



To: House Taxation Committee

Date: March 7, 2016

Subject: **HB 2714** – Supporting Legislation to Increase the Fairness of the Property Tax Valuation Process for Taxpayers

Chairman KleeB and Members of the House Taxation Committee, thank you for the opportunity to provide written testimony today on behalf of Occidental Management, Inc. in support of **HB 2714**, which would modify the language in several K.S.A. statutes to increase the fairness of the property tax valuation process for taxpayers across the state.

Occidental Management, Inc. is a real estate development and property management company based in Wichita, Kansas with over 1.2 million square feet of developed commercial real estate property in the state of Kansas. Over its 20 year history, Occidental Management has had numerous interactions with county appraisers and the Board of Tax Appeals (“BOTA”, formerly the Court of Tax Appeals). In testimony in support of **HB 2714**, we offer below a brief summary of four of our most recent experiences with property tax protests and market property valuations.

OPX, LLC

OPX, LLC purchased the office building formerly known as the Overland Park Trade Center, located in Overland Park, Kansas, in April 2014 in a third party, arms-length transaction for \$21.6 million. The property had one tenant which occupied 48% of the total square footage and whose lease expires in December 2016. No renovations were made to the property in 2014 following the acquisition and no additional leasing had taken place. Even though an arms-length transaction had occurred, the Johnson County Appraiser’s office escalated the value on the January 1, 2015 valuation to almost \$28.1 million. There is not a better indication of property value than a third-party transaction. We currently have our 2014 and 2015 property tax under protest. HB 2714 would require county appraisers and BOTA to accept the value stated on a purchase contract as the true market value of a property.

SPC Real Estate, LLC

SPC Real Estate, LLC, operated the retail property known as Springcreek in Derby, Kansas until February of 2016 when the property was sold to an out of state buyer. A sales price was agreed upon and both parties moved towards closing of the transaction. In the course of moving towards closing, a tenant at the property was delinquent on their monthly rent. The buyer held us accountable for the financial creditworthiness of the tenant and required a price adjustment to

compensate for the risk. This is an instance of where the methodology of how a property is valued in the market differs from the valuation provided for in the statutes. Tenant delinquency and bankruptcy are just two examples of itemized deductions used in the market to derive the true value of a property. HB 2714 would require county appraisers and BOTA to utilize true market itemized value deduction methodologies upon determining the value of a property.

Royal 1, LLC

Royal 1, LLC is a retail property located at 314 N. Rock Road in Wichita, Kansas. Prior to January 1, 2015, the shopping center's largest tenant, which occupied 60% of the center, gave notice it would not renew its lease, which expires in March 2018. Had we attempted to sell this property in January 2015, the market would have demanded a sizeable price adjustment given the impending tenant vacancy at the center. We provided this information to the county appraisers at the time of our informal hearing and additional information subsequent to the hearing. Our 2015 taxes for this property are currently under appeal. In October 2015, the tenant vacated the space without notice, suspended paying rent and by all accounts is seeking bankruptcy protection. To reach a fair valuation of properties in the market, county appraisers need to incorporate and apply known data into their valuations. As stated previously in our SPC Real Estate example, HB 2714 would require county appraisers and BOTA to utilize true market itemized value deduction methodologies (tenant vacancy, bankruptcy, etc.) upon determining the value of a property.

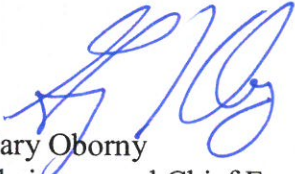
Tyler Pointe, LLC

Tyler Pointe, LLC owns undeveloped property in west Wichita, Kansas. The property was acquired in March 2013 from Unified School District 259. As is customary upon the purchase of property, we completed a sales validation questionnaire at the time of closing indicating the property use as agricultural. We recently presented a case before BOTA in which we purchased a property from USD 259 school district in Sedgwick County. The Sedgwick County Appraiser arbitrarily changed the classification to vacant status without any due process or opportunity to request redress. Despite having a farm lease in place with a farmer for the property and presenting a copy of the lease to the Appraiser, agricultural status was denied. At the time of the discussion with the county, we presented a farm lease for the year subsequent to the year in question, only to be awarded agricultural status by the Appraiser. We presented this case to BOTA in 2015, yet they ruled against not awarding agricultural status for the year in question. We have appealed the decision to District Court which has placed additional costs and burden on the taxpayer. HB 2714 requests that District Courts and Appellate Courts have the ability to review the entire record and conduct a "De Novo" Review of BOTA decisions on property valuations to allow a new trial and a comprehensive review of the entire matter.

We suggest that county appraisers not be allowed to challenge the agricultural classification of a property without first having a hearing with the taxpayer. Furthermore, the classification of a property as agricultural should not be based on production alone. We live in a diverse state and drought is a reality. BOTA should accept the existence of a farm lease and contract as sufficient evidence of agricultural status.

We appreciate the Committee's time and considerations of the issues noted above and request your support of **HB 2714**.

Respectfully,

A handwritten signature in blue ink, appearing to read 'G. Oborny', is positioned above the printed name.

Gary Oborny
Chairman and Chief Executive Officer
Occidental Management, Inc.