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Department of Revenue
Division of Property Valuation

DIRECTIVE #92-013

TO: County Appraisers

SUBJECT: Appraisal of Subdivision Lots

This directive is adopted pursuant to the provisions of L. 1992, ch. 249, § 1, and shall be in force and effect from and after the Director's approval date.

The county appraiser shall follow the procedures set forth herein if, in the appraisal of subdivision lots, the county appraiser elects to use the developer's discount methodology.

Although K.S.A. 79-405 requires platted lots in a subdivision to be identified and taxed individually, the appraisal should be based upon the entire tract of land. When the appraisal of the whole tract is complete, the market value shall be allocated among the developer's individual lots. This requires the county appraiser to distinguish between the gross sellout (aggregate of individual retail prices) and the market value (wholesale value of the development as one unit).

County appraisers shall obtain pertinent income and expense data from developers and prepare an estimate of value based on the present worth of the projected income stream.

The appraiser shall use a discounted cash flow analysis that itemizes the entire income and expense flow on a year-by-year basis during the absorption period. In selecting the discount rate, the appraiser is to consider the desirability of the project, the risk involved and the competitive rate of return required to attract capital to the project. This methodology shall be subject to an annual review of all pertinent data. Factors such as the absorption rate, discount rate, lot prices and operating expenses shall be reexamined annually before the discounted cash flow analysis is recalculated.

Although the sale data of individual lots shall be very useful for arriving at individual lot values it shall **not** be used in the official state assessment/sales ratio study. To properly flag this sale data in CAMA for exclusion, a source code of 7 is to be entered when the transfer is processed.

Actual use of the land should be determined. If the property is being used for agricultural purposes, the appropriate agricultural use value should be applied to the land.

Approved: _____
(Date)

David C. Cunningham
Director of Property Valuation

Mark S. Beck, Director
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Division of Property Valuation

MEMORANDUM

TO: County Appraisers

FROM: Mark S. Beck, Director of Property Valuation

SUBJECT: Developer's Discount; Appraisal Directive #92-013; K.S.A. 1994 Supp. 79-503a, as amended by L. 1995, ch. 254, § 5

DATE: November 3, 1995

Appraisal Directive #92-013 sets forth the procedures to be used if the county appraiser elects to use the developer's discount methodology in valuing subdivision lots. I have reviewed this directive in light of the Supreme Court's decision in *Hixon v. Lario Enterprises, Inc.*, 257 Kan. 377, 892 P.2d 507 (1995) ("*Lario Enterprises*") and L. 1995, ch. 254, § 5, and have decided not to rescind the directive for the following reasons:

In *Lario Enterprises* the Court determined that the developer's discount methodology violated the statutory scheme for determining the fair market value of property when applied to fully developed lots. K.S.A. 1994 Supp. 79-501 requires "[each] parcel of real property [to] be appraised at fair market value in money" using the factors outlined in K.S.A. 1994 Supp. 79-503a. Appraising all of the lots owned by Lario and discounting them violated the terms of K.S.A. 1994 Supp. 79-501, which requires each parcel to be appraised at fair market value. Valuation must be tied to factors associated with each parcel of real property, not the number of lots held by the taxpayer. *Lario Enterprises*, 257 Kan. at 383.

In *Lario Enterprises*, the Court modified an earlier finding by the Court of Appeals that the developer's discount methodology violated the uniformity and equality provisions of art. 11, § 1 of the Kansas Constitution, finding it unnecessary to reach the constitutional question, but leaving open the door that a future Court might invalidate the developer's discount methodology upon constitutional grounds.

The 1994 legislature, apparently in reaction to *Lario Enterprises*, amended K.S.A. 1994 Supp. 79-503a to add *absorption or sell-out period* as a factor to be considered in connection with sales, cost and income in determining fair market value. L. 1995, ch. 254, § 5. County appraisers should comply with this legislation keeping in mind that the goal is to determine the fair market value of each parcel. The Division and county appraisers are required to presume that legislation is constitutional and will be upheld by the courts.

Appraisal directive #92-013 sets forth the procedures to be used should the county appraiser find that the use of the developer's discount methodology is needed to determine the fair market value of subdivision lots.