

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Vice Chairperson Lynn Jenkins at 10:50 a.m. on February 22, 2002, in Room 519-S of the Capitol.

All members were present except: Senators Corbin and Allen

Committee staff present: Chris Courtwright, Legislative Research Department  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator Jay Scott Emler  
Craig Simons, Harvey County Administrator  
Craig Clough, Harvey County Appraiser  
John Waltner, Mayor, City of Hesston  
Bill Williams, City of Inman  
Larry Sharp, Reno County Commissioner  
Gary Meagher, City of McPherson  
Judy Moler, Kansas Association of Counties  
Don Moler, League of Kansas Municipalities  
John Grace, Kansas Association of Homes and Services for the  
Aging  
William Ward, Presbyterian Manors of Mid-America

Others attending: See attached list.

The minutes of the February 21, 2002, meeting were approved.

**SB 479—Property tax exemption moratorium for certain elderly housing**

Senator Emler, who requested the introduction of **SB 479**, explained that the issue the bill addresses was brought to his attention by citizens of Inman, Kansas. However, he feels that the issue is of great concern to small communities statewide.

Craig Simons, Harvey County Administrator, testified in support of **SB 479**, noting that the issue of the property tax exemption status of independent elderly housing units owned by nonprofit retirement communities is pitting local governments against retirement communities, splitting communities, and creating ill will between members of the communities. An example is Harvey County where there are five nonprofit retirement communities in three cities. Mr. Simons explained that the problem was created by K.S.A. 79-201b, Fifth, which does not limit the income of residents in the units or on the costs of the housing being constructed. He pointed out that the bill does not apply to the tax exempt status of nursing homes, housing for low income elderly financed through federal acts, and housing for low income elderly owned by municipalities. Mr. Simons noted that Harvey County has approached the issue in three ways, one of which was an attempt to negotiate an in-lieu payment from the nonprofit retirement communities. However, no agreement could be reached. He noted that nonprofit retirement communities generally have financial requirements which screen out lower income persons, and consequently, the housing facility becomes a group of middle to upper income residents who are able to secure long-term care along with a tax advantage. Mr. Simons supports the one year moratorium (tax year 2002) on exempting this type of housing in order to allow additional time to study the issue. (Attachment 1)

Craig Clough, Harvey County Appraiser, testified in support of **SB 479**. He noted that elderly housing operated by nonprofit retirement communities currently tends to be upscale and expensive and that less expensive housing affordable for lower income persons is seldom constructed. In this regard, he called the Committee's attention to a photograph of a duplex valued at \$225,200 in a retirement community in Hesston, Kansas, for which no property taxes were paid in 2001. He noted that entire subdivisions of apartments,

## CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:50 a.m. on February 22, 2002, in Room 519-S of the Capitol.

duplexes, and houses are paying no property taxes because of the tax loophole in K.S.A. 79-201b, Fifth. He informed the Committee that Harvey County has 461 tax exempt elderly residential units valued at \$34,324,330, which would be paying an estimated total of \$461,200 in property taxes in 2002 if Kansas law did not exempt them. He emphasized that, although elderly persons living in housing operated by a nonprofit retirement community pay no property taxes, elderly persons living in their own homes must pay property taxes, thus subsidizing the services used by independent living residents. In his opinion, in fairness to elderly citizens who must pay property taxes, the loophole should be eliminated. ([Attachment 2](#))

John Waltner, Mayor of the City of Hesston, testified in support of **SB 479**, noting that its passage would be a significant step toward equity and fairness. He explained that Hesston's not-for-profit retirement center has expanded during the last decade and currently has an appraised value of \$9,202,000. He noted that the target market for the units are the "young/old" retirees who are quite healthy, energetic, and affluent. The City of Hesston believes the retirees should be required to pay their fair share of the cost to expand city services to meet the needs of the retirement center. ([Attachment 3](#))

Bill Williams, who testified in support of **SB 479** on behalf of the Inman City Council, acknowledged that Pleasant View Home, Inc., located in Inman has had a positive impact on the local economy. He reasoned that the economic success of the city should not become a tax burden for business and property owners. He explained that Pleasant View Home has requested a tax exemption for its independent living units. If approved, the exemption will add an additional appraised valuation loss of 14.42 percent to the total loss of appraised valuation to not-for-profit entities, making the total loss 33.42 percent. He contended that the proposed reduction in assessed valuation will impact the ability of the City of Inman to incur indebtedness in the future. He noted that, although Pleasant View Home offered voluntary payment in-lieu-of taxes (PILOT), the PILOT is not acceptable because the procedure is seriously flawed, inconsistent, and can be discontinued. In addition, he noted that the city is concerned that the residents of the independent units, who do not pay their fair share of property taxes, can exercise their right to vote on tax issues that could affect the outcome of a city or school district election. ([Attachment 4](#))

Larry Sharp, Reno County Board of Commissioners, testified in support of **SB 479**. Mr. Sharp stated that he has no objection to the construction of housing complexes for the elderly which include independent living units, and he believes that this type of housing will continue to grow statewide and will be an asset to communities. However, in his opinion, the people who can most afford local tax assessment unfairly escape property taxation when they sell their principal residence, keep the proceeds, and move into elderly housing units on or near nursing home complexes. He emphasized that the issue does not involve new or increased taxation but rather involves spreading taxes appropriately over as many of the county citizens as possible to ensure as much fairness as possible. ([Attachment 5](#))

Gary Meagher, representing the McPherson City Commission, testified in support of **SB 479**. He commented that the assisted living area in a nonprofit elderly housing community in McPherson is tax exempt under current state law as it should be. He noted that the chief executive officer of the community is considering an application for a property tax exemption for the independent living units. Mr. Meagher objects to the exemption on the grounds that the residents of independent living units have the same demands for good roads, adequate police and fire protection, and the other services the city offers as all other residents in the city. He posed the question, "Are we really being fair to other senior citizens and members of our community that pay their share, even though they may not be as financially secure as those living in this upper income independent living development?" He urged the passage of **SB 479** to allow time for assessment of the impact of K.S.A. 79-201b, Fifth, on all levels of government. ([Attachment 6](#))

Judy Moler, Kansas Association of Counties (KAC), testified in support of **SB 479**, noting that KAC's platform position for several years has endorsed tax equity in the area of current statutory exemption from property taxation of independent, elderly housing units owned by nonprofit retirement communities. She noted that the problem with inequity in taxation will increase as Kansas ages. She contended that the one year moratorium the bill provides will allow time to work out alternatives. ([Attachment 7](#))

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:50 a.m. on February 22, 2002, in Room 519-S of the Capitol.

Don Moler, League of Kansas Municipalities, gave final testimony in support of **SB 479**. He informed the Committee that the League has discussed the issue of tax exemptions for residential elderly housing at all of its meetings since last September, and it determined that the appropriate course of action is to study the current ramifications of this property tax exemption and the equities, or lack thereof, in both large and small communities within the state. The League intends to conduct statewide research and survey its member cities during the spring and summer of 2002 in an effort to ascertain the breath and depth of the tax fairness issue. Once a determination whether or not to proceed is made, the League may return to the Legislature in 2003 to ask for a permanent solution to the problem. (Attachment 8)

John Grace, Kansas Association of Homes and Services for the Aging (KAHSA), testified in opposition to **SB 479**. At the outset, he emphasized, "There is no loophole: This is good public policy." He informed the Committee that of approximately 14,000 people residing in not-for-profit retirement communities in Kansas, less than five percent live in units described by conferees testifying in support of the bill. He followed with a description of typical residents of a not-for-profit housing for the elderly, and he outlined the reasons seniors choose to reside in retirement community housing. He discussed the following reasons he opposes the bill as listed in his written testimony under the heading, "Government Can't do it all: Why This is Good Public Policy:" (1) Not-for-profit retirement communities relieve the burden local governments, (2) Not-for-profit retirement communities provide substantial community benefits; (3) Without the property tax exemption, Medicaid costs to the state would increase; (4) Services offered through retirement communities prevent or delay the use of more costly health services; (5) Government financed housing for the elderly is shrinking, and not-for-profit organizations will be called upon to serve the needs of the growing elderly population; (6) Older people are taking personal responsibility by planning for their own housing and health needs. Mr. Grace pointed out that, in order to obtain this exemption, organizations must meet very strict statutory requirements and that K.S.A 79-201b, Fifth, was strengthened and clarified by the Legislature in 1974 and 1999. He noted that, in order to meet the concerns in a few communities about the issue, KAHSA created the "Good Neighbor Program," and several retirement communities have moved ahead with the program. He explained that KAHSA worked on an agreement with the Harvey County Commission for over a year; however, the Commission rejected the program. In his opinion, the exemption is based on sound principles and should stand. (Attachment 9)

Bill Ward, Presbyterian Manors of Mid-America, Inc., testified in opposition to **SB 479**. He noted that conferees testifying in support of the bill focused on the tax revenue communities would like to receive. In his opinion, more consideration should be given to the benefits not-for-profit retirement living corporations bring to communities. In this regard, he noted that Presbyterian Manors has a \$30 million annual payroll in Kansas and, in addition, provides an opportunity for elderly residents to remain active in the community in which they spent many years of their life. He pointed out that the circumstances of independent living residents are not the same as elderly persons living in private homes as almost all of them make the decision to leave their homes following a life changing event such as the death of a spouse. The residents get several types of supportive services which allow them to feel that they are maintaining control and independence. With regard to the proponents' argument that passage of the bill would allow time for a study of the issue, Mr. Ward compared the passage of a bill before studying the issue to the risk of performing surgery before making a diagnosis. In conclusion, he called attention to the last page of his written testimony which lists the various services retirement communities provide for affiliated universities and educational institutions. He pointed out that, today, communities are developed in totality, and when one part of the whole piece is pulled out, the whole community is affected. He noted that affluent residents in nonprofit living communities for the elderly are the exception, not the rule. (Attachment 10).

There being no others wishing to testify, the hearing on **SB 479** was closed.

The meeting was adjourned at 12:00 p.m.

The next meeting is scheduled for February 26, 2002.

# SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 22, 2002

NAME	REPRESENTING
Jay Scott Emler	Senate Dist. # 35
Carol Crupper	Hannus News
LARRY SHARP	Reno County Commissioner
Ann Ankus	DOB
DAVID Beck	Brewster Place
Stam Churchill	Presbyterian Manors
Bill Ward	Presbyterian Manors
Dave Holtman	Hein Law Firm
BRADLEY REIFF	KDOC+H
DAVID SPEAKER	KDOC+H
George Petersen	KTN
BILL YANEK	Kansas Assoc. of REALTORS
James Simmons	Reno County
Blanche Williams	Inman
Bill Williams	INMAN
John O'Brien	Inman
Bruce Thiessen	INMAN
Ben L. Thiessen	Inman
Bill Waters	PVD KDOR



TESTIMONY BEFORE THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION  
IN FAVOR OF PASSAGE OF SENATE BILL 479.

FEBRUARY 22, 2002

HARVEY COUNTY ADMINISTRATOR CRAIG SIMONS

The issue of the property tax exemption status of independent elderly housing units owned by non-profit retirement communities is pitting local government against retirement communities, and splitting communities and creating ill will between members of those communities. A very good example is in Inman, Kansas. Another example is in Harvey County where there are five non-profit retirement communities in three cities. Why is this animosity happening? I do not believe this is the fault of the retirement communities, as these retirement communities, and residents living in the tax-exempt housing units, are taking advantage of a legal exemption provided by the Legislature. I do not believe it is the fault of the local governments, as these local governments are attempting to provide services to these housing units without the collection of property taxes. The real culprit is the statutes which allows the property tax exemptions. The solution is with the Kansas Legislature, and a change in these statutes. I believe the fair way to grant property tax exemptions or partial exemptions for this type of housing is by using the present Kansas Homestead Program. The Kansas Homestead Program calculates the property tax exemptions on income levels.

I would like to present a brief history of the property exemption for independent elderly housing units owned by non-profit retirement communities and present the implications for public policy. The original legislation was passed in 1974 after the Kansas Supreme Court ruled in 1973 that a nursing home operated by a not-for-profit corporation was not exempt from property taxes. The Court determined the nursing home was not used exclusively for charitable or benevolent purposes. State lawmakers who drafted the original language providing K.S.A. 79-201b, Fifth stated clearly that the public purpose for the exemption was to provide housing for low-income aged. This original concept has largely disappeared as few if any low-income units are presently being constructed under 79-201 b, Fifth. There are no limits on income of those residents in the units or limits on the costs of the housing being constructed.

Please keep in mind Senate Bill 479 does not apply to the tax exempt status of nursing homes (K.S.A. 79-201b, Second), housing for low income elderly financed through certain federal acts (K.S.A. 79-201b, Fourth), and housing for low income elderly owned by municipalities (K.S.A. 79-201b, Sixth). These exemptions from property taxes have good public policy reasons for continuing in the future.

Harvey County has approached the issue in three ways; first, through the Court system, secondly, through attempts to change legislation, and third, attempting to negotiate an in-lieu payment from the non-profit retirement communities. Harvey County and the retirement communities were in the Court system for years, and in the Kansas Supreme Court in 1999. In the middle of this Kansas Supreme Court case, an amendment was added to a bill in the eleventh hour of the 1999 Kansas Legislative Session which ruined our Court case. There were no public hearings concerning this amendment to my knowledge. In regard to Legislation, Harvey County testified on behalf of House Bill 2489 on March 5, 1997, but the bill was never approved. Thirdly, in regard to negotiating an in-lieu payment from the non-profit retirement communities,

*Senate Assessment & Taxation  
2-22-02  
Attachment 1*

*79-201 b  
Fifth*

I believe this is poor public policy. The tax policy should be uniform across the State of Kansas for these independent elderly housing units owned by non-profit retirement communities. Nevertheless, Harvey County did attempt to negotiate an in-lieu payment with the five retirement communities in Harvey County and the Kansas Association of Homes and Services for the Aging. No agreement could be reached.

I do not believe these issues will go away. More and more of these housing units are being constructed off of the property tax rolls across the State of Kansas. Harvey County has entire sub-divisions off the property tax rolls. The non-profit retirement communities generally have financial requirements which screen out the lower income persons. Consequently, the housing facility becomes a group of middle to upper income residents who have secured long-term care for themselves, and have secured tax advantages in the process. More and more persons will perceive the unfairness of the exemption, and more ill feelings will arise within communities. Therefore, I would ask your support of Senate Bill 479 to place a one-year moratorium on exempting these housing units. This issue needs to be studied and examined.

**CLOSE A TAX LOOPHOLE**

ny counties in Kansas are experiencing the increase in construction of elderly housing operated by non-profit retirement communities. This elderly housing is for persons who can live independently on their own. This elderly housing tends to be upscale and expensive. The cheaper housing affordable to lower income elderly persons is seldom being constructed at the present time. According to Kansas law, elderly persons living in housing operated by a non-profit retirement community pay no property taxes. Other elderly persons living in their own homes do pay property taxes. Entire sub-divisions of apartments, duplexes, and houses are paying no property taxes because of this tax loophole. **This is a question of fairness.** It does not appear to be fair to those elderly constituents paying property taxes. As a result, K.S.A. 79-201b, Fifth allowing this tax loophole should be eliminated through a bill by the Kansas Legislature. Adult care homes and nursing home facilities should remain exempted from paying property taxes as per K.S.A. 79-201b, Second. There are good public policy reasons to exempt adult care homes and nursing home facilities from paying property taxes.

In Harvey County, (county seat is the City of Newton), the County Appraiser lists 461 elderly housing units operated by five non-profit retirement communities, excluding the nursing home facilities. More tax exempt elderly housing units are being



LAKE VISTA ADDITION  
SCHOWALTER VILLA RETIREMENT COMMUNITY  
HESSTON KANSAS

2002 APPRAISED DUPLEX VALUE.....	\$225,200
2001 PROPERTY TAXES PAID.....	\$0

constructed each year in Harvey County. These 461 elderly residential units are valued at \$34,324,330. The 461 elderly residential units would be paying an estimated total of \$461,200 in property taxes in 2002, if Kansas law did not exempt the units. This is a significant tax loss for a county the size of Harvey County. As can be seen in the pictures, many of the units are not low-income housing. Other counties in Kansas have properties exempted due to K.S.A. 79-201b, Fifth. This tax loophole is unfair to those elderly persons paying property taxes, and should be eliminated

through a bill by the Kansas Legislature.

The Kansas Homestead Program provides property tax relief for lower income elderly persons. This is a uniform method across the State of Kansas to provide property tax relief for the lower income elderly. This is the proper method to provide property tax relief rather than exempting elderly housing regardless of the income of the occupants.

The retirement communities have recognized the problems created by the tax exemptions on elderly housing. As a result, the retirement communities have promoted

a so-called, "Good Neighbor Policy," to be negotiated between local governments and the local retirement communities. The "Good Neighbor Policy" provides for in-lieu of property tax payments and in-lieu of service payments. The "Good Neighbor Policy" is seriously flawed, however, because the "Good Neighbor Policy" is a voluntary program, and only a small portion of in-lieu of property taxes would be collected.

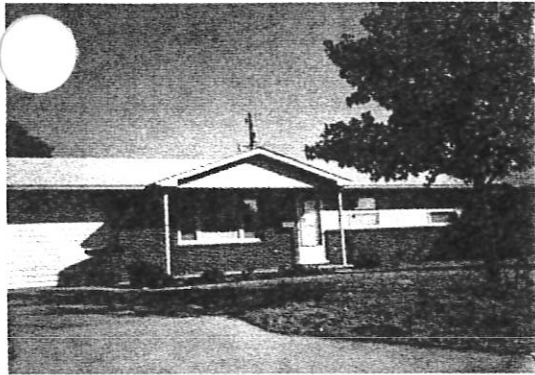
A common solution needs to be enacted statewide by the Kansas Legislature. Please vote to eliminate K.S.A. 79-201b, Fifth. Adult care homes and nursing home facilities would still remain exempt from property taxation. The independent elderly housing would pay property taxes regardless of the status of the owner.



HARVEY COUNTY KANSAS  
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Senate Assessment & Taxation 2-22-02 Attachment 2

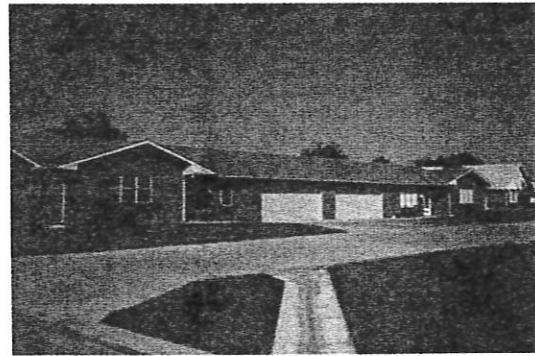




FRIENDLY ACRES RETIREMENT COMMUNITY  
 NEWTON, KANSAS  
 2002 APPRAISED VALUE: \$68,060  
 2001 PROPERTY TAXES PAID: \$0



PRESBYTERIAN MANOR RETIREMENT COMMUNITY  
 NEWTON, KANSAS  
 2002 APPRAISED VALUE: \$97,630  
 2001 PROPERTY TAXES PAID: \$0



KANSAS CHRISTIAN HOME RETIREMENT COMMUNITY  
 NEWTON, KANSAS  
 2002 APPRAISED DUPLEX VALUE: \$202,300  
 2001 PROPERTY TAXES PAID: \$0



SCHOWALTER VILLA RETIREMENT COMMUNITY  
 HESSTON, KANSAS  
 2002 APPRAISED DUPLEX VALUE: \$239,590  
 2001 PROPERTY TAXES PAID: \$0



FRIENDLY ACRES RETIREMENT COMMUNITY  
 NEWTON, KANSAS  
 APPRAISED VALUE: \$87,040  
 2001 PROPERTY TAXES PAID: \$0



KANSAS CHRISTIAN HOME RETIREMENT COMMUNITY  
 NEWTON, KANSAS  
 2002 APPRAISED VALUE \$105,070  
 2001 PROPERTY TAXES PAID: \$0

**Craig Simons**  
 Harvey County Administrator  
 316-284-6806

**Craig Clough**  
 Harvey County Appraiser  
 316-284-6813

# CLOSE A TAX LOOPHOLE

2-2

**WHICH ONE OF THESE HOUSES IS PAYING PROPERTY TAXES?**



KANSAS CHRISTIAN HOME  
 RETIREMENT COMMUNITY  
 NEWTON, KANSAS

2002 APPRAISED VALUE: \$126,500  
 2001 PROPERTY TAXES PAID: \$0



SINGLE FAMILY DWELLING  
 NEWTON, KANSAS

2002 APPRAISED VALUE: \$29,420  
 2001 PROPERTY TAXES PAID: \$413.18

**TESTIMONY BEFORE THE SENATE COMMITTEE ON  
ASSESSMENT AND TAXATION**

**GIVEN FEBRUARY 22, 2002**

My name is John Waltner and I thank you for this opportunity to appear before you today. For the last seventeen years I have been the mayor of the City of Hesston, a city of approximately 3,600 people. I am here today with my colleagues from Harvey County to speak in support of Senate Bill 479 which stipulates that for the tax year 2002 a moratorium be declared on granting property tax exemption to independent housing units for elderly persons at not for profit retirement centers in Kansas. Passage of this bill would be a significant step toward equity and fairness--some basic tenets of any defensible tax policy.

In Hesston we are fortunate and proud to be the home of a very fine not for profit retirement center--Schowalter Villa. Founded in the late 1950s, Schowalter Villa now delivers a broad range of high quality services to its residents--nursing care, Alzheimer's care, assisted living, and independent living. Schowalter Villa provides meaningful work for many citizens living in Hesston. It is also deservedly recognized statewide for delivery of the highest quality care to its residents.

Let me remind you that it is at our level--the face-to-face local level--that policies established in state statute are actually carried out. At the local level we must deliver pure drinking water, treat wastewater, pave streets, protect our citizens, enhance the quality of life--and figure out how to pay for it all. Because of a glaring loophole in the present law, we now see the City of Hesston and Schowalter Villa locked in conflict over payment for local governmental services. We should not be fighting one another. The Legislature has placed us in this position and we ask the Legislature for relief.

Since 1990 Schowalter Villa has embarked on an aggressive expansion and marketing campaign which has been mirrored by other progressive retirement centers in our area. During this past decade, in Hesston we have seen the construction of 83 high-end independent living units with a

*Senate Assessment & Taxation  
2-22-02  
Attachment 3*

combined appraised value of \$9,202,000. None of this is on the tax rolls, nor have we received any in-lieu of tax payments for these properties. Recently, Schowalter Villa submitted a preliminary plat to the City of Hesston signaling their intent to construct an additional 32 buildings of comparable quality which will house 64 more independent living units.

The target market for these units are largely the "young/old"--retirees who are quite healthy, energetic, mobile, and affluent. These residents are engaged in the life of our community in many ways and add a rich dimension to the demographic mix of Hesston. For that we are grateful. We simply wish that they would be required to pay their fair share of the cost of city services.

Allow me to briefly highlight two areas to illustrate the point. Spurred by the expansion plans at Schowalter Villa, in the early 1990s the City of Hesston undertook a \$1 million wastewater treatment plant upgrade and a \$1.1 million sewer line upgrade including expensive lift stations to serve the new development. The projects were funded with General Obligation Bonds meaning that property tax payers living in **non-exempt** housing bear the cost exclusively.

Secondly, our EMS service in Hesston is significantly impacted by our elderly population. In Hesston, we have a volunteer ambulance system with an annual budget of approximately \$170,000. Nearly 50% of our EMS budget is funded by user fees, which means that property tax payers heavily subsidize this service. Fully 25% of our EMS runs are for Schowalter Villa residents, which means that property tax payers must provide an annual subsidy of over \$20,000.

When retired citizens of Hesston who opt to continue living in their own homes question me about the fairness of this, you can understand their frustration--and mine. I urge you to pass Senate Bill 479 that is before you. Then go one step further. Take a stand for tax fairness and permanently end the property tax exemption for upscale independent living units at not for profit retirement centers in the state of Kansas.

February 22, 2002

Testimony in support of Senate Bill 479 by Senator Emler ( by request)

Greetings: Chairman Corbin, Vice Chairman Jenkins, Committee members and others:

My name is Bill Williams, City Volunteer, Mayoral Adviser and K-61 Project Liaison.

I am appearing on behalf of the Inman City Council in support of Senate Bill 479 that provides for a moratorium as stated. "that K.S.A 79-201 (b) fifth shall not be applicable to tax year 2002."

The passage of this legislation would allow for a state wide study to determine the impact that current legislation (K.S.A. 79-201 (b) fifth) has on counties, cities and school districts where these independent housing units are located. These results could be used by the owners of these units(nursing homes) and the public entities for a coordinated effort to recommend changes to K.S.A. 79-201 during the 2003 legislative term.

As a small community, we appreciate the activities and vision that Pleasant View Home Board has demonstrated in developing their facility. The economics, the utilization of manpower and materials has made a positive impact on our city and the business district. Being the largest employer in the city has also contributed to the local economy.

Now having said that, I must pose this question. Does economic success in our city have to become a tax burden on the business and property owners? The city council doesn't think it should.

The following information reflects the loss of taxes paid to entities. I have highlighted the losses that impact the Inman community.

Decrease in taxes paid by Pleasant View, The Cedars, Memorial Home and Bethany Home if property tax exemption is requested and granted for independent living units.

February 22, 2002

<u>Entity</u>	<u>Amount</u>
<b>Inman City</b>	\$ 35,428.60
Lindsborg City	\$ 2,759.06
McPherson City	\$ 44,441.74
Moundridge City	\$ 11,885.33
USD 400	\$ 2,862.96
USD 418	\$ 33,075.73
USD 423	\$ 16,390.04
<b>USD 448</b>	\$ 13,636.07
<b>Fire District #5-Inman</b>	\$ 2,457.48
<b>Inman Cemetery</b>	\$ 619.23
County	\$ 75,982.44
Sub Total of Local Taxing Districts	\$239,538.68
State of Kansas	\$ 3,353.65
USD State Levy 20 Mills	\$ 44,715.28
<b>Total of All Taxing Districts</b>	<b><u>\$287,607.61</u></b>

This information provided by McPherson County Administrator

Currently the city has a 19% loss of appraised valuation due to the exempt property owned by churches, schools, the city or other not for profit entities. The Pleasant View Home, Inc. has processed the necessary papers to request tax exemption for their independent living units. This act, if approved, will place an additional appraised valuation loss of 14.42%. Our total loss of appraised valuation to not for profit entities will then be 33.42%.

The proposed reduction in assessed valuation will impact the ability of the City to incur indebtedness in the future. Some bidders will not bid on future bond issues with a direct debt ratio greater than 30%.

Over the years, we, as a Governing Body have proceeded with caution where indebtedness is concerned. We have made internal improvements in a careful manner while always being conscious of our debt ceiling. What we are now having to face is the very real possibility that with this single act, we will have arrived at our debt limit and be unable to proceed with fiscal responsibility where our infrastructure is concerned.

February 22, 2002

Other methods of financing would place a heavy burden on those people in Inman who are already carrying heavy tax loads.

In our case, Pleasant View Home, Inc. has offered voluntary Payment In Lieu Of Taxes (PILOTS) as a way to off set some of these losses. However they make it very clear that these payments are voluntary and are based on any unforeseen event, they may need to alter these payments. The city would be given 6 months notice of any changes.

Unfortunately the Kansas Statues does not afford this opportunity to other tax payers in the city. PILOTS is not acceptable because the procedures are seriously flawed, inconsistent, and can be discontinued. The contributor also determines the number of units, the amounts and the time frame that these contributions will be made. PILOTS will not change the loss in appraised valuation.

Also there is a concern that a sizable population living in up-scale housing (See Attached), not paying taxes and exercising their right to vote on tax issues that could affect the outcome in a City or School District Election.

We respectfully ask this committee to pass this Legislation to the Full Senate with support.

Questions

Thank you for the opportunity to testify.

*Pleasant View Home Inc.*

H-4



2000 APPRAISED VALUE SINGLE DWELLING VALUE \$163,000



2000 APPRAISED VALUE DUPLEX VALUE \$175,500



2000 APPRAISED VALUE 8 APARTMENTS VALUE \$575,200



RENO COUNTY COMMISSIONERS  
206 WEST FIRST AVENUE  
HUTCHINSON, KANSAS 67501  
(620) 694-2929

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KANSAS SENATE  
ASSESSMENT & TAXATION

FEBRUARY 22, 2002

RE: Senate Bill 479

Honorable David Corbin and Members of the Senate Taxation Committee:

I am here on the behalf of the Citizens of Reno County and indeed citizens of all 105 Kansas counties to address another looming tax equity and assessment issue that seems to be growing by leaps and bounds across our county and elsewhere in Kansas.

This is, of course, the independent elderly housing complexes that have been built in our county and those of our neighboring counties. Please make no mistake; I am certainly for this type of housing to accommodate our seniors as they enter into their retirement years. However, as we have seen time and again in our own county, rather well-to-do senior citizens sell their principal residence and after keeping the proceeds, usually tax free, then exercise an option to move into elderly housing units on or near nursing home complexes and those units escape any local property tax assessments.

At first I did not think there was much of an impact or a problem on our local tax base. However, since my years on the Board of County Commissioners and as I view the changing demographics in our county and in our state, it's apparent that these types of complexes will continue to proliferate within our counties. Make no mistake; they are an asset to our counties, however now we are dealing with a basic tax fairness issue. These same folks who once lived in moderately priced or upper scale priced homes and paid their fair share of property taxes now have a mechanism in which they can sell their homes and move into similar housing units and escape any property tax assessments whatsoever. And, it is my opinion that the same people who can most afford local tax assessments are thus able to escape them.

*Senate Assessment & Taxation  
2-22-02  
Attachment 5*





We never like to talk about new taxes or increasing taxes on our local citizens, however what we are talking about here is not necessarily new taxes but spreading the taxes appropriately over as many of the citizens and counties as possible to insure as much fairness as possible. This not only affects the counties but the cities, school districts and other special districts as well. I'm here to urge you to look seriously and thoughtfully at disallowing independent elderly housing units to escape paying their fair share of taxes within those jurisdictions. I'm here to bring this issue before you with the full support of my fellow board members and I believe the full support of the vast majority of county commissioners across this state.

Thank you for your consideration of this important issue.

A handwritten signature in cursive script that reads "Larry R. Sharp".

Larry R. Sharp, Chairman  
Reno County Board of Commissioners



**MCPHERSON**  
 "When it Matters"

Clerk/Administrator 250 • 2535  
 City Attorney • 2535  
 Public Works Director • 245-2545  
 Fire Chief • 245-2505  
 City Inspector • 245-2547  
 Chief of Police • 245-1200  
 Sanitarian • 245-2548  
 Park Superintendent • 245-2565  
 Cemetery Sexton • 245-2568  
 Tele Fax • 245-2549

February 22, 2002

Testimony in support of Senate Bill 479

Greetings: Chairman Corbin and Committee Members.

My name is Gary Meagher, City Clerk/Administrator for the City of McPherson

I am here to represent the McPherson City Commission in support of Senate Bill 479 which provides for the moratorium of K.S.A. 79-201(b) for tax year 2002.

Like many communities in Kansas, we have an elderly housing development operated by a non-profit organization. This modern upscale elderly housing development has an assisted care living area as well as an independent living component. Currently, the assisted living area is tax exempt under State Law, as it should be. However, in informal conversations with the Chief Executive Officer, he indicates that in order to remain competitive the retirement community is considering an application for a property tax exemption for the independent living units.

The result of K.S.A. 79-201(b) is that cities, counties and the state lose a significant amount of revenue each year, yet they are expected to provide the same services to those independent living communities that decide not to pay taxes, as for those that do. Unlike the assisted living facility that houses many residents in one building, the more than 100 independent living units in The Cedars complex are duplexes that stretch along both sides of the street for several blocks. These people have the same demands of good roads, adequate police and fire protection, and all of the other services the City offers.

The only difference between these citizens and the senior citizens that live down the street or across town is that the residents in the independent living units will not have to pay for those services if the retirement complex receives a tax exemption. In fact, the other citizens in the community will pay for those services. This raises an issue of fairness. Are we really being fair to other senior citizens and members of our community that pay their share, even though they may not be as financially secure as those living in this upper income independent living development?

**City of McPherson**

400 E. Kansas Ave. • P.O. Box 1008 • (316) 245-2535 • McPherson, KS 67460

Mayor  
*Vern Dossett*

Commissioner of Finance  
*Tony Fiedler*

Commissioner of Streets & Utilities  
*C. Eldon Akers*

*Senate Assessment & Taxation  
 2-22-02 Attachment 6*

In the case of the City of McPherson, we would have lost \$44,568 in 2001, according to the McPherson County Administrator, if The Cedars had received a property tax exemption. That amounts to more than a half of a mill of property taxes. Given the fact that property tax is extremely unpopular and that cities are limited in the type of taxes they can impose, it contributes to the problem that local government officials face in meeting the needs of the community.

This milieu created by K.S.A. 79-201(b) may also create a challenge for those retirement communities that are struggling to be good business citizens of the community by paying their fair share, and their desire to apply for a tax exemption to remain competitive. It has been suggested by retirement communities that independent living units be a "Good Neighbor" and negotiate a Payment in Lieu of Taxes (PILOT) to be used to offset the amount of property tax that is lost. Unfortunately, the local governments are in an extremely weak negotiating position, since there is no requirement that independent living units enter into such an agreement. Based upon the experience of other communities in our area, the agreements either do not exist or are inadequate. The inadequacies range from the unwillingness of the independent living unit to commit to a long term PILOT agreement, to their reluctance to enter into agreements with other taxing units (i.e. School Districts, County Governments, and Special Taxing Districts).

In conclusion, the passage of Senate Bill 479 will allow time for the impact of K.S.A. 79-201(b) on all levels of governments to be assessed. Therefore, we respectfully request this committee pass this legislation to the Senate Floor with your full support.

Thank you for this opportunity to be heard.



TESTIMONY  
Senate Assessment and Taxation Committee  
On  
SB 479

February 22, 2002

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Corbin and Members of the Senate Assessment and Taxation Committee for allowing the Kansas Association of Counties to provide testimony on SB 479.

The Kansas Association of Counties supports the passage of SB 479. The KAC has had a platform position for several years requesting tax equity in the area of the current statutory exemption from property taxation of independent, elderly housing units owned by non-profit retirement communities.

The bill before requests a one- year moratorium on this exemption while alternatives are worked out regarding this inequity. You have heard from several communities today for whom this exemption is a problem. As Kansas ages this problem will only increase. It does not seem fair for one segment of the population receives this tax exemption while those who remain in their home are left to help share the tax burden.

The Kansas Association of Counties respectfully requests the committee pass SB 479.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace  
Topeka, KS 66615  
785•272•2585  
Fax 785•272•3585  
email kac@ink.org

*Senate Assessment & Taxation  
2-22-02  
Attachment 7*



League of Kansas Municipalities

**To:** Senate Assessment and Taxation Committee  
**From:** Don Moler, Executive Director  
**Re:** Support for SB 479  
**Date:** February 22, 2002

First I would like to thank the Committee for allowing the League to testify today in support of SB 479. This issue revolves around tax exemptions for residential elderly housing and has become a source of much discussion and debate within the local government community. Without exaggeration I can say that the League Governing Body has discussed this issue at all of its meetings since last September.

After much discussion, the League Governing Body determined that the appropriate course of action for our organization was to study the current ramifications of this property tax exemption and the equities, or lack thereof, which are present within the State of Kansas as result of this tax exemption. While on its face it may appear to be obvious as to why a tax exemption exists for this type of housing, we are concerned that it is in fact a matter of basic tax equity and fairness which may need to be more closely examined by the Kansas legislature. As a result, we are supportive of SB 479 and the suspension of the provisions in K.S.A. Supp. 79-201b Fifth for tax year 2002.

During the spring and summer of 2002 the League intends to conduct statewide research and survey our member cities in an effort to ascertain the breath and depth of this issue. Once we have determined whether or not to proceed, we may be returning next year to ask for a more permanent solution to this problem. We are appreciative that the Committee is willing to hear this issue and thank the Committee for your time in this matter. I will be happy to answer any questions the Committee may have concerning the League's position on SB 479.

*Senate Assessment & Taxation  
2-22-02*

# KAHSA

KANSAS ASSOCIATION OF  
HOMES AND SERVICES FOR THE AGING

## TESTIMONY

**To:** The Honorable David Corbin, Chairman  
Members of the Senate Taxation and Assessment Committee  
**From:** John R. Grace, President/CEO  
**Date:** Friday February 22, 2002

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 165 not-for-profit (Methodist, Catholic, Presbyterian, Mennonite, Lutheran, etc.) retirement communities, nursing facilities, and community based service programs for the elderly. **We are opposed to Senate Bill 479. There is no loophole: This is good public policy** Approximately 14,000 older people reside in not-for-profit retirement communities in Kansas. Of these, approximately 4,000 individuals live in apartments on our campuses. The units described by our opponents represent less than 5% of our apartments. Most of the units were built 10-30 years ago, and some longer.

### ***Who lives in the typical not-for-profit housing for the elderly?***

*86 year old widowed female*

*Average length of stay in independent living is 4.5 years*

*Forty percent receive assistance with at least one activity of daily living*

*Most residents choose to move into the seniors housing after experiencing significant life changes, such as the loss of a spouse or increased physical frailty. American Senior Housing Association, 1993.*

### **Reasons seniors choose to reside in retirement community housing:**

*Access to medical services*

*Access to services to maintain independence*

*Fear about being a burden on family*

*Having staff nearby*

*Financial protection from long-term care costs*

*To live in a safe, secure environment*

*Freedom from home chores, maintenance, and repairs*

*The Gerontologist, 1994 Vol 28 No. 5*

*Senate Assessment & Taxation  
1 2-22-02*

*Attachment 9*

## Government Can't do it all: Why This is Good Public Policy.

1. Not-for-profit retirement communities relieve the burden on governments. 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. 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.

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.

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.

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. The government is going to need as much help as possible to serve the needs of the growing elderly population and we are there to help. HUD resources are shrinking.

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.

The proponents of SB 479 also argue that we should judge the exemption on only one program within our retirement community, our housing units. There is a major difference between someone living in a retirement home and someone living in their own home.

- 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? NO
- Do we judge the legitimacy of the tax-exempt status of a private college dormitory based on the quality of the construction? NO
- Do we judge whether a church should receive a tax exemption by the income levels of persons who attend on Sunday? NO

To obtain an exemption, our organizations must meet very strict requirements as set out in the law. **KSA 79-201b Fifth is attached. In fact**, the law has been strengthened and clarified by the Legislature in 1974 and in 1999.

Mr. Chairman, we recognize that in a few communities there is concern about this issue. So in 1997, we created the “Good Neighbor Program” in cooperation with the League of Municipalities. Attached is a copy of this agreement. We have also worked for over a year specifically with the Harvey County Commission. They have rejected the program. **Attached is our letter** signed by all Homes in Harvey County indicating their willingness to participate in the program.

Here are several of our members are moving ahead with this program:

- In Reno County the Wesley Towers Retirement Community is making a payment of \$8000 per year to the City of Hutchinson. Attached is the letter.
- Mennonite Friendship Retirement Community in South Hutchinson pays an amount each year to the city of South Hutchinson of \$6000.
- In North Newton, Kidron Bethel Retirement Community is making a payment to the city of North Newton.
- There are other retirement communities in Harvey County that are having serious dialogue with their cities about this issue and hope to have a resolution shortly.
- I have attached a copy of a letter I received from the Administrator in Inman stating that there are paying the full amounts to the city, school district, and local fire department.

We believe that exemption is good public policy and based on sound principles and should stand. Thank you very much. I will be glad to answer any questions.



home purposes by a private children's home as the same is defined by K.S.A. 75-3329, and amendments thereto, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, charges to residents for services of which produce an amount which in the aggregate is less than the actual cost of operation of the home or the services of which are provided to residents at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness, and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for children's home purposes.

Fourth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly and handicapped persons having a limited or lower income, or used exclusively for cooperative housing for persons having a limited or low income, assistance for the financing of which was received under 12 U.S.C.A. 1701 et seq., or under 42 U.S.C.A. 1437 et seq., which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such a corporation and used exclusively for the purposes of such housing. For the purposes of this subsection, cooperative housing shall mean those not-for-profit cooperative housing projects operating pursuant to sections 236 or 221(d)(3), or both, of the national housing act and which have been approved as a cooperative housing project pursuant to applicable federal housing administration and U.S. Department of Housing and Urban Development statutes, and rules and regulations, during suchtime as the use of such properties are restricted pursuant to such act, statutes or rules and regulations.

\* Fifth. All real property and tangible personal property, actually and regularly used exclusively for housing for elderly persons, which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, 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 at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act; and all intangible property including moneys, notes and other evidences of debt, and the income therefrom, belonging exclusively to such corporation and used exclusively for the purpose of such housing. For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issued pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost. For all taxable years commencing after December 31, 1995, such property shall be deemed to be used exclusively for housing for elderly persons purposes when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 et seq., and amendments thereto.

Sixth. All real property and tangible personal property actually and regularly used exclusively for the purpose of group housing of mentally ill or retarded and other handicapped persons which is operated by a corporation organized not for profit under the laws of the state of Kansas or by a corporation organized not for profit under the laws of another state and duly admitted to engage in business in this state as a foreign, not-for-profit corporation, 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 at the lowest feasible cost, taking into consideration such items as reasonable depreciation and interest on indebtedness and contributions to which are deductible under the Kansas income tax act, and which is licensed as a facility for the housing of mentally ill or retarded and other handicapped persons under the provisions of K.S.A. 75-3307b, and amendments thereto, or as a rooming or boarding house used as a facility for the housing of mentally retarded and other handicapped persons which is licensed as a lodging establishment under the provisions of K.S.A. 36-501 et seq., and amendments thereto.

The provisions of this section, except as otherwise specifically provided, shall apply to all taxable years commencing after December 31, 1998.

**JOINT STATEMENT OF UNDERSTANDING BETWEEN  
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. Holsapple Title: \_\_\_\_\_

LEAGUE OF KANSAS MUNICIPALITIES

Dated: \_\_\_\_\_

By Ralph J. Goodnight Title: \_\_\_\_\_

joint6

February 23, 1999

Harvey County Commissioners  
C/o Mr. Craig R. Simons, County Administrator  
Harvey County Courthouse  
P. O. Box 687  
Newton, KS 67114-0687

Dear Commissioners:

During the past two years we have been attempting in good faith to reach an agreement with the County for a program to address the County's concerns regarding the property tax issue of our newly built independent living units on our retirement campuses.

In the summer of 1997 we were prepared to begin a program endorsed by the League of Kansas Municipalities, the Kansas Association of Homes and Services for the Aging, and several local government officials from Harvey County entitled the "Good Neighbor Program". The County rejected this program and convened another group to discuss the issue.

Following those further meetings and discussions, in the fall of 1998, Kansas Christian Home and Schowalter Villa proposed a program that was rejected by the County.

For the past 60 days we have asked an intermediary, the President of KAHSA, to have dialogue with the County Administrator to see what opportunities for a compromise might be available. We moved ahead with this dialogue at the urging of Senator Christine Downey and Representative Gary Boston.


We are prepared to begin a program January 1, 1999 that would run for 4 years. Under this program Schowalter Villa, Kansas Christian Home, Friendly Acres, Newton Presbyterian Manor would pay up to \$44,815 cash plus an additional \$8,253 in services to our communities for a total of \$53,068. In addition to these amounts would be payments made by Kidron Bethel based upon their agreement with the City of North Newton. In return for this program, we would respectfully ask the County to withdraw all legal action and legislative efforts regarding this issue.

Harvey County Commissioners  
February 23, 1999  
Page Two

We believe that after three years of discussing and debating this issue, it is time to begin a program. If we find at the end of the 4-year period that both parties are not pleased with this program, adjustments can be made. Attached is an explanation of the program.


We look forward to beginning this program and working with Harvey County and our Cities, and School Districts in creating a better community for all citizens.

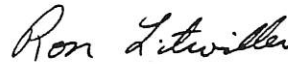
Very truly yours,

  
Friendly Acres

  
Kansas Christian Home

  
Kidron Bethel

  
Newton Presbyterian Manor

  
Schowalter Villa

Attachment

## Wesley Towers Annual Report To the Hutchinson Community 2000-2001

Wesley Towers, Inc. is a not-for-profit continuing care retirement community that has been a leader in providing comprehensive health and retirement services to the Hutchinson/Reno County community for 32 years. As an integral part of the Hutchinson community health care team, we are proud of our role in enhancing the quality of life for the seniors we serve.

### *Mission Statement:*

*The primary purpose of Wesley Towers, Inc., a church related institution, is to provide a total environment for retired persons which recognizes and attempts to meet their unique physical, social and spiritual requirements.*

*All efforts are directed toward personalized care of the residents with attention to individual needs and concerns involving pleasant relationships, warmth, and regard for human dignity.*

*Endowment funds exist by which some residents with financial needs may be assisted.*

*Without sacrificing the needs of residents, Wesley Towers, Inc., will use its expertise and facilities to extend services to the community, whenever it can be integrated each with the other.*

Adopted by the Board of Trustees January 6, 1986

## How does Wesley Towers Benefit Hutchinson?

### Employment Opportunity:

- Wesley Towers is a major employer in the community with **235** employees.

### Economic Benefit:

- Wesley Towers makes an important economic contribution to the community. The annual payroll is over **\$4.7 million**. The economic impact is over **\$9.5 million**.

### Residents We Serve:

- Wesley Towers serves, on the average, about **322** residents each day. The average age of individuals in our independent living areas is **85** and **87** in our health care centers. The average age of admission to Wesley Towers this past year was a little over **84** years.
- During the past five years, Wesley Towers has provided an average of **\$166,482** of charitable care each year for those individuals unable to pay for services. **The cost of these services are not subsidized by private pay residents and Wesley Towers has never asked any resident to leave due to lack of financial means.**

### Education and Development of Human Resources:

- Wesley Towers works in cooperation with Hutchinson Community College to provide training, education, and employment opportunities for health care professionals throughout the community. Since 1995, this collaboration has trained, certified, and re-certified the following:
  - ◆ **218** Nurse Aides (CNA)
  - ◆ **131** Medication Aides (CMA)
  - ◆ **104** Home Health Aides (HHA)
  - ◆ **22** Social Service Designees (SSD)
  - ◆ **36** Certified Rehabilitative Aides (CRA)
  - ◆ **458** Re-Certified Medication Aides
- Wesley Towers, through bequests and donations, has provided over **\$47,897** in scholarships to its employees for nursing, management, and certified programs.

### Meals On Wheels:

- Wesley Towers has prepared the meals for this program for **over 20 years**.
- Wesley Towers prepares about 128 meals each day for this program or nearly **33,300** meals annually.
- Last year, Wesley Towers subsidized the Meals On Wheels program by over **\$50,000**.



## Leadership:

- Wesley Towers' management provides local, state, and national leadership in the interest of issues that affect older Americans such as healthcare, housing, and wellness.

## Community Health:

- For the past four years, Wesley Towers Home Health Agency has offered free blood pressure clinics at the following locations:
  - ◆ Delos V. Smith Shepherd Center
  - ◆ Washington Heights
  - ◆ Mission Place
  - ◆ Wesley Towers
- Serves as a Red Cross Bloodmobile Station
- Wesley Towers is licensed by the Kansas Department of Health and Environment and is certified for Medicare, Medicaid, and Home and Community Based Services for the Frail Elderly.

## Facilities For Community Use:

- Wesley Towers serves as a polling place for local, state and national elections.
- Wesley Towers provides meeting room space at no charge to several public and private not-for-profit entities, such as churches, United Way, various Hutchinson City Government departments, Hutchinson Public Schools, American Red Cross, Hospice, Girl Scouts, Church Women United, National Association of Retired Federal Employees, Daughters of the Union Veterans of the Civil War, The Salt Minor men's acappella group, Hutchinson Laymen's Chorus, Chamber of Commerce, Leadership Hutchinson, HARTA, and many others.
- Our streets and facilities are used by many community and neighborhood residents who enjoy the quiet and scenic environment, yet appreciate the open-gated campus. Our citizens are grateful for the City support and maintenance of the streets and lighting that enables safe and full utilization of our campus.

**Wesley Towers is proud of its not-for-profit status and its ability to contribute to the growth and viability of the Hutchinson community. Wesley Towers appreciates the opportunity to serve the Hutchinson community. It is our philosophy to share our facilities and resources as much as possible without jeopardizing the needs of our residents. We are proud to be a partner and good neighbor in the development of the Hutchinson Community.**

## *Pleasant View Home Inc.*

Kevin Reimer, CEO  
Jalane White, Administrator  
108 North Walnut  
Inman, Kansas 67546

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Telephone 1 - 316 - 585 - 6411  
Fax # 1-316-585-6504  
Kansas Relay # 1-800-766-3777

02/20/2002

John Grace  
President / C.E.O.  
KAHSA  
217 S.E. 8th Street  
Topeka, Kansas 66603 - 3906

Dear John,

Per our conversation on Feb. 19, and your request for information as it relates to the current status of our tax abatement issue and other pertinent information as it relates to Pleasant View Home, please find the following information.

1. Conversations with the City Council and School Board concerning this issue have been ongoing for well over a year.
2. Request was made by the City for a Proposal from Pleasant View as it relates to what we would do in the case of a successful tax abatement request. Several proposals were given none were signed by the City so by Direction of The Pleasant View Home Board Of Directors. I wrote a letter to the Local Fire Department, School District and the City of Inman outlining what our intentions were. Basically we indicated that we would pay them the same amount that they received from us through the taxation process of the most recent year. Those total amounts were \$35,500.00 to the City, \$12,100.00 to the School District, & \$2,475.00 to the Local fire Department. This amount would be paid in two installments to each entity. The first half has been been paid to all of these entities in conjunction with the 2001 tax year as we indicated we would, the second half will be paid in June. In case we would lose the abatement request each entity has agreed to repay Pleasant View once the tax money is received.

3. The payments were based on the taxes received on 77 units, we currently have 88 independent living units. This will effectively reduce our resident payment liability by 50%. However, to take into account for future development of independent living units we have also indicated to these three entities that for a unit built beyond the 88 units we will pay and added amount. For example the City of Inman would receive and additional \$403.00 per year per new unit that is successfully taken off the tax rolls.

4. Pleasant View Home has acted responsibly as a 501 3 C Not for Profit entity. Please note the following

- a. We prepare the meals for meals on wheels
- b. We have opened our doors for organizations to use our facilities. For example a Chamber banquet and training session has been held on the Pleasant View Campus.
- c. We have cooperated with the school system in providing some on the job instruction for students.
- d. A Good Samaritan policy is enforce. ( See Attached )
- e. The development of a \$300.00 annual scholarship for a graduating Senior who plans to become an RN.
- f. Many part time paying jobs are given to our High School students.
- g. Senators / Representatives have used our facilities.
- h. Long Term Insurance programs have been given with the public invited using Pleasant View facilities

5. As I indicated we did make a statement at a community meeting. ( written statement is attached )

Sincerely,

Kevin Reimer  
C.E.O.

CC: Pleasant View Home Board of Directors



## MEMORANDUM

February 21, 2002

TO: SENATOR DAVE CORBIN, CHAIRPERSON  
SENATE ASSESSMENT AND TAXATION COMMITTEE, and  
MEMBERS OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

FROM: WILLIAM M. WARD, JR.  
PRESIDENT AND CEO  
PRESBYTERIAN MANORS OF MID-AMERICA, INC.  
PRESBYTERIAN MANORS, INC.

RE: TESTIMONY IN OPPOSITION TO SENATE BILL NO. 479

Presbyterian Manors of Mid-America, Inc. and Presbyterian Manors, Inc. are Kansas not-for-profit corporations engaged in the development, management and ownership of "communities" offering retirement living and health care to elderly persons in the states of Kansas and Missouri. Both not-for-profit corporations have met the requirements to be qualified for exemption under section 501(c)(3) of the Internal Revenue Code. The system of 17 Presbyterian Manor or Village communities offers several levels of living including: free standing "independent living" units, assisted living, and health care with five levels of skilled care including special Alzheimer and dementia care units in a number of locations. All Presbyterian Manor health care beds are certified for Medicare and Medicaid to provide care to Medicare and Medicaid qualified residents. Presbyterian Manors communities are designed on a moderate scale to create a neighborhood environment, yet collectively the system serves over 2000 residents and employees approximately 1600 individuals. The system's 14 Manor and Village communities located in Kansas serve 1695 of these residents and employ approximately 1450 of the system's 1600 employees. Approximately 748 of the some 1695 Kansas residents served are in the health care portion of the Manor system.

As a provider of services to Kansas' elderly (older adult) population, Presbyterian Manors is extremely concerned about the adverse effects Senate Bill No. 479 would have on elderly Kansas residents, and on the dedicated not-for-profit organizations providing service to these older adults. We are also concerned about the message that passage of this bill would send to those considering returning to or staying in Kansas for their retirement years as well as to good caring not-for-profit organizations contemplating providing more retirement living and health care facilities in Kansas or maintaining, improving or expanding existing Kansas facilities. Sending the wrong message to any of these individuals or organization would be particularly unfortunate at this time as all concerned with the provision of adequate, affordable, quality care for our elderly citizens are confronting the challenging, almost frightening, reality of the tremendous numbers of

*Senate Assessment & Taxation  
2-22-02*

Farmington Presbyterian Manor  
500 Cayce  
Farmington, MO 63640

Emporia Presbyterian Manor  
2300 Industrial Road  
Emporia, KS 66801

Clay Center Presbyterian Manor  
924 Eighth Street  
Clay Center, KS 67432

Arkansas City Presbyterian Manor  
1711 N. Fourth Street  
Arkansas City, KS 67005

Aberdeen Village  
17500 W. 119th Street  
Olathe, KS 66061

Lawrence Presbyterian Manor  
1429 Kasold Drive  
Lawrence, KS 66049

Kansas City Presbyterian Manor  
7850 Freeman  
Kansas City, KS 66112

Fulton Presbyterian Manor  
811 Center Street  
Fulton, MO 65251

Fort Scott Presbyterian Village  
2401 S. Horton  
Fort Scott, KS 66701

Rolla Presbyterian Manor  
1200 HomeLife Plaza  
Rolla, MO 65401

Parsons Presbyterian Manor  
3501 Dirr Avenue  
Parsons, KS 67357

Newton Presbyterian Manor  
1200 E. Seventh Street  
Newton, KS 67114

Manor of the Plains  
200 Campus Drive  
Dodge City, KS 67801

Wichita Presbyterian Manor  
4700 W. 13th Street  
Wichita, KS 67212

Topoka Presbyterian Manor  
4712 South West Sixth Street  
Topoka, KS 66606

Sterling Presbyterian Manor  
204 W. Washington  
Sterling, KS 67579

Salina Presbyterian Manor  
2601 E. Crawford  
Salina, KS 67401

adults that will be entering this elderly or older adult category over the next ten years as the full impact of the aging Baby Boomer generation begins to make itself felt.

It is difficult to ascertain from the language of Senate Bill No. 479 exactly what the motivation behind the Bill is or what it is intended to accomplish. With respect to property used for adult care home purposes in accordance with current Kansas statutes and judicial decisions, Bill No. 479 seems to be asking for a one year moratorium on the tax exempt status granted to said properties and organizations presumably for the purpose of obtaining additional tax revenues for calendar year 2002. The effect of this would be to impose a tax, the burden of which would fall on elderly Kansas residents living on fixed incomes, who have already seen the value of their investments, if any, shrink dramatically and their rate of return on their investments fall to an almost lifetime low. One suspects that there is another less obvious, but even more serious motive behind this Senate Bill No. 479 which is to, in effect, "get a foot in the door" in a year when revenue is scarce and there is a temptation to look favorably at any additional source of revenue, and then to build on that "forced entry" to once again launch an attack on the basic philosophy underlying the tax exemption very wisely enacted and defined by the legislature of the State of Kansas and affirmed by the Supreme Court of the State of Kansas over many years. Therefore, on behalf of Presbyterian Manors of Mid-America, Inc. and Presbyterian Manors, Inc., I will speak to the merits of this exemption and its importance to providers of services and care to elderly Kansans, such as Presbyterian Manors and the other not-for-profit organizations serving Kansas, and to the elderly residents of Kansas, and thus in opposition to Senate Bill No. 479. We will also provide the committee an explanation of how continuing care retirement communities (CCRC's) are structured and operated by Presbyterian Manors of Mid-America and the CCRC providers with whom we are familiar in hope that this will help explain the importance of the exemption the law currently provides for the properties dedicated to providing housing and health care for elderly persons in all portions of the continuum of care from independent living to health care.

Because responsible parties seem to almost always agree upon the merits of tax exemption for properties devoted to assisted living programs and health care programs and services, we would like to comment on the role of Independent Living facilities in the continuum of care for elderly Kansas residents and offer some clarification of what "independent living" really consists of in practice. First, we believe there is often a fundamental misunderstanding of the "condition" of independent living residents brought on by the use of the term "independent". However, we also believe it is important to continue to refer to this part of the continuum of care as independent living because of the importance of this concept to the elderly persons served. No elderly Kansan that we've encountered wants to lose their independence or think of themselves as being dependent. Thus in addressing this first stage of entry in the retirement living and health care scenario that makes up the continuum of care every effort is made to preserve independence and, specially important, the perception of independence. Support and services provided are intended to help achieve both of these goals. So the conditions into which an "independent living" resident moves are designed to support and enhance the feeling of independence and in fact afford a real degree of independence. This is accomplished by designing housing specially suited to the needs of the elderly taking into consideration everything from yard work to indoor hardware. All landscaping and gardening – grass cutting, tree trimming, yard watering, snow removal, leaf raking, etc. is assumed by the CCRC. All building maintenance and repair, appliance repair and replacement, painting and decorating are CCRC responsibilities, as are provision of and

proper functioning of heating, cooling and hot water systems. Buildings are designed with easy access and operation in mind as well as ADA guidelines. In addition, housing units are equipped with direct access to medical or emergency assistance through nurse call systems and transportation is available to meet the needs of residents in keeping medical appointments, attending community activities and other events. There is also most often a meal or meals built into the independent living care plan to support good health through good nutrition and good socialization through interaction with others at meal times. In other words, there is in fact a very significant difference in this form of elderly care "independent housing" and the private home, apartment or condominium one might choose to live in if this type of assistance was not indicated. In fact most residents' decision to make a move into the continuum of care such as that provided in a Presbyterian Manor style CCRC is motivated by some significant life change impacting their ability to live in a truly independent way. This may be a changed condition of health of the resident or a loved one or care giver, it may be the physical inability to maintain, manage and operate one's own home, or it may relate to death of a spouse or someone upon whom the resident was dependent in order to remain "independent". In other words, independent living facilities in not-for-profit retirement living and health care communities serving the elderly should not for a moment be equated with someone's private home, apartment, duplex, or condominium. In addition the average entry age is usually well past normal retirement age. In the Presbyterian Manor system for example, our average entry age is in the low to mid-eighties. Further fortifying that this independent living is a special type of independent living designed to prolong the health and welfare of our elderly citizens.

It is also important to understand that CCRC's today are structured as a complete and inter-related system. The financial feasibility of the entire CCRC is viewed as a unit that requires some specific amount of revenue to be operated. When a CCRC resident enters as an independent living resident, the deposit and monthly fee agreement or the rental agreement entered into is related to and tied to the operation of the entire community. The services and security upon which the independent living resident, to some extent relies, is also tied to and supported by the assisted living and health care components which in turn are to some extent supported by the independent living component.

It is sometimes indicated, particularly with respect to newly developed independent living units that these units may appear newer or "nicer" than some moderate independent housing in the community served. From this assumption there are those who then want to conclude any such independent living property should be taxed. There are a number of problems with this argument, not the least of which is the true nature of what is called independent living housing in a not-for-profit community for elderly persons as explained above. Another obvious fallacy is that because such a property is new, nice or well maintained it must be the same as independent homes owned by homeowners in the City or County in which the CCRC is located and that if it is not treated in this way and taxed accordingly the particular City or County concerned and its residents will somehow suffer or experience unfair treatment.

This leads logically to the discussion of the reason tax exemption is and should be granted and the numerous and substantial benefits that such tax exempt, not-for-profit retirement living and health care facilities bring to the cities and counties they serve as well as to the residents they serve, most of whom were residents of those same cities and counties long before they moved into a CCRC. First, and perhaps foremost, they

provide the necessary services and care to the elderly which would otherwise have to be provided in some other way perhaps even by the cities or counties and the State of Kansas themselves. Secondly they tend to attract resources both in terms of substantial additional charitable donations (dollars) and volunteer hours that help to lessen the burden which cities, counties and states might otherwise experience. In addition these not-for-profit retirement communities encourage elderly seniors to remain in the communities for their retirement years where many, even most, of them continue to contribute to the community in a variety of ways.

Affordability of CCRC's is part of what makes this experience attractive and attainable. While all elderly residential and health care seems expensive by the standards of over 5-10 years ago it is structured to be attainable. Costs of "independent living" facilities are carefully studied and tailored to relate to the type of housing prevalent in the community served so that when an elderly resident sells his/her/their home it is possible in most cases to comfortably transition into the front end or entry point of a not-for-profit CCRC, the "independent living" residential retirement housing.

In addition to the benefits derived by elderly residents of CCRC communities there are numerous specific public benefits from the granting of tax exempt status among which are the following:

1. Improving the "Human" Condition. Services provided by tax exempt organizations ultimately decrease the amount of services which must be provided to the sick, elderly or poor by governmental institutions, since the goal of the charity is to improve the "human condition". Not-for-profit corporations often serve those who, if not served by the charity, would have to be served by the government. Moreover, "relieving" the infirmities of age or health by keeping such persons healthy, for example, decreases their use of public healthcare facilities or other more expensive forms of care.
2. Quality of Care. Not-for-profit organizations are generally motivated to give high quality care, which is accessible to the public.
3. Quality of Life. Quality of life is improved for those served by the charitable institution by helping residents to live at their highest possible level of function.
4. Charitable Care. Most tax exempt organizations subsidize the cost of caring for those they serve through donations from the public. Since reimbursements for Medicare and Medicaid typically do not cover the full cost of care and residents whose funds are depleted are retained as residents, contributions are also needed to cover these costs. Presbyterian Manors has never asked a resident to leave because his/her funds were no longer adequate to provide for their care.
5. Volunteerism. Those served by a tax exempt organization, as well as its employees, typically provide volunteer services to the community.
6. Community Outreach. The community benefits from local tax exempt organizations when they make such things as special education and training available to the community, or services made available to those outside the facility for fees which typically fall short of the actual cost of providing them.



7. Cost Benefit. Local Kansas communities benefit when those being served by the charity can stay in the local community and receive services, without having to seek them elsewhere. This translates into revenue for the local community, provided not only by providing the services locally, but allowing the resident and family members to stay in the community, along with visitors, all of whom spend dollars locally. This pumps millions of dollars into the local community from wages paid and goods and services purchased. Another benefit, which is "priceless," is being able to care for a loved one locally, as opposed to traveling a great distance to continue a relationship with the family member resident when care is not available locally. In Presbyterian Manors of Mid-America's and Presbyterian Manors, Inc.'s case these not-for-profit retirement living and health care organizations, as they deliver the continuum of care in Kansas cities and counties of independent living, assisted living and health care pay wages of approximately \$30 million to employees working in the 14 Kansas communities in which Presbyterian Manors and Villages are located.

The dollars spent by the long-term care facility and its employees can be sizeable. A study of not-for-profit organizations by Kansas State University recently showed, for example, that in one county, the direct economic impact of not-for-profit retirement communities was over \$17million in sales, and \$9 million in wages, with \$15 million in income being controlled by those served by the organizations, much of which was spent in the local community. Non-local visitors spent an additional \$900,000. The "ripple effects of the economic activity" of these organizations were concluded to directly and indirectly be connected to over \$40 million in sales and \$38 million in all types of income for the community.

Hopefully, when the role of charities in society is better understood, the focus of the public will not be on tax revenue lost, but on the benefits gained as a result of the humanitarian services provided to those in need in the community.

Using Presbyterian Manors system of Manors and Villages as an example which we believe is probably quite like other similar providers we have noted that our retirement living, assisted living and health care communities have mutually beneficial involvement with five Kansas universities, four community colleges, one private college, and two technical or vo-tech colleges. We offer practicum type learning opportunities in our facility campuses in 12 areas of medical and/or health care education ranging from physician and registered nurse training through home health aides. In addition Manor and Village communities serve as sponsors of the Kansas Nursing Scholarship program, mental health supported employment sites, hosts for civic meetings and community celebrations and cultural events. Manor and Village employees serve as volunteer leaders and instructors and youth organization leaders and are involved in community organization and city government activities. (See exhibit hereto attached.)

Presbyterian Manors of Mid-America has an internal program known as "The Good Samaritan Fund" which operates in all 14 of its Kansas facilities, as well as its Missouri facilities. This fund is supported by the charitable giving of Manor residents, resident families, volunteers, employees and the general public, including Kansas and Missouri business donors. Because of the generosity of these individuals and organizations the Presbyterian Manor system has never had to ask a resident to leave or be transferred due to the lack of personal funds. Presbyterian Manors has supported residents through this program over the 52+ years history of the organization and continues to do so. In

the past fiscal year approximately \$400,000 of Good Samaritan funds was applied for this purpose.

Current Kansas law, 79-201b. Fifth states in part that:

“All real property and tangible personal property, actually and regularly used, exclusively for housing for elderly persons which is operated by a corporation organized not-for-profit under the laws of the State of Kansas or by a corporation organized not-for-profit under the laws of another state and duly admitted to engage in business in this state, as a foreign, not-for-profit corporation, 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 at the lowest feasible cost.....”

\* \* \* \*

“For purposes of this paragraph and for all taxable years commencing after December 31, 1976, an adult care home which uses its property in a manner which is consistent with the federal internal revenue service ruling 72-124 issues pursuant to section 501(c)(3) of the federal internal revenue code, shall be deemed to be operating at the lowest feasible cost.”

Internal Revenue Service Revenue Ruling 72-124, Published: 1972 referred to by Kansas Statute 79-201b, Fifth states in part:

“However, it is not generally recognized that the aged, apart from considerations of financial distress along, are also, as a class, highly susceptible to other forms of distress in the sense they have special needs because of their advanced years. For example, it is recognized in the Congressional declaration of objectives, Older Americans Act of 1965, Public Law 89-73, 89<sup>th</sup> Congress, 42 U.S.C. 3001, that such needs include suitable housing, physical and mental health care, civic, cultural, and recreational activities, and an overall environment conducive to dignity and independence, all specially designed to meet the needs of the aged. Satisfaction of these special needs contributes to the prevention and elimination of the causes of unique forms of “distress” to which the aged, as a class, are highly susceptible and may in the proper context constitute charitable purposes of functions even though direct financial assistance in the sense of relief of poverty may not be involved.

Thus, an organization, otherwise qualified for charitable status under section 501(c)(3) of the Code, which devotes its resources to the operation of a home for the aged will qualify for charitable status for purposes of Federal tax law if it operates in a manner designed to satisfy the three primary needs of aged persons. These are the need for housing, the need for health care, and the need for financial security.

The need for housing will generally be satisfied if the organization provides residential facilities that are specifically designed to meet some combination of the physical, emotional, recreational, social, religious, and similar needs of aged persons.

The need for health care will generally be satisfied if the organization either directly provides some form of health care, or in the alternative, maintains some continuing arrangement with other organizations, facilities, or health personnel, designed to maintain the physical, and if necessary, mental well-being of its residents.

The need for financial security, i.e. the aged person's need for protection against the financial risks associated with later years of life, will generally be satisfied if two conditions exist. First, the organization must be committed to an established policy, whether written or in actual practice, of maintaining in residency any persons who become unable to pay their regular charges. This may be done utilizing the organization's own reserves, seeking funds from local and Federal welfare units, soliciting funds from its sponsoring organization, its members, or the general public, or by some combination thereof. However, an organization that is required by reason of Federal or state conditions imposed with respect to the terms of its financing agreements to devote its facilities to housing only aged person of low or moderate income not exceeding specified levels and to recover operating costs from such residents may satisfy this condition even though it may not be committed to continue care of individuals who are no longer able to pay the established rates for residence because of a change in their financial circumstances. See, for example, section 236 of the National Housing Act, P.L. 90-448.82 Stat. 476, 498 (12 U.S.C. 1715 z-1).

As to the second condition respecting the provision of financial security, the organization must operate so as to provide its services to the aged at the lowest feasible cost, taking into consideration such expenses as the payment of indebtedness, maintenance of adequate reserves sufficient to insure the life care of each resident, and reserves for physical expansion commensurate with the needs of the community and existing resources of the organization. In case of doubt as to whether the organization is operating at the lowest feasible cost, the fact that an organization makes some part of its facilities available at rates below its customary charges for such facilities to persons of more limited means that its regular residents will constitute additional evidence that the organization is attempting to satisfy the need for financial security, provided the organization fulfills the first condition regarding the provision of financial security. The amount of any entrance life care, founder's or monthly fee charged is not, per se, determinative of whether an organization is operating at the lowest feasible cost, but must be considered in relation to all items of expense, including indebtedness and reserves."

In the case of the Presbyterian Manors of Mid-America system which we suspect is somewhat typical of other not-for-profit providers of retirement living and health care services, we applied in the past fiscal year approximately \$900,000 of unrestricted charitable donations and another approximate \$573,000 of prior year contributions to operating income losses, as well as certain other funds from appropriate reserves to enable Presbyterian Manors to provide the services it did at considerably less than actual costs and we would respectfully submit at "the lowest feasible cost" to residents.

Hopefully the foregoing information helps to clarify the many valuable contributions that not-for-profit retirement living and health care communities bring to the cities and counties and state in which they serve, over and above the benefits they bring to their residents by meeting their needs for housing, health care and financial security.

We would also like to point out that the services provided come in a variety of offerings and at varying cost levels. In the Presbyterian Manor system for example, a Topeka Presbyterian Manor, single bedroom independent living unit of 470 – 608 square feet could be rented for a monthly fee of \$1,270 or could be arranged for under a "life use plan" for a deposit of \$30,000 and a monthly fee of \$880.00. At the other end of that spectrum there would be duplex units for a monthly rental of \$2,060 or a "life use plan" of

an \$82,000 deposit and a monthly fee of \$870.00. In Salina at the Salina Presbyterian Manor a one bedroom apartment could be rented for a monthly rate of \$1,390 or a "life use plan" deposit of \$35,000 and an \$810.00 monthly fee. An efficiency apartment in independent living could be rented for a monthly rental of \$1,160 or a "life use plan" deposit of \$24,000 and a monthly fee of \$765.00. One the higher end a two bedroom duplex could be obtained for a "life use plan" deposit of \$115,000 and an \$820.00 monthly fee. This same type unit could be acquired under a 75/25 Plan where 75% of the deposit is refundable upon death or departure from the Manor and in this case the deposit would be \$128,000 with an \$820.00 monthly fee. At the Parsons Presbyterian Manor a two bedroom independent living duplex with approximately 1100 square feet could be obtained under the 75/25 Plan (75% refundable) for an \$88,000 deposit and a \$546.00 monthly fee. A unit of this same type if rented would be available for a \$1643 per month rental fee.

Our purpose in providing some of these examples is to hopefully clarify the fact that all independent living is not expensive, high end housing nor as stated earlier is it truly independent living in the usual sense of the word independent. Most independent living units are clean, livable, well maintained attractive appearing housing that is moderate in cost relative to living costs in the community where it is situated and is designed to be affordable by prospective residents in the community and usable by and accessible by elderly residents.

We sincerely believe that the underlying philosophy and reasoning that led to the creation of this tax exempt status in the first place are still valid today. We feel that just as with houses of worship, schools, hospitals, health care agencies and other beneficiaries of tax exemption, the benefit to the communities (cities, counties and states) served far outweigh the tax revenues that might be generated. We believe not-for-profit organizations of this type whether offering independent living options, assisted living, or health care to the elderly or all three or any combination of the three are deserving of the tax exempt status the legislature of the State of Kansas wisely provided. Without tax exemption and the services these tax exempt not-for-profit organizations provide we believe the cost to the State of Kansas for Medicaid would increase. We believe that these not-for-profit organizations by their contribution to the wellness of the residents they serve save the state from having to pay for more and more expensive care as well as from having to provide this care earlier in the residents life cycle and often for longer periods of time.

We also believe that to deal with this issue as this Senate Bill No. 479 purports to do would be most unfortunate. We believe the bill would inflict a burden upon those least able to adjust to the increased cost --the elderly residents of the State of Kansas -- who have already contributed so much to their country, their state and their local communities. Ultimately any tax increase would have to be passed through and reflected in the cost of resident care because services delivered are already being delivered below actual cost to the provider. Speaking for Presbyterian Manors, our average entry age of residents into "independent living" in our Manors and Villages is in the low to mid- eighties and it would be a mistake to assume that they are seeking the type of residential housing the proponents of this bill apparently have in mind. In virtually every case they are seeking the very kind of housing, health care and financial security envisioned by the Federal government as reflected by the Internal Revenue Code and the State of Kansas as reflected in the statutes.

I thank you very much for the opportunity to share some thoughts and concerns on this subject with you and I would be pleased to answer questions or to provide further information you might desire.

WMW:sc

<b>PRESBYTERIAN MANORS OF MID AMERICA</b>		NUMBER
14 OF 17 COMMUNITIES RESPONDING		COMMUNITIES PARTICIPATING
<b>CATEGORIES OF SERVICE TO COMMUNITIES</b>		
UNIVERSITY PRACTICUM SITE		6
COMMUNITY COLLEGE PRACTICUM SITE		7
VOC TECHNICAL AFFILIATION		7
JOB SERVICE AFFILIATION		1
WELFARE TO WORK AFFILIATION		3
MENTAL HEALTH SUPPORTED EMPLOYMENT		3
DEVELOPMENTAL DISABILITIES SUPPORTED EMPLOYMENT		3
HIGH SCHOOL SPECIAL ED SUPPORTED EMPLOYEMENT		4
SCHOOL TO CAREER PROGRAM		4
EMPLOYEES ARE INSTRUCTORS IN COMMUNITY		6
EMPLOYEES ARE VOLUNTEER INSTRUCTORS		1
EMPLOYEES ARE YOUTH ORGANIZATION LEADERS		2
EMPLOYEES ARE INVOLVED IN CITY GOVERNMENT		5
EMPLOYEES ARE INVOLVED IN COMMUNITY ORGANIZATIONS		4
FACILITY SERVES AS A SITE FOR CULTURAL EVENTS		6
FACILITY SERVES AS A SITE FOR COMMUNITY CELEBRATIONS		6
FACILITY SERVES AS A HOST FOR CIVIC MEETINGS		11
FACILITY PROVIDES FREE SERVICES TO COMMUNITY		9
FACILITY SPONSORS CIVIC CLUB MEMBERSHIP		6
FACILITY SPONSORS COMMUNITY EDUCATIONAL EVENTS		11
KDHE SURVEYOR TRAINING SITE		1
KDHE SPONSORED EDUCATIONAL OFFERINGS		2
TRANSPORTATION OF HOME - BOUND CITIZENS		2
DONATIONS TO CHARITIES		1
DONATIONS TO EDUCATIONAL INSTITUTIONS		1
COMMUNITY SERVICE (COURT AFFILIATED) SITE		3
SPONSOR KANSAS NURSING SCHOLARSHIP PROGRAM		2
<b>AFFILIATED UNIVERSITIES AND EDUCATIONAL INSTITUTIONS</b>		
KANSAS UNIVERSITY	EMPORIA STATE UNIVERSITY	
KANSAS WESLEYAN UNIVERSITY	FLINTHILLS TECHNICAL COLLEGE	
FT. HAYS STATE UNIVERSITY	FT. SCOTT COMMUNITY COLLEGE	
DODGE CITY COMMUNITY COLLEGE	WICHITA STATE UNIVERSITY	
JOHNSON COUNTY COMMUNITY COLLEGE	STERLING COLLEGE	
KANSAS CITY COMMUNITY COLLEGE	WICHITA AREA VO-TECHNICAL COLLEGE	
<b>PRACTICUM LEVELS PROCTORED TOWARD LICENSURE OR CERTIFICATION</b>		
Medical Doctor	Physicians Assistant	
Master of Science - Nursing	Bachelor of Science - Nursing	
Licensed Clinical Social Worker	Bachelor Science - Social Work	
Bachelor of Science -Psychology	Music Therapy	
Registered Nurse	Licensed Practical Nurse	
Certified Medication Aide	Certified Nurses Aide	
Certified Dietary Manager	Certified Activity Director	
Home Health Aide	Restorative Aide	
The results presented are the result of an unscientific poll taken on February 21, 2002 and are not scientific nor are they conclusive.		