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COURT OF TAX APPEALS on Oct 26, 2012

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From: Kiely Phelan <kphelan@ptlg.net>
Sent: Friday, October 26, 2012 4:51 PM
To: Front Desk
Cc: Myers, Kathryn, LGL
Subject: 2012-3110-PR Attachment 5 Additions for Petition for Reconsideration
Attachments: Attachment.pdf

Please file the attached for the Petition for Consideration for 2012-3110-PR. It should be part of Attachment 5. Thank you.

*Kiely Phelan, Paralegal
Property Tax Law Group, LLC
11350 Tomahawk Creek Parkway, Suite 100
Leawood, Kansas 66211
Telephone: 913-814-8900
Facsimile: 913-814-8999*



RECEIVED

COURT OF TAX APPEALS on Oct 26, 2012

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
BERNARD, WILLIAM T. & DARLA J.
FOR THE YEAR 2011 IN JOHNSON
COUNTY, KANSAS

Docket No. 2011-7126-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on October 26, 2011. Taxpayers, William T. and Darla J. Bernard, appeared *pro se*. The County of Johnson appeared by Darla Frank. County Exhibit 1 and Taxpayer Exhibit 1 were admitted into evidence without objection. The tax year at issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

Jurisdiction of the subject matter and of the parties is proper pursuant to K.S.A. 79-1609. The subject of this appeal is as follows:

Real estate and improvements commonly known as:
10325 Garnett Street, Overland Park, Johnson
County, Kansas; also known as Parcel Identification
Number 046-081-11-0-20-04-014.00-2.

The subject property is a three bedroom, three bathroom townhome with 1,536 square feet of main floor living area and 1,035 square feet of finished basement living area. The property is located on a neighborhood street that connects the subject subdivision with Quivira Road, a major city thoroughfare. As of the effective date of this appeal, January 1, 2011, Quivira Road was slated for expansion from four lanes to six lanes, a construction project requiring removal of trees and green space buffering the subject subdivision from Quivira Road.

In its valuation of the subject property for tax year 2011, the County relied principally on the comparable sales approach, which indicated a value of \$203,800. The comparison sales analyzed by the County all occurred in 2009 or 2010, and all involved townhome

properties located within the subject subdivision. The County also applied, but did not rely upon, the cost approach, which indicated a value of \$223,000.

The value currently assigned to the subject property for 2011 is \$195,600. That value was established on appeal to this court's small claims and expedited hearings division. *See* Docket Number 2011-2778-EQSC. The small claims hearing officer arrived at her value determination based on the adjusted sale price of the County's comparison sale #1 (\$205,000). That sale occurred on March 12, 2010.

Here, on appeal to the regular division, Taxpayer asserts the subject property's 2011 value should be reduced further, to \$170,000, because of the adverse impact of the Quivira Road expansion project, which was in the planning phase as of the effective date of this appeal. Taxpayer contends the impending construction projection caused property owners to sell their homes at "fire sale" prices in order to get out of the subdivision.

Taxpayer's witness, Ms. JoAnne E. Kemp, a realtor and property owner in the subject subdivision, testified that she had listings for two properties in the subdivision. One property, located at 10401 Garnett Street, sold for \$170,000. That sale occurred in May 2011, approximately five months after the effective date of this appeal. The other property, at 10404 Garnett Street, was listed for \$169,900 and was still on the market as of the hearing of this matter.

In Kansas, each parcel of non-agricultural real property is to be appraised at its fair market value. *See* K.S.A. 79-501. The term "fair market value" is defined as that "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." *See* K.S.A. 79-503a.

Because the subject property is residential property, the County bears the burden of initiating the production of evidence to prove by a preponderance of the evidence the validity and correctness of its valuation. K.S.A. 79-1609. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

As noted, the subject property's current value, (\$195,600), is a reduced value that was assigned by the small claims division and derives from the adjusted sale price of comparison sale #1 in the County's mass appraisal report. According to the testimony, that transaction closed after the city's plans to expand Quivira Road had become widely known to the public. We must presume that all information affecting the market available as of the effective date—including information about the impending Quivira Road construction project—was reflected in the price paid in that transaction. Accordingly, we credit the analysis of the small claims hearing officer and find the County's comparison sale #1, as adjusted, is

substantial competent evidence of the subject property's fair market value on the effective date of this appeal. The County has satisfied its burden of production.

Taxpayer's evidence, in turn, fails to rebut the County's valuation. The testimony and documentary evidence adduced by Taxpayer largely concerns market conditions existing after the effective date. The statutory scheme of *ad valorem* tax valuations is a "surrogate for a real marketplace event." *Hixon v. Lario Enterprises, Inc.*, 19 Kan. App. 2d 643, 646, 875 P.2d 297 (1994). Thus the county appraiser must "pretend, in effect, that each piece of property sold on January 1 of the year in which the appraisal is done in an arm's length transaction." *Id.* at 647.

As a general rule, post-effective date market data may be considered in a retrospective valuation for the limited purpose of confirming trends that would have been considered by a reasonable buyer and seller as of the effective date. *See* USPAP (1992) SMT-3. In this case, Taxpayer failed to offer sufficient proof of any trend that was manifest as of the effective date and confirmed by the post-effective date market data. Accordingly, Taxpayer's evidence is of limited probative value for tax year 2011.

Based on the weight of the evidence presented in light of the record as a whole, the current appraised value of the subject property for tax year 2011 shall be sustained.

IT IS THEREFORE ORDERED that the appraised value of the subject property for tax year 2011 shall be, and is hereby, \$195,600.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2011 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED



THE KANSAS COURT OF TAX APPEALS



SAM H. SHELDON, CHIEF JUDGE



TREVOR C. WOHLFORD, JUDGE



JAMES D. COOPER, JUDGE


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joeline R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7126-EQ and any attachments thereto, was placed in the United States Mail, on this 9th day of May, 2012, addressed to:

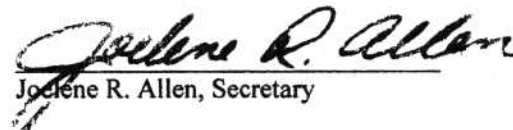
William T Bernard
Darla J Bernard
10325 Garnett St
Overland Park, KS 66214

Paul Welcome, Johnson County Appraiser
Johnson County Appraiser Office
11811 S Sunset Dr, Ste 2100
Olathe, Kansas 66061

Kathryn Myers, Johnson County Asst County
Counselor
Johnson County Admin Bldg
111 S Cherry, Ste 3200
Olathe, Kansas 66061-3451

Charles Letcher, Johnson County Treasurer
Johnson County Admin Bldg
111 S Cherry, Suite 1500
Olathe, Kansas 66061-3486

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
GLASS, CHARLES L. & ARCELIA A.
FOR THE YEAR 2011 IN JOHNSON
COUNTY, KANSAS

Docket No. 2011-7712-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on December 1, 2011. The Taxpayers, Glass, Charles L. & Arcelia A., appeared by Mr. Glass, pro se. The County of Johnson appeared by Tracy Weaver and Darla Frank. The tax year in issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as an equalization appeal has been properly and timely filed pursuant to K.S.A. 2010 Supp. 79-1609.

The subject matter of this appeal is as follows:

Real estate and improvements commonly known as
12636 W 66th St., Shawnee, Johnson County, Kansas
also known as Parcel ID# 046-055-15-0-20-12-001.00-0.

According to the county's records, the subject property is a one story ranch home constructed in 1978. It has 1,629 square feet of total living area, two bedrooms, one bathroom, and one fireplace. The home is built on an unfinished full basement and has a 484 square foot attached garage. The county lists the subject as in "Good" physical condition, with a C.D.U. (Condition, Desirability, Utility) rating of "Good."

For the tax year at issue, the county's computer assisted mass appraisal (CAMA) system's market comparison analysis yielded a value of \$173,200 for the subject property. The county's other value indicators include the cost estimate at \$186,060, the weighted estimate at \$193,607, and the model prediction at \$192,300.

Upon appeal to the COTA small claims and expedited hearings division, the hearing officer adopted the county's recommended value as the appraised value for tax year 2011. The taxpayer appeals from the small claims decision. The county requests that the small claims value of \$173,200 be sustained.

In Kansas, non-agricultural real property is appraised at its fair market value for purposes of ad valorem taxation. See K.S.A. 79-501. The term "fair market value" is defined as that "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 the parties are acting without undue compulsion." K.S.A. 79-503a.

Because the subject property is residential property, the county bears the burden of initiating the production of evidence to prove by a preponderance of the evidence the validity and correctness of its valuation. See K.S.A. 2011 Supp. 79-1609. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

The taxpayer argued the county overvalued his home. He testified the subject property has been in a state of constant renovation since 1995 and is still incomplete. The taxpayer argued the county's C.D.U. and physical condition ratings should be reduced to "Average" due to the incomplete nature of the home. Such a reduction would also put the subject property in line with the typical C.D.U. and physical condition ratings for the neighborhood. To address the taxpayer's concerns, the Court requested the county to calculate a value for the subject property using "Average" C.D.U. and physical condition ratings at 90 percent complete. The county replied that such a value would be \$160,300.

Based on the testimony and the documentary evidence, the court concludes the county's calculated value at 90 percent complete with "Average" C.D.U. and physical condition ratings presents the best indicator of the subject property's market value. Therefore, the court concludes the appraised value for the subject property as of January 1, 2010 shall be \$160,300.

IT IS THEREFORE ORDERED that, for the reasons stated above, the appraised value of the subject property for tax year 2011 is \$160,300.

IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this Order, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.


Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2010 Supp.

77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED



THE KANSAS COURT OF TAX APPEALS


SAM H. SHELDON, CHIEF JUDGE


TREVOR C. WOHLFORD, JUDGE


JAMES D. COOPER, JUDGE


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joeline R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7712-EQ and any attachments thereto, was placed in the United States Mail, on this 2nd day of July, 2012, addressed to:

Charles L. Glass
Arcelia A Glass
12636 W 66th St
Shawnee, KS 66216

Paul Welcome, Johnson County Appraiser
Johnson County Appraiser Office
11811 S Sunset Dr, Ste 2100
Olathe KS 66061

Kathryn Myers, Johnson County Asst County Counselor
Johnson County Admin Bldg
111 S Cherry, Ste 3200
Olathe KS 66061-3486

Thomas G Franzen, Johnson County Treasurer
Johnson County Admin Bldg
111 S Cherry, Suite 1500
Olathe KS 66061-3486

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
COULSON, CHRISTOPHER CLARKE
& KRISTEN ELIZABETH FOR THE
YEAR 2011 IN JOHNSON COUNTY,
KANSAS

Docket No. 2011-7753-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on December 1, 2011. The Taxpayer, Christopher Clarke & Kristen Elizabeth Coulson, appeared by Mr. Coulson, pro se. The County of Johnson appeared by Darla Frank and Tracy Weaver. The tax year in issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as an equalization appeal has been properly and timely filed pursuant to K.S.A. 2010 Supp. 79-1609.

The subject matter of this appeal is as follows:

Real estate and improvements commonly known as
6137 Reinhardt Dr., Fairway, Johnson County, Kansas
also known as Parcel ID# 046-062-10-0-30-01-018.00-0.

According to the county's records, the subject property is a one story ranch style home constructed in 1956. It has 1,702 square feet of total living area, three bedrooms, three full bathrooms, one half bathroom, and three fireplaces. The home is built on a full basement with 850 square feet of lower level finish and has a 572 square foot attached garage. The county lists the subject as in "Fair" physical condition, with a C.D.U. (Condition, Desirability, Utility) rating of "Very Good."

For the tax year at issue, the county's computer assisted mass appraisal (CAMA) system's market comparison analysis yielded a value of \$705,100 for the subject property. The county's other value indicators include the cost estimate at \$694,940, the weighted estimate at \$702,703, and the model prediction at \$728,600.

The county reduced the original value of \$726,100 to \$700,000 after the informal meeting with the taxpayer. This value was upheld at small claims, and the county recommends that the appraised value of \$700,000 be sustained.

In Kansas, non-agricultural real property is appraised at its fair market value for purposes of ad valorem taxation. See K.S.A. 79-501. The term "fair market value" is defined as that "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 the parties are acting without undue compulsion." K.S.A. 79-503a.

Because the subject property is residential property, the county bears the burden of initiating the production of evidence to prove by a preponderance of the evidence the validity and correctness of its valuation. See K.S.A. 2011 Supp. 79-1609. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

The taxpayer argued the county overvalued his home. The evidence shows the taxpayers purchased the subject property for \$782,000 in May 2010. The taxpayer argued this sale price is not reflective of market value because it was not an open market sale and the taxpayers were highly motivated to acquire the property for reasons unrelated to value. He also presented a fee appraisal conducted pursuant to his purchase of the property which indicated a market value of \$550,000.

Based on the testimony and the documentary evidence, the court concludes the county's recommended value is the best indicator of the subject property's market value as of the valuation date. The county's recommended value is lower than all of the indicators of value in its appraisal report, and the taxpayer's evidence does not warrant a value \$232,000 less than his purchase price for the subject property. Therefore, the court concludes the appraised value for the subject property as of January 1, 2011 shall be \$700,000.

IT IS THEREFORE ORDERED that, for the reasons stated above, the appraised value of the subject property for tax year 2011 is \$700,000.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2010 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-

1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED

THE KANSAS COURT OF TAX APPEALS




SAM H. SHELDON, CHIEF JUDGE


JAMES D. COOPER, JUDGE


JANIS K. LEE, JUDGE PRO TEM


JOYLENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7753-EQ and any attachments thereto, was placed in the United States Mail, on this 2nd day of July, 2012, addressed to:

Christopher Clarke Coulson
Kristen Elizabeth Coulson
6137 Reinhardt Dr
Fairway, KS 66205

Brian Howes, Attorney
Polsinelli Shughart PC
120 W 12th St, Ste 1600
Kansas City, MO 64105

Paul Welcome, Johnson County Appraiser
Johnson County Appraiser Office
11811 S Sunset Dr, Ste 2100
Olathe KS 66061

Kathryn Myers, Asst. Johnson County Counselor
Johnson County Admin Bldg
111 S Cherry, Ste 3200
Olathe KS 66061-3486

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka,
Kansas.


Joelene R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
GREENBAUM, FREDERICK J. &
CHRISTINA M. FOR THE YEAR 2011
IN JOHNSON COUNTY, KANSAS

Docket No. 2011-7820-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on December 1, 2011. The Taxpayers, Frederick J. & Christina M. Greenbaum, appeared by Mr. Greenbaum, pro se. The County of Johnson appeared by Darla Frank and Tracy Weaver. The tax year in issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as an equalization appeal has been properly and timely filed pursuant to K.S.A. 2010 Supp. 79-1609.

The subject matter of this appeal is as follows:

Real estate and improvements commonly known as
4861 W 90th St., Prairie Village, Johnson County, Kansas
also known as Parcel ID# 046-068-33-0-20-11-013.00-0.

According to the county's records, the subject property is a one and a half story conventional style home constructed in 1981. It has 3,924 square feet of total living area, four bedrooms, three full bathrooms, two half bathrooms, and one fireplace. The home is built on a full basement with 1,987 square feet of lower level finish and has a 483 square foot attached garage. The county lists the subject as in "Average" physical condition, with a C.D.U. (Condition, Desirability, Utility) rating of "Good."

For the tax year at issue, the county's computer assisted mass appraisal (CAMA) system's market comparison analysis yielded a value of \$582,100 for the subject property. The county's other value indicators include the cost estimate at \$537,710, the weighted estimate at \$575,250, and the model prediction at \$590,300.

For tax year 2011, the county recommends that the prior year's small claims value of \$518,000 be sustained.

In Kansas, non-agricultural real property is appraised at its fair market value for purposes of ad valorem taxation. *See* K.S.A. 79-501. The term "fair market value" is defined as that "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 the parties are acting without undue compulsion." K.S.A. 79-503a.

Because the subject property is residential property, the county bears the burden of initiating the production of evidence to prove by a preponderance of the evidence the validity and correctness of its valuation. *See* K.S.A. 2011 Supp. 79-1609. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

The taxpayer argued the county overvalued his home. He testified the county's recommended value was \$69,000 above the highest sale price on the subject's street, which sold for \$449,000. The taxpayer argued that, unlike the subject, this home had been substantially updated before it sold. Based on this sale, the taxpayer's opinion of value was \$400,000.

Based on the testimony and the documentary evidence, the court concludes the county's recommended value is the best indicator of the subject property's market value as of the valuation date. The county's recommended value is substantially lower than all of the indicators of value in its appraisal report, and the taxpayer's sales evidence was not persuasive, as it was not adjusted for differences between the sales presented and the subject property. Therefore, the court concludes the appraised value for the subject property as of January 1, 2011 shall be \$518,000.

IT IS THEREFORE ORDERED that, for the reasons stated above, the appraised value of the subject property for tax year 2011 is \$518,000.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2010 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. *A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to*

notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.


IT IS SO ORDERED

THE KANSAS COURT OF TAX APPEALS



RECUSED

SAM H. SHELDON, CHIEF JUDGE


JAMES D. COOPER, JUDGE


JANIS K. LEE, JUDGE PRO TEM


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7820-EQ and any attachments thereto, was placed in the United States Mail, on this 2nd day of July, 2012, addressed to:

Frederick J Greenbaum
Christina M Greenbaum
4861 W 90th St
Prairie Village, KS 66207

Paul Welcome, Johnson County Appraiser
Johnson County Appraiser Office
11811 S Sunset Dr, Ste 2100
Olathe KS 66061

Kathryn Myers, Asst. Johnson County Counselor
Johnson County Admin Bldg
111 S Cherry, Ste 3200
Olathe KS 66061-3486

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka,
Kansas.


Joelene R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE PROTEST
OF HAHN, KENNETH FOR THE
YEAR 2011 IN SHAWNEE COUNTY,
KANSAS

Docket No. 2012-2156-PR

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on July 27, 2012. The Taxpayer, Hahn, Kenneth appeared *pro se*. The County of Shawnee appeared by its counsel of record, Aimee Betzen. The tax year in issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as a tax protest has been properly and timely filed pursuant to K.S.A. 2011 Supp. 79-2005.

The subject matter of this tax protest is as follows:

Real estate and improvements known as
301 SW Roosevelt St., Topeka, Shawnee County, Kansas,
also known as Parcel ID # 089-097-25-0-30-38-001.00-0.

As of the valuation date of January 1, 2011, the subject property was a bungalow style home built in 1930. It had four bedrooms, two full bathrooms, 1,272 square feet of total living area, and a partial unfinished basement. The County has classified the subject property with "average-minus" quality, "fair" physical condition, and "average" C.D.U. (condition, desirability, utility) ratings. For the tax year 2011, the County originally valued the property at its 2010 value of \$52,900. However, its current recommended value is \$49,900, derived using the sales comparison approach to value. Other indicators of value in the County's report include the total cost value of \$64,240, the multiple regression analysis estimate of \$51,800, and the weighted estimate of \$50,400. The County requests that its recommended value be upheld.

The Taxpayer purchased the subject property in mid-2011 as a vacant lot after it burned down in February 2011 and was demolished in April 2011. The

Taxpayer testified he had the vacant lot appraised for \$623, and this was his recommended value. He also argued the subject property was in awful condition before it burned down and should have been condemned. The County noted, however, that the subject was being leased at a rental rate of \$425 per month.

After reviewing all of the evidence and arguments presented, the Court concludes the County has presented substantial credible evidence of the property's market value. Although the Court sympathizes with the Taxpayer for being taxed on improvements he never owned, the property is required to be appraised as it existed on January 1, 2011. Accordingly, the Court adopts the County's recommended value as the appraised value for the subject property.

IT IS THEREFORE ORDERED that, for the reasons stated above, the appraised value of the subject property for tax year 2011 is \$49,900.

IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this Order, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2011 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED


THE KANSAS COURT OF TAX APPEALS



SAM H. SHELDON, CHIEF JUDGE



TREVOR C. WOHLFORD, JUDGE



JAMES D. COOPER, JUDGE



JOELLENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2012-2156-PR and any attachments thereto, was placed in the United States Mail, on this 31st day of August, 2012, addressed to:

Kenneth Hahn
767 Miami St Apt 2
Leavenworth, KS 66048

J Mark Hixon, Shawnee County Appraiser
Shawnee County Annex
1515 NW Saline, Ste 100
Topeka KS 66618

Ashley R Heidrick, Asst Shawnee County Counselor
Shawnee County Courthouse
200 SE 7th St. Room 100
Topeka KS 66603-3932

Larry Wilson, Shawnee County Treasurer
Shawnee County Courthouse
200 SE 7th Room 101
Topeka KS 66603-3932

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka,
Kansas.


Joelene R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF KRUEGER,
KAREN FOR THE YEAR 2011 IN
WOODSON COUNTY, KANSAS

Docket No. 2011-7834-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on December 14, 2011. The Taxpayer appeared *pro se*, and by Troy Shaffer, Witness. The County of Woodson (the County) appeared by Linda Terrill, Attorney and Jerry Mentzer, County Appraiser. County Exhibits 1 through 7 and Taxpayer Exhibits 1 through 30 were admitted into evidence. A post-hearing brief was submitted by the Taxpayer.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as an equalization appeal has been properly and timely filed pursuant to K.S.A. 2011 Supp. 79-1609.

The subject matter of this appeal is as follows:

Real estate and improvements commonly known as 301
West Bell Street, Yates Center, Woodson County,
Kansas; also known as Parcel Identification Number
104-131-11-0-20-39-006.00-0.

FACTS

The tax year in issue is 2011, with an appraisal date of January 1, 2011.

The subject property is a single-family one and a half story old-style residence with 1,674 square feet of living area above grade. It is built over a crawl space on a stone foundation. It has three bedrooms and two full bathrooms. There is also a detached garage of 280 square feet, built in 1920. The lot is 75 feet by 150 feet, for a total of 11,250 square feet, or 0.26 acre.

The condition, desirability, and utility (C.D.U.) rating as listed by the County is "Good" as is the physical condition rating. The construction quality is "Average+."

The County's listing shows that the house was built in 1900. As noted in numerous prior appeals on the subject property, the house has been completely renovated. The Taxpayer has not kept track of the costs of the renovations and does not know the total amount spent in this endeavor. The Taxpayer acted as her own general contractor and has had numerous people working on the house in different capacities. There are no further outstanding bills or litigation concerning the work performed on the house. The County considers the house to be completely renovated and the Taxpayer does not argue otherwise.

For the tax year at issue, the County reduced the appraised value the subject property at the informal meeting to \$66,500. A correction of a clerical error was given as the reason for the adjustment. That value was based on the cost approach to value.

The Taxpayer then appealed on the small-claims division of the Court of Tax Appeals in Docket Number 2011-2909-EQSC. At that level, the hearing officer found the appraised value of the subject property should be reduced to \$56,900. The hearing officer found that the County's use of the cost approach was problematic given the age of the subject property. Instead, the hearing officer utilized the multiple regression analysis value. The County has no objection to the small-claims hearing officer's decision.

The comparable sales approach to value indicates a value of \$64,100.

Mr. Troy Shaffer testified on behalf of the Taxpayer. Mr. Shaffer is a retired carpenter and lives in an apartment at 201 West Butler Street, Yates Center. Mr. Shaffer testified as to the work he had done on his daughter and son-in-law's house at 205 West Kansas Street, Yates Center. That house is listed on County Exhibit 1. In short, Mr. Shaffer testified that his daughter and son-in-law told him that they spent around \$70,000 in renovations and then sold the house for \$58,000. That house was gutted and the roof, siding, plumbing, electrical, and floors were all replaced. Mr. Shaffer also testified as to work that was done on other houses in Yates Center. Mr. Shaffer did not testify that he had worked on the subject property or had first-hand knowledge of the subject property.

The Taxpayer requests an appraised value of \$52,000, for the 2011 tax year.

In an undated letter to the County Appraiser, the Taxpayer, enclosing a copy of the appeal of the small-claims hearing officer's decision to the regular division, stated "this amount [the \$56,900 decision of the small-claims hearing officer] is higher than my market estimate of \$52,000 but I would accept it if it would end this case. Unfortunately, however, it won't." At the hearing, the County's attorney moved for

summary judgment arguing that the Taxpayer is in agreement with the County's value.

The Taxpayer's value of \$52,000, is not affirmatively supported by any evidence. Instead the Taxpayer faults the County's listings of the subject property. The Taxpayer argues that the construction quality grade and C.D.U. rating should be reduced somewhat. Numerous photographs of the subject property's exterior and exterior shots of comparison properties were submitted in the Taxpayer's evidence and six photographs of the subject property's interior were also submitted. *See* Taxpayer Exhibits 17 through 19. Taxpayer Exhibits 17 and 18 are close-up shots of the basement floor, walls, and foundation. Taxpayer Exhibit 19 is a close-up shot of a termite-eaten wood floor, a newly sheetrocked wall, and a modern electrical outlet. No other interior photographs were presented.

Only if the County would inspect the interior of its comparison properties, would the Taxpayer allow an interior inspection of the subject property. Consequently, the County has not been allowed to perform an interior inspection of the subject property.

CONCLUSIONS OF LAW

Considering first the County's trial motion for summary judgment, the Court finds that there was no meeting of the minds as to what the value of the subject property should be. The Taxpayer's admission is part of a negotiation that the County never agreed to. Therefore, the Court finds that the County's trial motion for summary judgment should be denied.

Each parcel of non-agricultural real property in Kansas is to be appraised at its fair market value, pursuant to K.S.A. 79-501. The term "fair market value" is defined as that "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." *See* K.S.A. 2011 Supp. 79-503a.

Pursuant to K.S.A. 2011 Supp. 79-1609, the Woodson County Appraiser must support the validity and correctness of the value by a preponderance of evidence for residential property or real property used for commercial and industrial purposes for taxation purposes. Pursuant to Article XI, § 1 of the Kansas Constitution, the subject property is classified as residential property. Therefore, the burden of demonstrating the validity and correctness of the value is on the County.

The current value is based on a multiple regression analysis that utilizes the contributory value of each of the component parts of the subject property to arrive at a total value. The values indicated by the cost approach and comparable sales approach are both higher than the current value. Nothing in the County's evidence supports any further reduction in value. The County's evidence adequately supports the value

shown in the multiple regression analysis.

The Taxpayer did not present any evidence to affirmatively show that the subject property is worth \$52,000. While a reduction in grade and C.D.U. is requested, the evidence does not support such a reduction. The current C.D.U. rating and physical condition rating are supported by the only evidence available to the County, as well as this Court, that being mainly exterior appearances. The six photographs of the interior are not sufficient to warrant any reduction. The evidence does not show when the photographs were taken. These photographs show only two small portions of the subject property and do not address the condition of the rest of the subject property.

The essence of Mr. Shaffer's testimony is that houses do not sell for the amount of money one spends in making renovations. What was spent in renovations of other properties and what they eventually sold for has little bearing on the subject property's appraised value. Furthermore in this case, the Taxpayer was unable or unwilling to say how much was actually spent in renovating the subject property despite the fact that she was acting as her own general contractor. Without that evidence, Mr. Shaffer's testimony has little persuasive value in determining whether the subject property is appraised at its fair market value.

The current appraised value is based on data derived from current market conditions and is supported by two other accepted valuation methods. Therefore after careful review of all the evidence, the Court finds that the current appraised value of the subject property shall be sustained.

IT IS THEREFORE ORDERED that, for the reasons stated above, the County's trial motion for summary judgment shall be denied. IT IS FURTHER ORDERED that, the current appraised value of the subject property for tax year 2011 at \$56,900, shall be, and is hereby, sustained.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2010 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED



ATTEST:

THE KANSAS COURT OF TAX APPEALS


SAM H. SHELDON, CHIEF JUDGE


TREVOR C. WOHLFORD, JUDGE


JAMES D. COOPER, JUDGE


JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joeline R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7834-EQ and any attachments thereto, was placed in the United States Mail, on this 1st day of June 2012, addressed to:

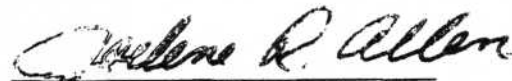
Karen Krueger
Apartment 707
429 "N" Street, Southwest
Washington, District of Columbia 20024

Jerry Mentzer, Woodson County Appraiser
Woodson County Courthouse, Room B102
105 West Rutledge Street
Yates Center, Kansas 66783

Linda Terrill
Neill, Terrill, and Embree
Suite 100
11350 Tomahawk Creek Parkway
Leawood, Kansas 66211

Ray Hite, Woodson County Treasurer
Woodson County Courthouse
105 West Rutledge Street
Yates Center, Kansas 66783

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joeline R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF KRUEGER,
KAREN FOR THE YEAR 2011 IN
WOODSON COUNTY, KANSAS

Docket No. 2011-7834-EQ

ORDER DENYING RECONSIDERATION

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas.

The subject matter of this appeal is as follows:

Real estate and improvements
commonly known as 301 West Bell
Street, Yates Center, Woodson
County, Kansas; also known as Parcel
ID# 104-131-11-0-20-39-006.00-0.

The Court finds, upon review of the Taxpayer's Petition for Reconsideration, that no evidence or arguments are offered that would persuade the Court that the original order should be modified or that reconsideration should be granted. The Court, therefore, concludes that the Order as originally issued should be, and is hereby, sustained.

IT IS, THEREFORE, BY THE COURT OF TAX APPEALS OF THE STATE OF KANSAS, CONSIDERED AND ORDERED that, the above-captioned Motion for Reconsideration should be, and the same is hereby, denied.

This order constitutes final agency action. Any party choosing to petition for judicial review of the Court's decision must file the petition with the appropriate court within 30 days from the date of certification of this order. See K.S.A. 77-613(c), and amendments thereto. The Kansas Court of Appeals has jurisdiction over all property appraised and assessed by the director of property valuation, excise, income, or inheritance taxes assessed by the director of taxation, and all tax exemptions. See K.S.A. 74-2426, and amendments thereto. The District Court in the County where the subject property is located has jurisdiction over all tax protests, grievances, and equalizations. See K.S.A. 74-2426, and amendments thereto. Pursuant to K.S.A. 77-529(c), and amendments thereto, any party choosing to petition for judicial review of the Court's decision is hereby notified that the Secretary of the Court of Tax Appeals is to receive service of the petition for judicial review. Please note, however, that the Court would not be a party to any

judicial review because the Court does not have the capacity or power to sue or be sued. See K.S.A. 74-2433(f), and amendments thereto.

IT IS SO ORDERED

THE KANSAS COURT OF TAX APPEALS



Handwritten signature of Sam H. Sheldon in cursive.

SAM H. SHELDON, CHIEF JUDGE

Handwritten signature of Trevor C. Wohlford in cursive.

TREVOR C. WOHLFORD, JUDGE

JAMES D. COOPER, JUDGE

Handwritten signature of Joeline R. Allen in cursive.

JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7834 EQ and any attachments thereto, was placed in the United States Mail, on this 9th day of July 2012, addressed to:

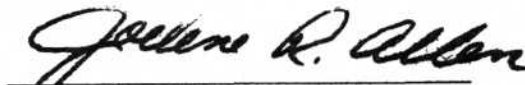
Karen Krueger
Apartment 707
429 "N" Street, Southwest
Washington, District of Columbia 20024

Jerry Mentzer, Woodson County Appraiser
Woodson County Courthouse, Room B102
105 West Rutledge Street
Yates Center, Kansas 66783

Linda Terrill
Neill, Terrill, and Embree
Suite 100
11350 Tomahawk Creek Parkway
Leawood, Kansas 66211

Ray Hite, Woodson County Treasurer
Woodson County Courthouse
105 West Rutledge Street
Yates Center, Kansas 66783

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joelene R. Allen, Secretary

**BEFORE THE COURT OF TAX APPEALS
STATE OF KANSAS**

IN THE MATTER OF THE
EQUALIZATION APPEAL OF
MEISSNER, ROBERT L. & SHARON
S. FOR THE YEAR 2011 IN
SHAWNEE COUNTY, KANSAS

Docket No. 2011-7281-EQ

ORDER

Now the above-captioned matter comes on for consideration and decision by the Court of Tax Appeals of the State of Kansas. The Court conducted a hearing in this matter on January 13, 2012. The Taxpayers, Robert L. & Sharon S. Meissner, appeared pro se. The County of Shawnee appeared by Kathleen Malloy, residential appraiser. The tax year in issue is 2011.

After considering all of the evidence and arguments presented, the Court finds and concludes as follows:

The Court has jurisdiction of the subject matter and the parties, as an equalization appeal has been properly and timely filed pursuant to K.S.A. 2010 Supp. 79-1609.

The subject matter of this appeal is as follows:

Real estate and improvements commonly known as
2205 SW Millers Glen Dr., Topeka, Shawnee County, Kansas
also known as Parcel ID# 089-151-12-0-10-05-011.00-0.

According to the county's records, the subject property is a one story ranch style home constructed in 2009. It has 2,360 square feet of total living area, four bedrooms, three full bathrooms, and two fireplaces. The home is built on a full, daylight basement with 1,980 square feet of lower level finish and has a 786 square foot attached garage. The county lists the subject as in "Average" physical condition, with a C.D.U. (Condition, Desirability, Utility) rating of "Very Good" and a construction quality rating of "Good-plus."

For the tax year at issue, the county's computer assisted mass appraisal (CAMA) system's market comparison analysis yielded a value of \$433,100 for the subject property. The county's other value indicators include the cost estimate at \$449,920, the weighted estimate at \$435,500, and the multiple regression analysis

estimate at \$424,100. For tax year 2011, the county asks that its recommended value of \$433,100 be sustained.

In Kansas, non-agricultural real property is appraised at its fair market value for purposes of ad valorem taxation. See K.S.A. 79-501. The term "fair market value" is defined as that "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 the parties are acting without undue compulsion." K.S.A. 79-503a.

Because the subject property is residential property, the county bears the burden of initiating the production of evidence to prove by a preponderance of the evidence the validity and correctness of its valuation. See K.S.A. 2011 Supp. 79-1609. No presumption shall exist in favor of the county appraiser with respect to the validity and correctness of its determination. *Id.*

The taxpayers argued the county overvalued their home. Their primary argument was that the construction quality rating should be reduced from "Good-plus" to "Good" based on the average rating of "Good-minus" for the neighborhood. The county calculated that such a reduction in the construction quality rating would result in a value of \$412,000.

Based on the testimony and the documentary evidence, the court concludes the subject property's construction quality rating should be lowered from "Good-plus" to "Good," as the taxpayer requested. Accordingly, the court concludes the appraised value for the subject property as of January 1, 2011 shall be \$412,000.

IT IS THEREFORE ORDERED that, for the reasons stated above, the appraised value of the subject property for tax year 2011 is \$412,000.

IT IS FURTHER ORDERED that the appropriate officials shall correct the county's records to comply with this Order, re-compute the taxes owed by the taxpayer and issue a refund for any overpayment.

Any party to this action who is aggrieved by this decision may file a written petition for reconsideration with this Court as provided in K.S.A. 2010 Supp. 77-529. The written petition for reconsideration shall set forth specifically and in adequate detail the particular and specific respects in which it is alleged that the Court's order is unlawful, unreasonable, capricious, improper or unfair. Any petition for reconsideration shall be mailed to: Secretary, Court of Tax Appeals, Docking State Office Building, Suite 451, 915 SW Harrison St., Topeka, KS 66612-1505. A copy of the petition, together with any accompanying documents, shall be mailed to all parties at the same time the petition is mailed to the Court. Failure to

notify the opposing party shall render any subsequent order voidable. The written petition must be received by the Court within fifteen (15) days of the certification date of this order (allowing an additional three days for mailing pursuant to statute). If at 5:00 pm on the last day of the specified period the Court has not received a written petition for reconsideration of this order, no further appeal will be available.

IT IS SO ORDERED

THE KANSAS COURT OF TAX APPEALS





SAM H. SHELDON, CHIEF JUDGE



TREVOR C. WOHLFORD, JUDGE



JAMES D. COOPER, JUDGE



JOELENE R. ALLEN, SECRETARY

CERTIFICATION

I, Joelene R. Allen, Secretary of the Court of Tax Appeals of the State of Kansas, do hereby certify that a true and correct copy of this order in Docket No. 2011-7281-EQ and any attachments thereto, was placed in the United States Mail, on this 5th day of July, 2012, addressed to:

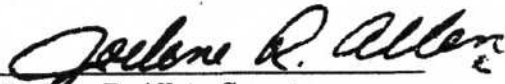
Robert L Meissner
Sharon S Meissner
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J Mark Hixon, Shawnee County Appraiser
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200 SE 7th St. Room 100
Topeka KS 66603-3932

Larry Wilson, Shawnee County Treasurer
Shawnee County Courthouse
200 SE 7th Room 101
Topeka KS 66603-3932

IN TESTIMONY WHEREOF, I have hereunto subscribed my name at Topeka, Kansas.


Joelene R. Allen, Secretary