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Division of Property Valuation

DIRECTIVE #98-033

TO: County Appraisers

SUBJECT: Listing Prices and Fair Market Value

A question has arisen as to whether the "listing price" of property that is for sale can be considered its value for Kansas property tax purposes. The county appraiser shall not use the listing price of property as the sole criteria for determining the fair market value of property for Kansas property tax purposes.

By law, property other than land devoted to agricultural use, commercial and industrial machinery and equipment and certain motor vehicles must be valued based upon its fair market value for Kansas property tax purposes. (K.S.A. 79-501, K.S.A. 79-1439, K.S.A. 79-5100 *et seq.*, Kan. Const., art. 11, § 1, Kan. Const., art. 11, § 12) For Kansas property tax purposes, "fair market value" means:

[T]he amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion.

K.S.A. 79-503a.

K.S.A. 79-503a also requires a county appraiser to consider several factors when determining the fair market value of property for tax purposes. These factors comprise the three approaches to value: the sales approach, the cost approach and the income approach. All appraisers must consider and apply the three approaches to value in order to determine the fair market value of property when data to perform each approach is readily available.

When determining the validity of an appraisal for Kansas property tax purposes, the courts have repeatedly stated:

[T]he essential question is whether the standards prescribed in K.S.A. 79-503a have been considered and applied by the taxing officials. The assessment of real property which takes into consideration only some of the pertinent statutory factors of K.S.A. 79-503a cannot be upheld where

evidence indicates there has not been a uniform and equal rate of assessment and taxation in the county.

In re Tax Appeals of Andrews, 18 Kan. App.2d 311, 318, 851 P.2d 1027 (1993), citing *Board of Johnson County Comm'rs v. Greenhaw*, 241 Kan. 126-27. See also *Sunflower Racing, Inc. v. Board of Wyandotte County Comm'rs*, 256 Kan. 426, 442, 885 P.2d 1233 (1994).

The highest courts in Kansas have held that compliance with K.S.A. 79-503a is a vital factor in the determination of whether a tax assessment is uniform and equal. *In re Tax Appeals of Andrews*, 18 Kan App.2d 311, 317, 851 P.2d 1027 (1993).

The listing price of a property is not itself expressly mentioned as a factor that a county appraiser must consider when determining the fair market value of property for tax purposes. However, K.S.A. 79-503a does state that the appraisal process utilized for property tax purposes should conform with generally accepted appraisal procedures, when applicable. Uniform Standards of Professional Appraisal Practice ("U.S.P.A.P."), Standards Rule 1-5 provides:

In developing a real property appraisal, an appraiser must:

- (a) consider and analyze any current Agreement of Sale, option *or listing* of the property being appraised, if such information is available to the appraiser in the normal course of business;
- (b) consider and analyze any prior sales of the property being appraised that occurred within the following time periods:
 - (i) one year for one-to-four family residential property; and
 - (ii) three years for all other property types;
- (c) consider and reconcile the quality and quantity of data available and analyzed within the approaches used and the applicability or suitability of the approaches used.

Generally accepted appraisal procedures do provide that an appraiser should consider a listing price when determining the fair market value of property. However, it is wholly inappropriate for an appraiser to complete an appraisal simply by assigning the amount, or a percentage of the amount, of the listing price as the taxable value of a property. The listing price is simply one factor to consider when it exists; it is by no means the sole criteria of market value or the strongest indicator of market value.

A county appraiser must consider all the factors presented in K.S.A. 79-503a in order to determine the fair market value of property. A county appraiser cannot rely solely on a property's listing price as the basis for its fair market value.

Approved: _____ .

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