

Crotts Commercial Real Estate, Inc.

Sales - Leasing - Investment - Management - Representation

January 20, 2015

Chairman Kleeb and Members of the House Standing Committee on Taxation,

My name is Daryl Crotts; I am a Kansas licensed Real Estate Broker with Crotts Commercial Real Estate, Inc. in Wichita, Kansas. I have been a Commercial Real estate Broker for 14 years. I hold the highest designations in two different fields of commercial real estate, CCIM and CPM. I am a specialist in Investment Real Estate and Asset and Property Management. I have been President of the Kansas Commercial Realtors Association 3 times. Thank you for the opportunity to offer testimony regarding my experience with the Court of Tax Appeals ("COTA") and my suggestions for improvements to BOTA and the property tax process.

I protested a commercial building that I own upon receipt of the yearly valuation notice. I presented evidence before the small claims division and the finding was in my favor.

For background this is a building within an office park with 20 other commercial buildings. They tried to use a recent sale to support their valuation that hadn't even occurred as of January 1st of the tax year being contested.

When I brought that to the attention of the hearing officer he correctly ruled that it wasn't to be used in this valuation. It was an unusual situation where an oil company, flush with cash and wanting their own free-standing office building and relying on bad advice from their real estate broker and used sales comparable that were not in the same class. This was their first real estate purchase, and they overpaid for the building. The County appraiser wanted to use this one anomaly to reappraise the entire office park, all twenty buildings. The successful hearing result I had, at the small claims division, would not help to support their intent to raise all the valuations. So they appealed the small claims hearing to COTA.

My experience with COTA was that after I hired an attorney, paid hundreds of dollars to represent me in this protest, we were able to settle before the hearing for about the same amount as the initial small claims substantiated valuation. What happened to make them want to settle you might ask? It was our request for discovery which would have shown that this was a vindictive move meant to quite me, punish me, and make me use my resources.

Historically I understand that cases brought to the COTA were generally found almost evenly split between the taxpayer and the taxing authority. When this ratio changed to heavily favor the taxing authority under the then COTA, the county appraisers were less likely to negotiate a settlement that both parties could agree on. It is my opinion that the reason they appealed my favorable small claims ruling was because they were confident they would win the appeal once it was in COTA.

This is another reason that the COTA or the BOTA as it now stands must be fair to the taxpayer with the presumption that they are correct unless the taxing authority can present an overwhelming case supporting their valuation.

Crotts Commercial Real Estate, Inc.

Sales - Leasing - Investment - Management - Representation

It is my experience that the taxpayer, be they a real estate professional or a taxpayer with minimal real estate knowledge is at a great disadvantage due to a number of factors, some of which I have mentioned here.

1. The County Appraiser uses mass appraisal formulas that don't always reflect the true value of a property. They don't take into consideration unique factors such as bad location or bad reputation. They try to tweak these formulas to help substantiate their desired finding of value. They often don't take into account reserves for obsolescence, encumbrances and other items that must be accounted for in formats required by Banks and the IRS. They don't use the same Real Estate standards that all other Real Estate professionals must adhere to.
2. Taxpayers are not given the tools necessary to help develop a defense to the Appraiser's valuation. You must ask for, or demand through discovery, information that they used to develop their opinion of value of your property. It should be provided to the taxpayer not less than 14 days before any hearing.
3. Instead of the Appraiser having to support and defend their findings the taxpayer is on the defense from the start, having to overcome any miss-information or explain how numbers they might not understand are incorrect.

In conclusion to improve the process I would suggest the following:

If a protest of the assigned value is submitted the Appraiser should provide the taxpayer a "written narrative in easily understandable terms" explaining what method(s) was used and what facts or assumptions were also used.

They should explain what is different than the previous year. It should be in a format that the taxpayer can easily understand. Currently it can be a page with many different numbers and ratios on it which looks like gibberish to many people.

Many people forget the process that was in place 10 years or so ago. Instead of an informal hearing with the appraiser, this is usually a waste of time, as the same person that prepared your valuation is the same person conducting that hearing and often feels the compulsion to defend their work. We used to have a panel made up of someone from the appraiser's office, a member representing the public and one or more of the sitting county commissioners. This was considered by most to be a fair and equitable system until it changed to the current format. Maybe we should return to that system that worked so well.

Respectfully submitted by,



Daryl Crotts, Owner/Broker Commercial Realtor and Wichita, Kansas Taxpayer