-306d, and amendments thereto, at 30%;

(E) commercial and industrial machinery and equipment which, if its economic life is seven years or more, shall be valued at its retail cost when new less seven-year straight-line depreciation, or which, if its economic life is less than seven years, shall be valued at its retail cost when new less straight-line depreciation over its economic life, except that, the value so obtained for such property as long as it is being used shall not be less than 20% of the retail cost when new of such property at 20%; and

(F) all other tangible personal property not otherwise specifically classified at 30%.

History: L. 1963, ch. 460, Sec. 1; L. 1969, ch. 433, Sec. 6; L. 1982, ch. 391, Sec. 33; L. 1988, ch. 375, Sec. 7; L. 1992, ch. 107, Sec. 1; July 1.

6-1



96 2 26

SCHOWALTER VILLA
HESSTON, KANSAS
HARVEY COUNTY
(DUPLEX)

01-10



KANSAS CHRISTIAN HOME
NEWTON, KANSAS
HARVEY COUNTY
(SINGLE FAMILY HOME)

96 2 26

11-1



KANSAS CHRISTIAN HOME
NEWTON, KANSAS
HARVEY COUNTY
(DUPLEX)

96 2 26

September 21, 1996

Harvey County Commissioners

Newton, Kansas 67114

Dear Sirs,

Re: The "Letter to the Editor" that appeared in the "KANSAS" this past week.

Apparently not only are the new homes being built on property owned by Church Related Retirement Homes - but many other facilities - by some legal technicality - are not being taxed.

As our elected officials it would seem that you could more effectively govern to benefit all the citizens - rather than a selected few.

All need to pay his fair share of tax money.

Thank you for your attention.

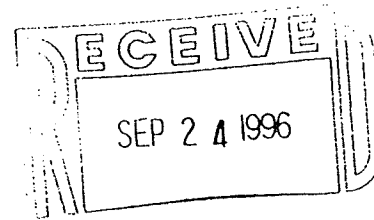
Sincerely,

Beulah Davis
Sam Davis

Sam and Beulah Davis

6 Circle Drive

Newton, Kansas



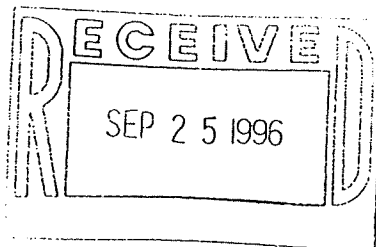
1-12

County Commissioners
Newton, KS 67114

It has been brought to our attention that there are new homes being built that do not have to pay Real Estate taxes.

I agree with Trudy Flory that people living in these homes can well afford to pay taxes on their own property. We urge you to appeal the present ruling and give relief to the rest of the tax payers.

Sincerely
Marilyn E. Eli-Bontrage
116 Beverly
Newton, KS 67114



Harvey County Comminioners
Harvey County Court House
Newton, KS 67114

Dear Sirs:

The letter from Trudy Flory in the Newton Kansan recently motivates me to let our opinion on the matter of unfair taxation of property be known.

We have observed a trend in the retirement community in Hesston, and are aware that this is true also for a much larger area, of building increasingly luxurious housing, including lakes with fishing privileges reserved for residents of that community, as well as other services, which are possible only because the organization enjoys a tax-exempt status.

We have discussed this with friends and acquaintances, and are concerned with the inequality and injustice of the present system which fosters this trend. It is grossly unfair that we pay taxes on our home, while our friends and neighbors who live in that community enjoy their much more luxurious home and surroundings and pay no taxes.

While we believe that a tax-exempt status is proper for some establishments, such as a nursing home, which is truly not for profit, or a church which serves the community, we are concerned that this has become a loop-hole permitting great abuse of the status, and needs to be addressed by our governing bodies. When we see "not-for-profit" organizations openly becoming more and more affluent, and advertising all the features of their organization, it is obvious that there is indeed great profit involved in the operation, and they are able to do this because of the tax dollars that the rest of the community pays, supporting them.

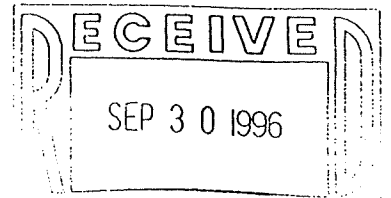
We urge you to implement changes to correct this inequity.

Sincerely,

Lee & Mary Alice Hertzler
Lee and Mary Alice Hertzler

*312 E. Smith St.
Hesston KS 67062*

1-14



112 Meadow Ln.
Hesston, KS. 67062
27 September, 1996

Dear Sir:

As a Harvey County senior citizen, I want to pay my fair share for the privilege I have to live in this community. I do appreciate the many good things the community has to offer. I do feel unjustly taxed because of the many exceptions made by loopholes in our laws that need to be changed. It is especially annoying that many expensive properties in retirement communities pay no taxes yet have the same opportunity to enjoy all of the same facilities and activities I can enjoy.

Yes, I am retired but do feel strongly there should be a change in the laws to make things more fair for everyone.

Sincerely,

A handwritten signature in cursive script that reads "Berta I. Miller".

Berta I. Miller

A handwritten note in cursive script that reads "copy to [unclear]".

Mr. Wendling — Please give this
message to all Harney County
Commissioners

91-1

Dear County Commissioners,
We want you to know that we feel
wronged when people can build
houses, completely tax free.
Constantly, more homes are being
built that are off the tax rolls,
increasing the tax burden unfairly
to rest of population.

This practice can be attributed
to nothing but dirty politics
and in no way can be justified.

Marvin & Betty Baker
1401 Berryst
Newtown, Ks 67114

Harvey Co. Commissioners
Dear Sirs:

I would like you to
know that I am opposed to the
law that allows people to build
or buy houses in retirement
communities (Tax Free)

I don't believe these communities
should be considered (non profit.)

There is too much property
in Harvey Co. that is not on
Tax rolls. Please do what you
can to change this law.

Orrille Estelman
Sedgewick Hs. 671 1/2

181-1
Hv. Co. Assessor

Dear Sir:

We would like to give our support to help bring about change in the law that exempts from taxes, those retirement homes on grounds of retirement centers.

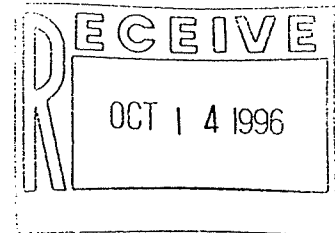
We built our retirement home and we pay taxes. We are low middle income & could not possibly ^{we} afford one of the homes that are tax exempt.

We are not complaining about taxes - we believe in paying our share. However, we believe those who do not do so are contributing to the raise in our property tax.

Sincerely,
Mrs. Mable Biggerstaff
5334 N W 12th
M...M...

Roy E Robinson
307 Franklin Street
Sedgwick, Kansas 67135
(316) 772-5784

October 11, 1996



Dear Commissioners;

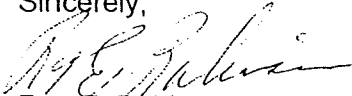
I am writing to the Commission to express my concerns as a taxpayer in Harvey County. As elected officials I hope that you will take the time to listen.

I have lived and owned property in Harvey County for more than 27 years. My wife and I are now retired and own our home in Harvey County. We are on a fixed income that is not increasing like our taxes in this county. I am in distress with the amount of property tax I have to pay to support the schools, city, county, and state governments. It seems to me all property owners are paying at least 50% more taxes than 10 years ago. However, I have discovered that many are not paying 50% more they are paying none at all. It is my understanding that more than 20% of properties in Harvey County are not even on the tax roll. I have no problem with churches, parsonages or non-profit organizations being off the roll. If an organization owns property and they are not currently using it as part of the organization in all fairness it should be on the tax roll.

I also understand several retirement homes and independent living homes are not on the tax roll.

If one can afford the costs of these homes, then one should afford the taxes just like you and I. I am on a fixed income and my income is not increasing to the demands of these high taxes. It is really placing a burden on a select group of people who will be compelled to find other locations to live if this burden is not relieved soon. So, I urge you please take a look at where the tax load is, and prevail upon everyone to share in this load. Thank you for your time, and consideration in this situation.

Sincerely,


Roy E. Robinson

462-4528 MARY

1-19

Oct. 4, 1996

Harvey County Appraiser

This letter is in regard to the property in Harvey County, that is exempt from the property taxes, due to a loop hole in the law.

What exempts this property from the tax rolls?

We are now retired and receive no relief from our property taxes:

We feel this is justly unfair to the majority of Harvey County residents, that have to pay their share, plus picking up the share of this property, which we understand is in the one hundred thousand range and up, without the county receiving any monetary benefits.

We need your response as to how we as individuals can close this loop hole and make every home owner pay their fair share of property taxes.

Thank you
Edward and Jacquelin H. Suggs
Sedgewick Kansas -

100 W 8th
Sedgewick
67135

Please appeal the present
ruling that allows some of the
retirement centers in Harvey City
to let people build new homes
tax free!

Betty & Wm
Telowalter
4901 S Springlake Rd.
Halstead KS 67056

Please listen to what
the people of Newton
are telling you. It is
getting to the point where
retired people can't afford to
live in Newton any longer.

Listen to us.

I hope you get alot of
these letters. I hope people
get off their butts & let you
know how we feel

RECEIVED

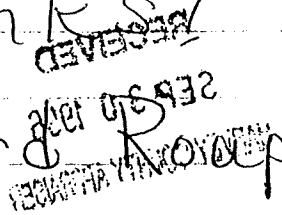
SEP 23 1996

HARVEY COUNTY APPRAISER

Dear Sirs:

Please do what
you can to ~~take~~ put
all the lavish homes
that are not being
taxed in Harvey County
back on the tax roles.
Our property taxes are
much too high because
of all these free
loaders. Thanks!

Willard Rupp



Hesston, Kansas
Sept. 26, 1996

Dear Sirs:

Please help us close
the loop holes in the law
allowing people living in luxurious
homes like those at Lake Vista
in Hesston to evade paying
their fair share of property
taxes. Thanks!

Elda Rupp

RECEIVED

SEP 30 1996

HANLEY COUNTY CLERK

1-24

Oct 15, 1962

County Assessor
Harvey County
Court House, Newton Kansas

Dear Person:

I am in agreement with Trudy Flory *
re retirement homes becoming tax free
because they are built on grounds which
are designated non-profit - Two thirds
of the seniors who are trying to maintain
their own homes and who cannot afford
the exorbitant costs of non profit retirement
homes are in reality paying taxes for those
who are using this method of tax free housing.
This is an equity mechanism and I wonder
if such non profit establishments are truly
non profit - How can they keep expanding?

I would ask for a re-definition of
non-profit Retirement complexes should
be limited to nursing home + assisted living
quarters - All other living quarters should
be taxed. City Council Court House, Lawrence
Retirement home expansion + render free
city services with taxpayer money -
Churches should be exempt for the
worship area - other land + buildings
should be taxed - I could donate my home
to a non-profit institution + be tax free!
Schools including private colleges
need to have new definition - many are
"educational" property which is taken off

1-25

tax rolls & are owned by the College
Again city services are provided tax free -

In Hester over 30% of annual
land is presently owned by non profits -
How long we survive I may have
are rising - income stays flat - I'll
be glad to join leading my property
to some non-profit organization very
soon -

Plan reconsider - Render unto
Caesar the things that are Caesar and
unto God the things that are God - Government
needs to be recognized by Church as
well as any other organization -
I am not anti Church nor am

And escapism abolished - Fairness is needed
needed re - retirement homes in particular -
done by someone other than audit used by institution

Sincerely,
Evelyn J. Pearson
91 Sunset Drive
Hester, KS 67062

not for publication
but for support for County Action
* Sept 20, 1996 - Newton Kasser letter
to Editor

We, the people of Harvey County, want the Commissioners and Tax Appraisal Board to appeal the exempt properties in Harvey County so as to result in taxation of properties on retirement campuses whether it be houses, duplexes, or apartments.

Evelyn J. Brannum	2208 S Anderson Rd	Newton	67114
Donna Thiesen	508 Old Main	Newton, Ks	67111
Raena Sueb	2109 Wagonwheel Dr	Newton Ks	67114
Joan Beinhauer	808 Fairview	Newton, Ks	67111
Marian L. Decker	1712 N. Plum	Newton, Ks	67111
Saul F. Decker	7712 N. Plum	Newton, Ks	67111
Gertrude Dillman	904 W. 10th	Newton, Ks	67111
Micie Ford	2633 S. Ks. Rd.	Newton, Ks	67114
Peggy L. Ford	1410 W. Bldwy.	Newton, Ks	67111
Genevieve Eby	919 Santa Fe	Newton, Ks.	67111
Helen O. M. Kelly	1208 Grove	Newton, Ks.	67111
Patsy R. Kaler	1505 Westborough	Newton, Ks	67111
Phyllis Zellars	305 E. 10th	Newton, Ks	67111
Daisy Bright	802 S.E. 2nd	Newton, Ks.	67111
Charles Spiring	705 S.E. 4th	Newton, Ks	67111
Allen Ashcraft Sr.	1104 E 8th	Newton, Ks.	67111
Carroll A. Ashcraft	416 N. High St.	Newton, Ks	67111
Jack E. Benton	107 Lynn Lane	Newton, Ks.	67111
Landra K. M. Chesney	305 E. Academy	Newton, Ks.	67114
Rosaline J. Swift	417 S.W. 84th St.	Newton, Ks.	67114
Henry L. Swift	417 S.W. 84th St.	Newton, Ks.	67114
Luey Vidacs	306 E 7th	Newton, Ks	67114
Brenda Harg	314 E. 7th	Newton, Ks	67114
Lee Cannon	118 E. Broadway	Newton, Ks	67114
Robert Vidacs	306 E 7	Newton, Ks.	67114
Jim Lary	300 E 7	Newton, Ks	67114
Tracy Rother	1400 Oak	Newton, Ks	67114
Jon Ross	1004 Trinity Dr	Newton, Ks	67114
Kathy Koss	1004 Trinity Dr	Newton, Ks.	67114
Bonnie Schrag	2127 W. 1st	Newton, Ks.	67114

Bob Brown	1437 Willow Road	Newton Kansas
Virginia L Brown	1437 Willow Rd	Newton, Ka
John J. Schill	1904 CYPRESS	NEWTON KS
William R Klavis	1305 Allison	Newton, KS
Jamie Caldwell	224 Mockingbird	Newton, Ko
Donna L. Woelk	1117 Allison	Newton, KS
Jim Ironau	800 SE 12th	Newton, KS
Dennis Ironau	800 SE 12th	Newton, KS
Bernadine Whitmer	1204 S W.	Newton, KS
Ray Whitmer	1204 S H	Newton, KS

Karen Wall	306 E 4th	Newton KS
Layna Nuttend	213 S. Main	67114 Newton, KS 67062

Jerry Z Wall	306 E 4th	Newton, ;
Nolly L. Hammett	324 E. 5th	Newton KS
Jennifer L. Hammett	324 E. 5th	Newton KS
Eddie A Hammett	324 E 5th	Newton KS
(By Add)	319 E. 5th #A	Newton KS
Karen S. Miller	306 E 5th	Newton, KS 67114
J.A. Hartley	312 E 5th	Newton KS 67114
Kara Hartley	312 E 5th	Newton, KS 67114
Elizabeth A. Miller	319 B E. 5th	Newton KS 67114
Amy Wedel	425 SE 14th Apt. 2B	Newton, KS 67114
John Uhlert	321 E 5th	Newton, KS 67114
Kathy Uhlrich	321 E 5th	Newton, KS. 67114
Betty Baehr	- 1401 Berry -	Newton
Marvin C. Baehr		283-5465
Patricia M. Setz	200 Sherman Dr.	Newton, Ks.
J. W. Coleman	619 E 4th	Newton, Ks
Virginia Coleman	" " "	Newton Ks
E. B. Rowe	507 E 2nd	Newton, Ks.
Delma J. Howard	317 Alie	Newton, Ks.
Marjorie E. Merrill	1022 S. Walnut	Newton, Ills.
Opelis Klassen	1120 W. Broadway	Newton, Ks
Jane Hartman	1100 W 5th #29	Newton, Ks.
Justus R. Kelly	1916 Cypress Ln	Newton, KS-67114
Kathleen C. Bowles	2106 Singletree	Newton, KS 6711
Jennifer Gehring	741 Normandy Ct.	Newton, KS 671
Karenette Peters	418 S Wlower ST	Newton Ks

Senator Langworthy
Senate Committee Members
Ladies and Gentlemen

My name is Jim Siemens. I'm the County Appraiser for Reno County, Hutchinson, Kansas. I appreciate this opportunity to appear before you to express my support for House Bill 2489.

It is my opinion that the liberal interpretation of K.S.A. 79-201b (Fifth) in regard to housing for elderly persons has led to a very unfair method of real property taxation.

Currently in Reno County we have relatively wealthy people living in tax free homes while the less fortunate people living in very modest homes, sometimes with only supplemental social security income, must pay property taxes.

Several years ago a prominent C.P.A. called me to complain about his taxes on his home with the threat, "If you don't lower my taxes, I will sell my home and move to Wesley Towers so I don't have to pay taxes." I believe this accountant was still working in his firm at the time. I have a letter in my files from the Wesley Towers financial officer that says they have no age limit to live in these units. Wesley Towers currently has 23 duplexes (46 living units) and numerous garden apartments and apartments that are exempt from the property tax.

Reno County currently has five different care homes that have independent living units that are exempt from taxation. This amounts to approximately \$10,000,000 dollars of appraised value that is exempt.

I urge you to amend House Bill 2489 in a way that would remove the exemption on independent living units in the care homes.

Again, I thank you for letting me voice my opinion and concerns regarding this property tax issue.

Logan Hill

Committee Hearing on House Bill No. 2489

I am D. Clarence Unrau, living at 3006 Ivy Drive, North Newton, Kansas 67117, telephone 316-283-1949. I am a retired Certified Public Accountant and founded the accounting firm of Unrau and Regier with offices in Wichita and Tucson, and much of our work was in auditing, tax advice, and preparation of tax returns for clients. ~~This meant that our work required integrity in presenting the clients information in audits and tax returns that must be in conformance with Federal and State laws. I say this not to be boastful, but to show why I have much interest in laws that are fair, equitable and accomplish a useful business and social purpose.~~

In a civilized society we ask for many services from our government when it can be better performed by the government than we can do it for ourselves. The tax laws providing for these services must be fair and equitable in order for them to get general public support.

THE EXEMPTION FROM AD VALOREM TAXES OF HOMES OWNED BY EXEMPT HEALTH CARE (NURSING) HOMES IS NOT FAIR OR JUSTIFIED. I THEREFORE STRONGLY URGE THAT THIS BILL NOT BE PASSED.

or amended to eliminate the grandfathering of any tax exemption

Recent changes in Kansas law including K.S.A. 79 - 201b Second and K.S.A. 79 - 201b Fifth seem to provide for the equity and fairness that the citizens of Kansas desire. Kansas has spent much time and money to improve and equalize the appraisal system. A system of exemptions nullifies much of the progress made in this area. Also part of this exemption problem was settled by the Kansas Supreme Court when they affirmed in 1980 a District Court decision in the case of the "Defenders of the Christian Faith vs. Board of County Commissioners" where it was held that -- "where a single building is under single ownership --- the nonexempt use of any portion of the building renders the entire building taxable." The implication here is clearly that it is not the ownership of the building (or a home) but the use which determines whether it is exempt or taxable.

Kansas has never hesitated to apply a tax to a new situation and therefore the people who have previously been held to be exempt from ad valorem real estate taxes should now be required to pay such tax. They receive the same government service as the many thousands of other Kansans and they have an obligation to help support the education of our children.

I was appointed by the Kansas Governor to the State Board of Accounting in 1955 and I attended International Accounting Congresses in New York, Paris, and Sydney in succeeding 5-year intervals. I was repeatedly impressed that no one enjoys paying taxes, but when tax laws are fairly exacted and fairly applied the public will support the government. They may complain but they will understand the need for the taxes. Again, I urge that this bill should not be enacted.

or it should be amended to eliminate the grandfathering of any tax exemption.

While not germane to this bill I would like to make a short comment about the Elder Abuse Act etc. May I do so?

Neither the Elder Abuse Act passed some years ago, or the Senate Bill No. 297 enacted in 1996 place the responsibility on some one to prosecute offenders or abusers. Generally the victim is too feeble or docile to complain; the abuser will not act against himself and the ordinary citizens generally cannot get court action without much delay. A district attorney or the Attorney General should be charged with a duty to protect the abused. The Attorney General has some duties on other situations to protect citizens and this duty might logically be added.

TESTIMONY

To: The Honorable Phill Kline, Chairman
Members of the House Taxation Committee

From: John R. Grace, President/CEO

Date: Wednesday March 5, 1997

Thank you Mr. Chairman.

I am John Grace, President of the Kansas Association of Homes and Services for the Aging. KAHSA was founded in 1953 and represents the more than 150 not-for-profit retirement communities, nursing facilities, and community based service programs for the elderly. All of our organizations are 501 C-3 IRS approved and are sponsored by churches, community groups, fraternal organizations or governmental entities.

We are opposed to House Bill 2489.

Not-for-profit retirement communities developed over the last 100 years in Kansas are saving the taxpayers thousands of dollars annually by relieving the burden on government and providing substantial community benefits.

Can we do more to strengthen our communities and increase our quality and quantity of services? Absolutely. During the past year, with the support of several legislators and community representatives, we have worked hard with the League of Kansas Municipalities, and representatives from Harvey County to examine the issue and concerns raised here today and created a "win-win" solution. The result of our efforts is entitled the "Good Neighbor Program" and you'll be hearing more about the specifics of the program from Chris McKenzie, Executive Director of the League of Kansas Municipalities.

First, Mr. Chairman, I'd like to begin with a story. In 1904, a small group of church members of the United Methodist Church of Topeka gathered together and shared their ideas on how they could begin a program of service to the elderly of their congregation. Working with the United Methodist Church, private individuals, and other nongovernmental sources they scraped together enough money to start the United Methodist Home.

Now, 96 years later, this organization has not only survived, but it serves over 550 older persons and their families, employs 325 persons on two campuses, provides an

intergenerational day care center on their campus, outreach services to elderly living in the community and last year alone provided over \$300,000 in charitable care.

This success story of local concerned citizens, churches, and community groups joining together and raising private funds through churches, individual donors, and foundations to serve others through housing, health, and social services has repeated itself in towns and counties across the state with the formation of over 70 not-for-profit retirement communities. Thousands of older persons and their families have benefited from the compassionate and caring services provided by these organizations.

Approximately 15,000 older people reside in not-for-profit retirement communities in Kansas. Of these, approximately 6000 individuals live in apartments on our campuses. These constitute less than 2% of the elderly Kansas.

Compare for a moment this private development of housing for the elderly, with government financed housing for the elderly which is tax exempt which numbers around 3100 units. We have already privatized retirement housing.

Who are we serving? The average resident in the housing units is 86 years of age, female, widowed, with three or more health problems. The size of our units range from 300 square feet to 1500 square feet. Rents range from no charge to \$1500 per month including services. The average value of an independent living unit is approximately \$60,000. We serve persons of all income levels, with the majority low and moderate income. All of the housing units are designed to include services such as housekeeping, laundry, meals, social activities, immediate access to health care, and home care. Our housing units are specially designed for the frailty of old age, with adaptations such as no steps, lowered kitchen cabinets, handicapped accessible bath rooms, emergency call lights. We do not build just housing; we build retirement housing with supportive services.

Resident do not receive title to their housing unit. Since they do not own title to the property, they do not receive the inflated sale value of the independent living unit when it turnovers, nor do they receive the tax benefits as a private homeowner would receive. The reason persons move to a retirement home is for their own health, safety, security and the peace of mind of having these services readily available.

Why Is This Good Public Policy ?

1.). Not-for-profit retirement communities relieve the burden on governments. As 501c 3 IRS approved organizations, these facilities generate thousands of dollars of funds from private donors, churches, foundations to offset the costs of operation and fund the underpayment by government. In 1996 alone, our estimate is that these organizations generated over \$7 million in contributions for higher

quality services, lowering the costs of services, expansions of facilities, and to meet the needs of those with low and moderate income.

2.). **Not-for-profit retirement communities provide substantial community benefits.** In addition to direct charitable care, our organizations provide other substantial benefits to our communities. These services include: educational seminars, meals on wheels, local police, fire and rescue dispatch, meeting rooms for community groups, community college and vo-tech training for nurses, transportation, and volunteerism activities by the residents, etc. One of our members in Wichita has researched and developed a "Safe Driving Course" for older persons. Another member is building a new community center funded by private donors for use by all citizens of the community.

3). **Without this property tax exemption, Medicaid costs to the state of Kansas would increase.** Through economies of scale, these organizations offer their residents supplies and services as a reduced cost. Our housing with services programs helps stretch residents resources and helps delay Medicaid assistance eligibility. If charges to our residents increase because of a requirement to pay property tax, those residents would exhaust their resources quicker, and in turn become eligible for Medicaid earlier.

4). **Services offered through retirement communities prevent or delay the use of more costly health services.** Retirement communities were recently cited in a 1997 General Accounting Office report as serving as effective models for caring for the chronically ill elderly. The reports says,

"The coordinated, multidisciplinary approach to chronic disease management used by retirement communities we visited is consistent with the recommendations of geriatric care experts...as effective in slowing the progression of disease and restoring loss of function."

5). **Government financed housing for the elderly is shrinking; not for profit organizations will be called upon to fill in the gap.** In the next 10 years, our elderly population in Kansas will increase by 30,000 persons, 1/3 of which will be 85 and older. This dramatic growth in the elderly population will severely strain the resources of government. HUD is broke and the Secretary of HUD Cuomo recently said, "We need to shift more power to the local levels". As not for profit retirement communities we help achieve this goal because we utilize incomes from residents who are able to pay their own way, to help support those residents who are of more modest income and who require additional services.

6). **Older people are taking personal responsibility by planning for their own housing and health needs.** Public policy should encourage individuals to save and plan in a positive way for their own health, housing and social needs of later life. The retirement community is one option for people to meet these needs.

Strict Requirements of IRS and Kansas Law

Organizations must meet several tests in order to qualify as a 501 c3 not for profit retirement community under the Internal Revenue Service requirements. In 1972 the IRS issue Revenue Ruling 72-152 which states that in order to qualify for exemptions under the criteria, not-for-profit retirement communities qualify only if it provides housing that are specifically designed to meet the physical, emotional, recreational, social, religious and similar needs of aged persons, the need for health care, and the need for financial security, in which the organization Must Maintain a policy of financial assistance which would guarantee continued residency at the facility for any resident who is no longer able to pay for services provided.

The Kansas Legislature adopted this ruling in 1977 and additionally requires our facilities to operate in which:

“ ... charges to residents produce an amount which in the aggregate is less than the actual cost of operation of the housing facility, or the services of which are provided to residents are at the lowest feasible cost,;”

The legislature has used this same language for housing for the young and disabled in *KSA. 79-201b Third and Sixth.*

Many organizations have tax exemption for their property . Our housing referred to by the proponents in this bill, represents less than .3% of the total real estate property in Kansas and less than 2% of all exempt real estate property.

The proponents of this bill argue that we should judge the exemption on only one program within our retirement community, our housing units. Do we judge the tax exempt status of a Hospital by one particular aspect of their operation such as the wellness program which might generate excess income, and not consider the losses of emergency room and the entire operation? Do we judge the legitimacy of the tax exempt status of a private college dormitory based on the quality of the construction? Do we judge whether a church should receive a tax exemption by the income levels of persons who attend mass on Sunday?

No, we look at the public purpose achieved by the entire organization and how it improves the general welfare of our society by the benefits it brings to our community.

Mr. Chairman, with a growing elderly population, we are going to need the services of these not for profit organizations more than ever. What we need to do is work together more closely, with public and private partnerships at the local level. And that, is what the “Good Neighbor Program” is all about.

4-4

In this regard, in February of 1996, with the support of several legislators and community leaders a special Task Force was formed with representatives from cities, counties, and not-for-profit retirement communities to discuss this issue we are debating here today. In addition to Mr. McKenzie and myself, and the Executive of the Counties Randy Allen joined the process in August, here are the persons who served on this Task Force:

Rod Neitzel, County Appraiser, Harvey County,
Fred Carpenter, City Administrator, Hesston,
Jim Heinicke, City Administrator, North Newton,
Bill Goering, City Administrator, McPherson,
Al Holsopple, Executive Director, Mennonite Friendship
Retirement Community, South Hutchinson,
Richard Catlett, Executive Director, Lakeview Village, Lenexa
Robert Bethell, Executive Director, Sterling Presbyterian Manor,
Leo Schmidt, Executive Director, Schowalter Villa, Hesston,

After numerous meetings and discussion, all parties reached an agreement on the "Joint Statement of Understanding" which sets forth the guidelines for the program . The Boards of Directors of the League and KAHSA have approved of the agreement.

The program requires either cash payment or a provision of services, for independent living units built since 1990 the value of which exceeds the Housing and Urban Development 221d3 Housing construction benchmark. Any assessed value of an independent living unit in a retirement community that exceeds the government benchmark would pay PILOT (payment in lieu of taxation) or SILOT (services in lieu of taxation) on that assessed value. Whether the payment would be in cash or in services is to be negotiated by a local community of representatives from the school district, county and city governing bodies.

The League and KAHSA will be moving ahead with implementing the program during 1997 and continue our efforts to work toward inclusion of county participation. Both organizations have committed themselves to this program and will be investing considerable resources and time in achieving successful outcomes.

The "Good Neighbor Program" creates a new partnership between the not-for-profit retirement communities and local units of government. We would like to have the opportunity to implement this program without a change in statute. I believe our membership is ready to do that and will do so in the coming months and we ask for your support of this initiative.

Thank you very much. I will be glad to answer any questions.

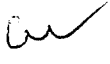
Housing and Urban Development Maximum Mortgage Limits Non-Elevator Construction								
	Section 221 (d) (3) Non-profit Mortgage							
	1990	1991	1992	1993	1994	1995	1996	1997
Wichita								
0 BR	36,161	36,721	37,843	38,347	43,393	42,720	44,402	45,748
1BR	41,694	42,340	43,633	44,215	50,033	49,257	51,196	52,748
2BR	50,282	51,062	52,622	53,324	60,340	59,404	61,743	63,614
3BR	64,361	65,359	67,356	68,254	77,235	76,037	79,031	81,426
SFH (same 3BR)	71,702	72,813	75,037	76,038	86,043	84,709	88,044	90,712
Pittsburg								
0 BR	35,320	35,880	37,002	37,338	40,366	42,720	42,384	43,393
1BR	40,724	41,370	42,664	43,051	46,542	49,257	48,869	50,033
2BR	49,113	49,893	51,452	51,920	56,130	59,404	58,937	60,340
3BR	62,865	63,863	65,859	66,458	71,846	76,037	75,439	77,235
SFH (same 3BR)	70,034	71,146	73,370	74,037	80,040	84,709	84,042	86,043
Salina								
0 BR	35,320	35,880	37,002	37,338	40,366	41,038	43,057	43,393
1BR	40,724	41,370	42,664	43,051	46,542	47,318	49,645	50,033
2BR	49,113	49,893	51,452	51,920	56,130	57,066	59,872	60,340
3BR	62,865	63,863	65,859	66,458	71,846	73,044	76,636	77,235
SFH (same 3BR)	70,034	71,146	73,370	74,037	80,040	81,374	85,376	86,043
Garden City								
0 BR	34,759	35,320	36,442	36,665	40,366	40,029	42,048	42,720
1BR	40,078	40,724	42,017	42,276	46,542	46,154	48,481	49,257
2BR	48,333	49,113	50,673	50,985	56,130	55,662	58,469	59,404
3BR	61,867	62,865	64,861	65,260	71,846	71,248	74,840	76,037
SFH (same 3BR)	68,922	70,034	72,258	72,703	80,040	79,373	83,375	84,709
Kansas City								
0 BR	44,010	44,290	45,132	45,748	47,766	49,784	51,466	52,812
1BR	50,743	51,067	52,037	52,748	55,075	57,402	59,341	60,892
2BR	61,197	61,586	62,756	63,614	66,421	69,227	71,566	73,437
3BR	78,332	78,830	80,328	81,426	85,018	88,611	91,604	93,999
SFH (same 3BR)	87,265	87,821	89,489	90,712	94,714	98,716	102,051	104,719
Topeka								
0 BR	38,684	39,244	40,366	41,375	43,729	44,739	46,084	47,430
1BR	44,602	45,249	46,542	47,706	50,421	51,584	53,135	54,687
2BR	53,791	54,570	56,130	57,533	60,808	62,211	64,082	65,953
3BR	68,852	69,850	71,846	73,643	77,834	79,630	82,025	84,420
SFH (same 3BR)	76,704	77,816	80,040	82,041	86,710	88,711	91,379	94,047



**League
of Kansas
Municipalities**

LEGISLATIVE TESTIMONY

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: House Taxation Committee
FROM:  Chris McKenzie, Executive Director
DATE: March 5, 1997
SUBJECT: Testimony on HB 2489

Thank you for the opportunity to appear today on behalf of the 529 member cities of the League of Kansas Municipalities in opposition to HB 2489 at this time. This may appear to be an uncharacteristic position for the League which generally opposes most property tax exemptions. Let me explain its origin and basis.

Over one year ago the League requested the introduction of SB 494 by the Senate Assessment and Taxation Committee to accomplish much the same objective as HB 2489. League policy at that time supported the abolition of this exemption due to concern about the development of detached, independent residential housing units by not-for-profit nursing home corporations in an increasing number of locations in our state. The simple approach seemed to be to recommend the elimination of the exemption for such facilities, and we approached the Senate Committee with that goal in mind.

A funny thing happened on the way through the legislative process, however. I was approached by my colleague at KAHSA, John Grace, about the possibility of spending time over the spring, summer and fall really studying this issue before we rushed to judgement and advocated the legislation. After consulting our respective boards of directors, we requested that the bill not be heard and we formed a Task Force consisting of city, county and not-for-profit retirement community representatives to study and discuss the issue between legislative sessions. The Kansas Association of Counties was not directly involved in these efforts because it was in the process of being reorganized at that time, but a county appraiser was invited to and did participate actively. The Task Force consisted of the following persons:

- ◆ Fred Carpenter, City Administrator, Hesston
- ◆ Bill Goering, City Administrator, McPherson
- ◆ Jim Heinicke, City Administrator, North Newton
- ◆ Rod Neitzel, Harvey County Appraiser
- ◆ Al Holsopple, Executive Director, Mennonite Friendship Retirement Community, South Hutchinson
- ◆ Richard Catlett, Executive Director, Lakeview Village, Lenexa
- ◆ Robert Bethell, Executive Director, Sterling Presbyterian Manor
- ◆ Leo Schmidt, Executive Director, Showalter Villa, Hesston

We invited Dr. Merrill Raber, a respected private consultant from Newton, to assist in the early meetings as a facilitator. We held meetings in April, May and June to exchange views on the issue and identify positive outcomes that might be achieved through compromise and the pursuit of common goals. Guiding us in our efforts was a constant desire to create a program that recognizes both the needs of local units of government and the not-for-profit providers in serving the growing elderly population while at the same time fairly compensating local units for the services they provide.

Following three meetings of the Task Force, staff from the League, KAHSA and the Kansas Association of Counties (somewhat later in the process) met several times to further explore the various proposals and to hammer out possible approaches for a compromise or "win/win" solution. All parties agreed upon the drafting of a document describing our program embodied in a "Joint Statement of Understanding" among the associations, creating what we have referred to as the "Good Neighbor Program" for KAHSA member retirement communities. That program is described in the attached final version of the Joint Agreement. For reasons that are best explained by the KAC, the county association chose not to give final approval to the Joint Agreement, but it has been approved by both the KAHSA and League boards of directors.

In short, the Joint Agreement recognizes the legitimate needs of the retirement communities to care for the aging and the importance of adequate financial support for local government (all local units). In order to achieve these goals, the Joint Agreement recommends that representatives of retirement communities and local units of government sit down and negotiate agreements for a payment in lieu of taxes (PILOT) and/or services in lieu of taxes (SILOT) based on the following parameters:

① **Apply to Units Built After 1/1/90.** Most of the detached, independent living units that have become the subject of local concern have been constructed since January 1, 1990. Those constructed before that time are generally much more modest in nature, resembling your typical government-subsidized housing.

② **Benchmark for Negotiated Agreements.** We recommended that local negotiators use the U.S. Housing and Urban Development 221(d)(3) program's housing cost rates as a benchmark for negotiating payments or services in lieu of taxes. The Joint Agreement suggests that the appraised value of such units above this generally accepted benchmark for subsidized housing should be the property value that is the basis for computing payments or services. We felt this was suitable since so much federally subsidized housing, including housing for the elderly, is subject to exemption from property tax across our state under other provisions of state law.

③ **Effect on Currently Taxable Units.** One of the things we found challenging to deal with in our Task Force negotiations is how to treat those properties that are currently taxable but which may be eligible for exemption. The Joint Agreement recommends that KAHSA members make a reasonable effort to negotiate an agreement with the appropriate local authorities **before** seeking an exemption.

④ **Legislative Action.** In order to give local officials and KAHSA members the chance to experiment with this alternative to state legislative action, the League agreed in paragraph 7 of the joint agreement to not support or seek any legislative changes of the type embodied in HB 2489. My being here today is in the spirit of that provision.

Late last year the boards of directors of both KAHSA and the League approved the Joint Agreement. The boards even met jointly together in November to discuss the agreement before it received League approval. We believe it represents the a thoughtful and workable compromise which, if given the chance to work, will increase revenues for local and state government as well as result in the negotiation of fair and informed agreements between retirement communities and their respective local governments.

RECOMMENDATION: We believe the “Good Neighbor Program” deserves a chance to work before legislative action is taken to repeal or limit the provisions of K.S.A. 79-201b *Fifth*. For this reason, the League respectfully recommends that HB 2489 not be acted upon at this time and that the Committee schedule an update on this matter next session.

FEB 14 1997

*JOINT STATEMENT OF UNDERSTANDING BETWEEN ~~KAHSA~~
KANSAS ASSOCIATION OF HOMES AND SERVICES
FOR THE AGING AND THE LEAGUE OF
KANSAS MUNICIPALITIES*

WHEREAS, the Kansas Association of Homes and Services for the Aging, (KAHSA) is an association of not-for-profit long term care facilities, continuing care retirement communities, and senior housing providers; and

WHEREAS, the League of Kansas Municipalities (LKM) is a statutory instrumentality representing the mutual interests of Kansas towns, cities, and local governments; and

WHEREAS, KAHSA members provide valuable benefits and services to their communities, thereby lessening the burdens of county and local governments; and

WHEREAS, county and local governments provide essential services and programs for citizens and property owners, even those exempt from taxation; and

WHEREAS, KAHSA and LKM recognize that there must be cooperation between not-for-profit entities and local governments to meet the needs of the elderly and to create a better community for all citizens;

NOW, THEREFORE, the Kansas Association of Homes and Services for the Aging, Inc. and the League of Kansas Municipalities agree as follows:

1. Importance of Long Term Care for the Aging. Caring for the aging is a major responsibility of society. As government resources shrink, and taxpayer demands for tax relief increase, policy makers are looking for additional ways to provide services to citizens in a more economical and efficient manner. Not-for-profit organizations are increasingly being called upon to respond to these societal needs. Not-for-profit retirement communities have helped and will continue to help fill the need for services with health care and housing programs.

2. Importance of Local Government Services. All citizens benefit from quality local government services, including police and fire protection, and from a strong educational system. The quality of these services depend, in part, on a strong local property tax base. Property owners that are exempt from taxation receive government services, even though their property does not generate revenue for the governmental units that provides those services.

3. **Accommodation of Goals.** KAHSA and LKM agree that a reasonable accommodation should be reached between the mutually laudable goals of charitable community services and maintaining a strong local tax base.

4. **Good Neighbor Program.** KAHSA agrees to develop and implement, and LKM agree to support, KAHSA's "Good Neighbor Program." This program is voluntary for both KAHSA members and local units of government, but compliance is strongly encouraged by KAHSA and LKM. The essential elements of the program are as follows:

(a) Units Built On or After January 1, 1990. Except as provided in subsection (c), by July 1, 1997, KAHSA members are encouraged to discuss and negotiate with a committee of representatives of the affected major local units of government (hereinafter called the "local units"), including school districts, voluntary payments in lieu of taxes (PILOTS) and/or services in lieu of taxes (SILOTS) for detached, independent living units built on or after January 1, 1990. Detached, independent living units built prior to January 1, 1990 shall remain wholly exempt, provided the units qualify for exemption from taxation pursuant to K.S.A. 79-201b. For detached, independent living units built on or after January 1, 1990, KAHSA members are encouraged to negotiate PILOTS and/or SILOTS with their local units consisting of cash payments and/or community benefit services. The amount of payment or value of services to be contributed is left to negotiation between the KAHSA member and the affected major local units. Once the negotiations are completed and agreement has been reached, the final agreement should be submitted to the city governing body for approval.

(b) Benchmark for Negotiated Agreements. Negotiations between KAHSA members and the local units should be guided by the principle that all detached, independent living units that are otherwise exempt from taxation under Kansas law, but built on or after January 1, 1990, should not be asked or expected to negotiate PILOTS or SILOTS except on the value of the real property that is in excess of the HUD §221(d)(3) benchmark as adopted by the federal Department of Housing and Urban Development. Detached, independent living units shall be appraised on a cost appraisal approach including applicable depreciation, or other mutually agreed upon appraisal method, as determined by the county appraiser or other mutually agreed upon appraisal professional.

(c) Effect on Previously Taxable Units. Any KAHSA member owning detached, independent living units that are currently not exempt from taxation but later desires to apply for an exemption pursuant to Kansas law, should make a reasonable and good faith effort to negotiate prior to seeking an exemption with the affected major local units of government to implement a PILOTS and/or SILOTS program to address any actual harm or loss to those units.

(d) Effect on Existing PILOT Agreements. KAHSA members that have previously negotiated and implemented PILOTS or SILOTS may modify or amend those existing agreements to comply with the goals of KAHSA's "Good Neighbor Program."

5. **Promotion of Good Neighbor Program.** KAHSA and LKM agree to promote and support voluntary adherence to KAHSA's "Good Neighbor Program."

6. **Additional Statements.** KAHSA and LKM agree to develop and adopt such additional Joint Statements as are necessary to effectuate the goals and programs contemplated by this Joint Statement.

7. **Legislation.** LKM agrees to not support, introduce, or seek any legislative changes to K.S.A. 79-201b Second or Fifth during the 1997 legislative session, and agree to consider the effectiveness of KAHSA's "Good Neighbor Program" before seeking any legislative changes in the future.

THIS AGREEMENT shall take effect and be in force from and after the later date entered below.

KANSAS ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

Dated: 2/13/97

By Allen L. Horvath Title: Chairman, Board of Directors

LEAGUE OF KANSAS MUNICIPALITIES

Dated: 2/13/97

By Joseph L. Goodright Title: President, League of Kansas Municipalities

joint6

VERNON W. CORRELL
REPRESENTATIVE, SEVENTH DISTRICT
LABETTE COUNTY
PO BOX 214
OSWEGO, KS 67356



TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY
on
HB 2113

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: FINANCIAL INSTITUTIONS
& INSURANCE
MEMBER: AGRICULTURE
TRANSPORTATION
SPECIAL CLAIMS AGAINST
THE STATE

Thank you, Mr. Chairman and members of the Committee:

House Bill 2113 has to do with dormancy of state tax liens by amending KSA 79-3235 and 79-3617.

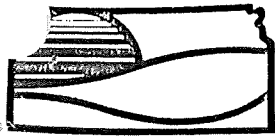
State tax liens are filed mostly in the district court of the county in which the individual resides or the business is located. However, some are filed in the Register of Deeds office.

Once these liens are filed, they seem to be forgotten and under present statute they never go dormant. HB 2113 would bring them in line with federal liens and after 10 years they would become dormant unless an execution is filed.

I will be happy to answer any questions.

Vernon W. Correll
State Representative
District #7

House Taxation
3-5-97
Attachment 6-1



KANSAS LAND TITLE ASSOCIATION



Charles Stewart
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P.O. Box 287
Oakley, KS 67748

Bill Regier
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P.O. Box 346
Newton, KS 67114

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Secretary-Treasurer
434 N. Main
Wichita, KS 67202

MARCH 5, 1997

TO: HOUSE TAXATION COMMITTEE

RE: TESTIMONY HOUSE BILL NO. 2113

FROM: KANSAS LAND TITLE ASSOCIATION

MY NAME IS TODD SHEPPARD, REPRESENTING THE KANSAS LAND TITLE ASSOCIATION.

THE KANSAS LAND TITLE ASSOCIATION SUPPORTS HOUSE BILL NO. 2113.

THE FACT THAT STATE INCOME TAX LIENS AND SALES TAX LIENS HAVE NO STATUTE OF LIMITATIONS IS AN ANOMALY.

ALL OTHER STATE TAX LIENS, AS WELL AS JUDGMENTS OF THE DISTRICT COURT AND EVEN FEDERAL TAX LIENS HAVE STATUTES OF LIMITATIONS THAT APPLY. FOR EXAMPLE:

- EMPLOYMENT SECURITY TAX LIENS - K.S.A. 2403 APPLIES (DORMANT AFTER 5 YEARS, BARRED AFTER 7);
- DISTRICT COURT JUDGMENTS - K.S.A. 60-2403 APPLIES (DORMANT AFTER 5 YEARS, BARRED AFTER 7);
- JUDGMENTS OF RESTITUTION - K.S.A. 60-2403 APPLIES (DORMANT AFTER 10 YEARS, BARRED AFTER 12);
- PERSONAL PROPERTY TAX WARRANTS - K.S.A. 60-2403 APPLIES (DORMANT AFTER 5 YEARS, BARRED AFTER 7);
- INHERITANCE TAX LIENS - K.S.A. 79-1569 APPLIES (LIEN DIVESTED AFTER 10 YEARS);
- FEDERAL TAX LIENS - 10 YEAR STATUTE OF LIMITATIONS;
- FEDERAL ESTATE TAX LIENS - 10 YEAR STATUTE OF LIMITATIONS;

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House Taxation
3-5-97
Attachment 7-1

EACH STATUTE OF LIMITATIONS HAS A PROVISION WHEREBY THE LIEN MAY BE RENEWED BEFORE THE LIEN IS DIVESTED OR BARRED, THUS PRESEVING THE RIGHTS OF THE LIEN CREDITOR.

THE QUESTION OF WHETHER A STATUTE OF LIMITATIONS APPLIES TO STATE INCOME LIENS AND SALES TAX LIENS WAS DEALT WITH IN KANSAS SUPREME COURT CASE RIGGAN VS. DIRECTOR OF REVENUE 203 KAN. 129. THE COURT IN THAT CASE INDICATED THAT SINCE THE LEGISLATURE DID NOT SPECIFICALLY MAKE K.S.A. 60-2403 APPLICABLE TO SUCH LIENS, THEN THE COURT WOULD NOT DO SO. HOWEVER, THE DECISION WAS 4-3 IN FAVOR OF THE DEPARTMENT OF REVENUE, WITH A STRONG DISSENT FROM JUSTICES SCHROEDER, FATZER AND FROMME. THE DISSENTING OPINION INDICATES THAT THE PROVISIONS OF K.S.A. 60-2403 APPLY TO JUDGMENTS ENTERED IN FAVOR OF THE STATE, INCLUDING JUDGMENTS ARISING FROM TAX WARRANTS AND THAT IT IS "A MERE PLAY ON WORDS AND HYPERTECHNICAL TO SAY UNDER 60-2403 THAT JUDGMENTS RENDERED IN A COURT OF RECORD IN THIS STATE DO NOT INCLUDE A JUDGMENT ENTERED BY VIRTUE OF THE ENTRY OF A TAX WARRANT....

ALLOWING STATE INCOME TAX WARRANTS AND SALES TAX WARRANTS TO EXIST "IN PERPETUITY" CREATES UNCERTAINTY IN THE MARKETABILITY OF REAL ESTATE TITLES.

MEMBERS OF THE KANSAS LAND TITLE ASSOCIATION FIND THAT SUCH LIENS ARE VERY OFTEN PAID BUT NEVER RELEASED BY THE DEPARTMENT OF REVENUE. THEN WHEN THE LIEN BECOMES EXCESSIVELY OLD, IT IS DIFFICULT TO OBTAIN A RELEASE FROM THE DEPARTMENT OF REVENUE DUE TO THE AGE OF THE WARRANT.

THE PROVISIONS OF HOUSE BILL 2113 CONFORM STATE INCOME TAX WARRANTS AND SALES TAX WARRANTS TO OTHER LIENS OF A LIKE KIND AND NATURE AND STILL PERMIT THE DEPARTMENT OF REVENUE TO ENFORCE ITS WARRANTS.

PASSAGE OF HOUSE BILL 2113 WILL CREATE MORE CERTAINTY IN REAL ESTATE TITLES WHILE NOT CREATING AN UNDUE HARDSHIP ON THE DEPARTMENT OF REVENUE.