



APPRAISING THE PLAINS

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of Kansas



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Above: A history board depicting KCAA's longtime involvement in IAAO was on display at IAAO's 75th anniversary conference in Kentucky. Read more about this year's meeting and plans for 2012 in KC beginning on p. 6.

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Ramblings of an “Elder”

Elysa K. Lovelady
KCAA President

Having just returned from the IAAO Conference in Louisville, Ky., I feel rejuvenated and excited again about what we accomplish as mass appraisers. If you have never attended an IAAO conference, I encourage you to find a way to attend. In 2010, the Conference will be in Orlando, Fla.; then in 2011 it will be held in Phoenix, Ariz. Coming up in 2012, the Conference will be in Kansas City, Mo. If you cannot get there before 2012, plan to attend while in KC! The educational offerings are the best you will find and relate to not only large but small and rural jurisdictions as well as office administration, budgetary, personnel, and personal development topics. I have yet to be disappointed and never come away without something I can put to use!

I recently discovered that in Kansas we had only eight county appraisers representing 12 counties that were not IAAO members. I started a membership drive and am happy to report we have all but three of those eight individuals signed up and/or in process of getting membership and membership grants approved. If you were contacted by Rick Stuart, Kim Lauffer or me and have not yet sent in your IAAO membership application along with the Hagemann Trust Grant application, please take 5-10 minutes and get signed up in the next week. We are counting on YOU! **If we can get these final three signed, then Kansas will be the first jurisdiction within the IAAO to have all counties represented by IAAO members.**

Even those in small jurisdictions will benefit from IAAO membership, by professional development, knowledge gained by reading the IAAO publications, and ASSESSORNET (which allows for a question and answer type dialog whereby any IAAO member can pose a question on the web to allow others to provide insight and experience).

As my time as president of KCAA comes to an end, I want to thank you for your support. A special thanks to those who stepped up and served our organization this past year. Keep in mind, KCAA is your organization representing small to large jurisdictions. While we all work under the same principals and guidelines, each jurisdiction has a different make-up; so if you do not get involved and lend a voice, what might be seen in one jurisdiction as small change may have a significant impact and be overlooked as to importance in your county! Get involved, serve on a committee, serve as an officer in your region and/or run to serve on the Executive Board. Everyone's point of view needs to be considered, so step up this next year and get involved. Share your time to keep KCAA a strong organization!

KCAA Appraising the Plains of Kansas is a quarterly publication of the Kansas County Appraisers Association. KCAA invites readers to submit articles or topics of interest for inclusion in “Appraising the Plains.” Send them to Cindy Brenner, KCAA, P.O. Box 988, Meade, KS 67864. Ph. (620) 873-7449. Fax (620) 873-2237. Email: kcaa@sbcglobal.net

A Familiar Face Has Left Us...



Larry Arthur Cordes
April 25, 1944 –
Sept. 25, 2009

Larry Cordes, a long-time employee of the Meade County Appraiser's Office, died Friday, September 25. Our condolences to Larry's family and friends, including daughter Cindy Brenner. Reprinted below is his obituary.

MEADE – Larry A. Cordes, age 65, died Friday evening, September 25, 2009, at the Meade District Hospital, Meade, Kansas, surrounded by his loved ones after a battle with cancer.

He was born April 25, 1944, at Meade, Kansas, the son of Albert Arthur and Irene Eleanor (Dunham) Cordes. As a young boy he attended the Meade school system, graduating from Meade High School in 1962.

He was a member of the 1962 Graduating Class of Meade High School, St. John Lutheran Church, and the Kansas County Appraisers Association. In 1964, he married Carol Bergkamp at Fowler, Kansas. She survives. Other survivors include: A son, Matt Cordes and Angie of Ford, Kansas. A daughter, Cindy Brenner and husband Mitch of Meade, Kansas. Three sisters, Kathleen Ross of Meade, Kansas; Nona Gay Newman of Wichita, Kansas; Mary Arrington of Pittsburg, Pennsylvania. Five grandchildren, Molly and Mason Brenner, Garrett, Ethan, and Tanner Dow. He is preceded in death by his parents and a brother Earl Cordes.

Memorial services will be held at 10:30 a.m. Tuesday, September 29, 2009, at St. John Lutheran Church, Meade, Kansas, with the Reverend Lynn E. Spencer presiding. Cremation has taken place. The family will greet friends from 5:00 p.m. until 7:00 p.m. Monday at Fidler-Orme-Bachman Mortuary, Meade. Inurnment will follow in Graceland Cemetery, Meade.

The family would welcome memorials to St. John Lutheran Church Building Fund in care of the funeral home.

Board Meeting Highlights

■ KCAA Executive Board Meeting June 7, 2009, Wichita

President Elysa Lovelady called the meeting to order at 2:15 pm. Board members present were Della Rowley, Dean Denning, Jami Clark, Gayla Godfrey, Greg McHenry and Elysa Lovelady. Also present were Gene Bryan, Leroy Burk, Paul Welcome and Toni Viens.

Greg motioned and Jami seconded to approve the minutes as stated from the last meeting. Vote was unanimous.

The financial report was also discussed. On accounts due, Jami questioned why Sedgwick and Leavenworth counties had so much outstanding over 90 days. It was discussed that they may wait to pay until closer to the actual date of the class, and enrolls all classes early in the year. Elysa states that the check from Butler County was mailed in error to KCAA (Kansas County Administrators Assn.), so they were delinquent due to this.

Della gave a Treasurer's report. Dean moved and Jami seconded to accept the Treasurer's report. Jami thanked Della for the report.

There was much discussion on education. Several had staff that needed IAAO #500, so it was decided that Paul would check to see if the Johnson Co. classroom was available for the class and to move the class to the KC area and re-advertise and hope to get some from the other states enrolled. If not, then the class will be cancelled. It was decided to cancel IAAO #201 and #400 due to lack of enrollment.

The Basic Assessment and Taxation and Public Relations courses for Sept 8–9 will be re-advertised with emphasis on promoting with clerks, treasurers, and ROD with a July 1 deadline for more enrollment or these will also be cancelled. Cindy is to re-advertise all classes, and it was felt there will be more interest in the one-day IAAO Forum Critiquing an Appraisal, so it was not cancelled. There was discussion on the RMA Case Study reviews. Paul felt we are at a point that we should only

offer once a year and advertise well in advance that we will only offer one class. The Board wants to table this until they get numbers from Cindy for the RMA Case Reviews from the past few years. At this time, the fall Case Study Reviews will not be cancelled. Paul also wanted to do a survey of courses needed after the new appraisers take office July 1. That way the committee can have an idea prior to KAC what educational offerings are needed.

Elysa gave an overview of the 2009 Conference. Toni with Johnson County is holding an organizational meeting for commercial appraisers immediately following the opening session. Paul indicated they are working on Orion hearing packets and other areas that the commercial appraisers might discuss. There was some discussion on the conference speakers and topics.

Paul stated he felt Orion was working better than it had been. He has sent a letter to the Secretary of Revenue concerning Orion staffing. There are still 75–90 counties to convert to Orion, and PVD Orion Department needs to staff up to see these counties through conversion.

Paul asked the KCAA Board to send a similar letter to PVD. Leroy said Orion creates lots of work, you can't do a lot of things, and processing is extremely slow. He further stated that PVD and Tyler had been pretty good about support. Gene asked about the Orion panel discussion on Wednesday. He indicated Mitch had come to Wyandotte County from Tyler and was a great help in their conversion. He will ask Mitch if he wants to share his experiences during the Orion panel discussion.

Della motioned and Jami seconded to draft a letter to PVD for serious consideration of adequately staffing the PVD Orion Division in light of the fact that there are 75–90 counties still to convert to Orion that will need assistance. Elysa will draft the letter and have Cindy send to the KCAA Board members for approval before sending to PVD. Motion passes unanimously.

Leroy shared his refinery and nitrogen plant cases and discussed real vs. personal issues brought out. He also has an oil operator filing for exemption on an oil rig purchased in 2006 that is pending at COTA. There was much discussion on oil equipment as real vs. personal property as well as ethanol plants and other commercial properties having these issues brought up. Paul recommended KCAA call a meeting with PVD to discuss the issues. Greg felt the old list of real vs. personal property from CAMA needed to be looked at and updated.

Dean indicated he has a service company in the discovery stages with 30–40 trucks that is considering requesting exemption. It was felt the counties with refineries, ethanol plants, and nitrogen plants should get together and discuss. Gayla wants to have Cindy send an e-mail to all counties asking those with ethanol plants to contact her (Gayla). She will head up a committee to look into how counties are valuing ethanol plants, real vs. personal.

It was suggested that the issue of oil rigs filing for exemption go back to the Oil & Gas Committee to see if counties would want to go together to fight this. John Reeder will be contacted to follow-up on the Montgomery County case and the one pending in Ellis County.

The newly organized commercial will review the old list of real vs. personal and take on that issue and having PVD update the list for Orion.

There were no requests at this time for legislative concerns. Elysa was to see if Tony had the 2009 legislative memo PVD usually hands out at conference ready to go so he could fax for conference. It was suggested possibly we need to discuss the Declaration of Representative form and requests for hearings process.

There being no other business to come before the Board, Dean moved and Greg seconded to adjourn. Motion passed.



Prop K Update

By Paul Welcome, CAE, ASA, RMA

Here are the 17 points I presented in my testimony before the House Taxation Committee last session in opposition to HB 2150. At the Kansas City Area Realtors Association meeting this summer, we learned that the Realtors do not plan to inject their ideas into the appraisal process. Instead, they plan to request caps for the mill levies or do some other process with the mill levies and/or tax dollars collected. They did not have an exact proposal, but they planned to review options this summer and follow up next session with a new bill or revisions for HB 2150. Be sure to watch this bill for the upcoming session.

1. First, we believe House Bill 2150 is unconstitutional with respect to “baseline value” (appraised value of a property as of January 1, 2010) and “adjusted baseline value” (baseline value of a taxable property, compounded annually at 2%) and then allowing appeals based on market value. If this bill is passed, market value can only be assumed for the year 2010 as properties do not uniformly increase in value at 2% a year. In fact, property values declined in 2009 and are anticipated to decline again in 2010.

2. In Johnson County, if this bill was already law, we would be raising property values via the adjusted baseline procedure, even though in 2009, 90% of all properties had no change in value or declined in value. If this process was in place, the county could potentially have over 160,000 appeals this year. With our current system, each year we have approximately 5,000 property owners appeal their values. If the appeal process had 160,000 petitions, the system would collapse. As stated in Item 1 above, under the adjusted baseline system, assessed values would have increased when in reality market values declined. This would result in having one system for set-

ting assessments and another, actual market value, for appeals. A two tier valuation process would not meet the constitutional test.

3. To further expand on the lack of a 2% uniform increase, many areas throughout the state have values increase at various rates. Under the proposed system, some properties would have “value exempted” while others would be fully taxed using the 2% adjusted baseline. For instance, if my house increased at 2% but yours increased at 5% per year for the next five years, my home would be totally taxed while yours would have 15% percent of its value not placed on the tax roll. This would exempt values of properties that increased at 5%, placing an unjust burden and tax bill on those properties that do not increase equally. The tax burden would be shifted to those property owners that increase at a lower rate.

4. Wealthy property owners would benefit by this tax shift to the detriment of those owners whose properties appreciate at a slower rate. This does not meet the uniform and equal value and rate provisions of the constitution.

5. Based upon the proposed system, to appeal a value, one uses market value as the determination of value. Now you have some properties at market value and others at adjusted baseline values. This would be very confusing to everyone to explain and to explain to the public would be most difficult. If a property caught fire and was destroyed on December 31st, the market value for January 1st would be for a burned out shell of a property. Now the value would increase by 2% from the previous baseline value. The property owner appeals and the property value is lowered due to condition. The owner repairs the property and does not expand the footprint. What value does the county appraiser use? Market value

or the revised baseline (market value) plus what?

6. Regarding zoning on Page 1, Line 35, New Sec. 3: the first issue is that not all cities and towns have a zoning ordinance within the state of Kansas. What now? What would the county appraiser do for selection of “like zoned” parcels to use in determining a value on the property? Also, the bill suggests a 200-foot radius to help in the establishment of a value. Do the improvements (say all the improvements or will only a portion of the improvement be used and, if a portion, what percentage) have to be within 200 feet or would just the edge of the parcels be OK? What happens if there are no improvements within 200 feet or 1,000 feet for rural properties?

7. How does one handle “liked zoned” property where the zoning differs from one city to an abutting city? What would be the exact definition of “liked zoned” properties?

8. What happens if there are no other properties like the one under appraisal within the state? How does the county appraiser find like property in the state. The county appraiser does not have access to a statewide data base.

9. Expanding on another example regarding the 200-foot radius average “like zoned” baseline value, would it be fair to have a new improvement in an area with very old residential properties, where the new residence would be adjusted downward to account for new development? How is this fair to have the new residence adjusted down to account for the new residential improvement? Are the newer subdivisions paying their pro-rata share of taxes when their baseline value is reduced because of being proximate to older properties? Where is the equity in these examples?

10. According to Page 2, Line 2: I

present the following scenario. There is a large tract of land that has agricultural use value but is zoned residential. From this tract many new parcels are developed. Question: Would a parcel in the center maintain its agricultural use baseline value while the other parcels could have a value higher since they would be within 200 feet of other higher valued parcels?

11. Regarding condominiums that are within 200 feet of each other, would horizontal distances be considered and/or vertical distances? Does one measure from the floor to floor or ceiling to floor for the distance?

12. How would the appraiser keep track of the parcels used in this methodology? In Johnson County there are over 10,000 parcel adjustments each for new improvements, new additions, split or combinations of properties. The appraiser would need a super computer or a “big chief tablet” to keep track of this methodology. Also, what happens when the base would be established with one set of parcels with new improvements added as another set of parcels in later years? What a mess this would become to try and explain to the public! This would become so complicated that it would be a wonder if anyone could adequately understand and explain the proposed system.

13. Would this be fair to have a new improvement in an area with very old residential properties, to have their average base line values as the value for these new improvements? How is this fair to a new home in a residential subdivision that could have the old farmstead used as part of the average base line value?

14. What does “average square foot” value mean? There are some properties that are valued not by the square foot but by some other measurement. For instance, many times the cubic feet of a distribution warehouse establishes the measure of value for these type properties. Boat docks are valued by the linear feet of the slip. Grain elevators are measured by capacity. Hospi-

tals are typically valued by the number of beds and movie theaters by the number of viewing screens. These are just a few property types to start with when trying to resolve what is meant by “average square foot.”


Additionally, if “average square foot” is used, what would be the specific criteria? Would this mean gross building area, net rentable area, net leaseable area, square foot of ground floor area of a house, square foot of living area, would basements be considered—finished or unfinished? Does the appraiser add the square footage of the attached or detached garage in the square footage? Does one include various outbuildings, pools or tennis courts? Mezzanine area, does it become part of the square footage?

The definition of “average square foot” needs to be fully discussed and defined by property types before this bill is passed. Otherwise, litigation will follow to define this vague term for all of the various types of properties.

15. Section 10: Page 6, Line 21 follows: Last session, there was much discussion about Court of Tax Appeals (COTA) and trying to resolve appeals quickly and before the setting of the rates for taxes. This section would eliminate the county appraiser’s informal process and would be completely moved to a hearing officer. Typically, the county appraiser is able to resolve about 75% of all appeals at this level with the others being filed in small claims with an expedited hearing process or at the regular division of COTA. As stated in the proposed statute, a quick and efficient process would be impossible to manage or finish before the June 15th certification date.

16. What does clear and convincing evidence mean for the hearing officer to judge an appeal? What does the county appraiser do in an appeal?

17. Finally and most important, this new “improved process” does not get to the issue about “allowing the jurisdictions to leave the same mill rate” and “reap from the additional revenue.” This does not solve the issue. As the state,



The 34th Annual KAC Conference & Exhibition is November 15–17 in Overland Park. KCAA will hold its meeting at 1 p.m. Monday, November 16.

AGENDA
Kansas County Appraisers Association Meeting

Monday, Nov. 16, 2009
Room: Leatherwood 1

1:00 p.m.	<ul style="list-style-type: none"> • Financial Report • Treasurer’s Report • Audit Report • Committee Reports • Installation of Officers
1:30 p.m.	Speaker
2:15 p.m.	Break
2:30 p.m.	<ul style="list-style-type: none"> • PVD • RMA Presentations • Observations & Progress Reports on Orion • 2010 Budget • Legislative Report • Other Business • Committee Appointments • Committee Meetings

you have reaped from this process with a constant mill levy of 1.5 mills and the 20 mills for the schools. The state could have adjusted mill levy rates downward, which would have served to lower property taxes. This process is still available leaving the current constitutional compliant, understood and fair taxing system in place.



75th Anniversary: Win, Place and Grow with IAAO!

75th International Conference on Assessment Administration

By Gary Post, CKA, Lyon County Appraiser

The International Association of Assessing Officers (IAAO) held their 75th annual conference in Louisville, Ky., September 13–16. The past few years they have been having more plenary sessions along with several breakout concurrent education tracks that allowed one to choose the learning experiences that was right for that individual.

The first thing Wednesday morning one of Kansas' own past IAAO presidents, Marion Johnson, CAE, introduced Peter Korpacz, MAI, CRE, FRICS, whose topic was "Valuation Solutions for Distressed Real Estate Markets."

Mr. Korpacz first reviewed past recessions and recoveries, stressing that these things do run in cycles. Everyone hopes for a recovery that hits a bottom and then rapidly improves. He cautioned that this one may be a slower recovery, and people hope it is not a "W recovery, in which things seem to hit bottom, begin to get better, then something happens, an "Event," that drives the economy back down. W's take a large toll on the population and make for a much longer recovery period. He polled the session attendees on several issues, and reminded us how we voted in his IAAO presentation last year.

He touched on vacancies, showing charts that indicated office buildings nationwide were only 80% occupied, while retail and industrial properties were vacant for 12% and 15%, respectively. If there was a bright spot, it might be apartment buildings, which were down from almost 100% occupancy a few

years ago, to 93% occupied currently. What is the trend? There are certainly fewer sales, and there is certainly too much retail space, with many malls and shopping centers having dark anchors. This economy is causing the consumer to take a real hard look at "wants" vs. "needs." The Walmarts, Targets and Kohls are doing relatively well, while the Dillard's, Macy's and Nordstrom's are in the doldrums.

Mr. Korpacz presented charts and graphs which generally indicated that capitalization rates were up about 2 percentage points in most areas, which significantly lowers sale prices, again stressing that he was looking at national trends. He repeatedly cautioned the IAAO attendees to look at the local market first, and if the sales are skimpy, he suggest appraisers look at prior sales and interview the buyers asking one simple question: "What would you give for your property today if you were buying?" He said owners really do like talking about their business activities, and you will get some really good data by these surveys of prior sales.

He spoke last year in Reno, Nev., and 74th IAAO conferees thoroughly enjoyed his presentation then as well as this year. He always starts and ends his presentations with great stories. This time, at a suggestion after last year, he took out a bottle of Kentucky bourbon and a pistol just in case the economic recession/depression news was too bad and anyone wanted to take a drink and just end it all. The news must not have been too bad because no one took him up on his offer.

Mr. Korpacz is always open to questions and responded to my question about "Business Value," stating that even though that was not his topic today, he was "seeing less" business value being placed on real estate transactions.

This was just one of many one-and-half-hour presentations throughout the three days of the 75th IAAO conference. All in all, a very good conference. My thanks to my county commissioners and Lyon County for the opportunity to attend.

This time...Korpacz took out a bottle of Kentucky bourbon and a pistol just in case the economic recession/depression news was too bad and anyone wanted to take a drink and just end it all. The news must not have been too bad because no one took him up on his offer.



5th Annual Kansas Night

By Rick Stuart, CAE

For the fifth year, Kansas was a host for Kansas Night during the IAAO Conference. This year the event was at Howl at the Moon and was catered by Gumby. Gumby is the name of a caterer, and if you can believe it, she is originally from Emporia. Kim Lauffer, RES, RMA, found her on the Internet, and all attending raved about the food.

The theme this year was favorite sports team, and as usual there were some interesting attire. The best outfit this year went to Lee Ann Kizzar from Arkansas for her Dallas Cheerleader outfit. There were 16 states represented and a total of 80 attendees. Both of these numbers were records for this event, and Kim pointed out that the 80 attendees represented 10% of all conference attendees.

Get your outfit ready for next year in Orlando. Can you say “arrrrg me bucko?”



Kansas Night drew a record number of attendees this year.



Kansans at Kansas Night. Front: Gene Bryan. Back: Greg & Tawny McHenry



August Dettbarn, RMA

Dettbarn Recognized

During IAAO’s 75th anniversary conference in Louisville, Ky., three members of the IAAO Research Committee, including our own August J. Dettbarn, RMA, who works in the Douglas County Appraiser Office, received the 2009 Distinguished Research and Development Award. The two others sharing the award are William M. Wadsworth, Research Committee chair, and Scott G. Winter, RES.

The award was presented for their paper “A Guide to Foreclosure-Related Sales and Verification Procedures.” The three were assisted by the rest of the IAAO Research Committee, the Technical Standards Committee and the IAAO Research Librarian.

The paper addresses three important issues brought on by a significant

increase in the number of foreclosures and foreclosure-related sales in many assessment jurisdictions:

1. If and how foreclosure-related sales can be used for computer-assisted mass appraisal (CAMA) or automated valuation model (AVM) modeling, valuation, and sales ratio studies
2. Verification of foreclosure-related sales
3. How assessors can provide information to tax policy officials to help them be more proactive in responding to a significant increase in foreclosure-related sales.

A copy of the paper is on the IAAO website for members of IAAO and will be published in the *Journal of Property Tax Assessment & Administration*.

IAAO Executive Board Candidates

Here are the candidates for the IAAO Executive Board:

President Elect
Bruce Woodzell

Vice President
Debra Asbury

Member – Region 1
Joe Hablinski, CAE – TX

Member – Region 2
Thomas Frey – NY
Michael Stone, AAS – IL
Virginia Whipple, AAS – IN
Scott Winter, RES – WI

Member – Region 3
Dorothy Jacks, AAS – FL
Tony Lindauer – KY
James W. Weaver, CAE, AAS – TN
John Yeatman, AAS – VA

Associate Member
Dean McQuown
Michael Miano



IAAO Member News

Thanks to all of you for your support of the IAAO.

25-year member: Diana Salazar, Sedgwick County

20-year members: Robert Stickney, Stickney Appraisal Services, Medicine Lodge; Theresa Jo Waite, RMA, Cowley County

15-year member: Steven Miles, RMA, Douglas County

10-year members: Donna Cox, Logan County; Deanna Scott, RMA, Sedgwick County; Linda See, Wichita County

5-year member: Bruce Wright, RMA, Dickinson County

New members: Marilyn Brown, Kiowa County; Nancy Herrenbruck, RMA, Cherokee County; Kenton Lyon, RMA, Russell County; Lori Sturdy, Coffey County

A Good Show Overall

By Antonia Viens, MAI, SRA

Jeff Hosapple, Kevin Bradshaw and Toni Viens, all from Kansas, attended the Instructors' Training Workshop (ITW) that occurred just prior to the September IAAO annual conference in Louisville, Kentucky.

The class started promptly at 8 a.m. on Friday, Sept. 11, 2009. There were 17 attending the workshop with Dennis Townsend, our instructor, taking the lead for the day.

We started out on a high-energy level, and Dennis maintained that pace through the entire day. Focus of the day was how to teach adults, and some excellent teaching advice was transmitted. Some of the highlights included: saying important information up front, repeat items that were critical and review often.

Pat Alesandrini picked up the instructor's part for Saturday and Sunday. All 17 of us hopeful instructors had to give two presentations of five minutes (that was five minutes; no more – no less) for each presentation. Needless to say, the stress level was increasing as the toughest part was staying right at five minutes. In addition to Pat, Rick Norejko and

Garth Thimgan helped grade our presentations on a number of criteria and provided critiques to all.

After our Saturday presentations ended (around 6 p.m.), we were all given our new topic for our final — now a 10-minute presentation — on Sunday. Saturday night was fun (*right*) as we all worked on our PowerPoint presentations, creativity of slides and timing. By Sunday we were all too tired to be stressed or nervous, which was a good thing, as the presentations were great!

The intensity of the three days actually brought us all together. We cheered at the end of each presentation, asked informative questions and become friends by the end of Sunday.

Special thanks go to Jean Spiegel of IAAO who got to the class early, stayed late, and always had a smile plus words of encouragement. Jean made everything work.

Overall, the three days were intense and productive. Everyone learned a great deal, the instructors were excellent and the presentations well done.

Taking the ITW, or *What Was I Thinking?*

Kevin J Bradshaw, CAE, RMA, Wyandotte County

Rick Stuart has asked me to put a few words to paper regarding my experience in the recent Instructor Training Workshop (ITW). I took the workshop with 16 other lost souls on the three days prior to the 75th Anniversary IAAO conference in Louisville, Kentucky. And if I had to choose one word to describe the experience that word would be "Wow!" This training was the most intense and nerve-racking experience I've had with IAAO since I took my commercial case study exam.

But even then this class had a lot of advantages that those who took it in the past didn't enjoy. The IAAO and instructors have made several changes based on the feedback received from previous participants. The key change was an attempt the help those going to the workshop prepare ahead of time. They did this with the distribution of periodic e-mails from the IAAO staff prior to the event. They encouraged us to study and how to prepare our short presentations before we got there. As the class date approached, we also

received a discussion of what the graders would be looking for. I can't imagine what previous participants' experiences were like without them.

The workshop began on the Friday prior to the conference and went until Sunday. The Friday curriculum for the most part was training in basic adult education techniques. On Saturday the real fun began. Each participant had to present two five-minute presentations complete with PowerPoint slides. After each presentation, the graders and fellow classmates gave immediate feedback and suggestions. Sunday was our make-or-break day. Each of us gave a 10-minute presentation which was assigned to us the night before. The grading was pass/fail, and I can assure you that many people stayed up late that night. The workshop was completed by 12:30 p.m..

During the week, I was able to speak to a number of my classmates, and almost to a person they said they went back to their rooms and had to take a several-hour nap before the

opening reception Sunday night. We all agreed that the process and material was not what nearly killed us. It was the stress. We were all doing something not all of us had a lot of experience doing. And the pass/fail grading didn't help.

But having said that, I had a great time and learned more than I thought I would. It is one of those life experiences I am glad I did but would never do again!

This training was the most intense and nerve-racking experience I've had with IAAO since I took my commercial case study exam.

Foreclosures & the Current Economics

By Della Rowley, RMA

“How can my value be going up when everything you hear on the news says real estate values are going down? HAVE YOU BEEN LIVING IN A CAVE?”

That is what one of my staff was asked after a taxpayer received his CVN last March. At that point I'm sure she wished she did live in a cave as that was the common phrase everyone was telling us in Sumner County. It appears every other county appraiser's office in Kansas heard similar comments, according to what was discussed at the 2009 KCAA conference in Wichita. It was even the topic at NCRAAO in Iowa later in June! It was no great surprise, then, when we arrived in Louisville, Ky., for IAAO's 75th anniversary conference that this was the hot topic there as well!

One may ask where is the news of a crashing real estate market coming from? That question is easy to answer: primarily the East and West Coasts. It appears that the central United States is not seeing as dramatic an effect from falling sales prices, but markets seem to be stable in some areas and still on the rise in some neighborhoods all over the country.

OK, so this isn't news to anyone in Kansas, unless you did find that cave to live in! The question I had been kicking around like a rubber ball in my head was how I convey that to the taxpayers in Sumner County. The news media is something that over the years we believe and trust as truthful; so how do we break that myth that real estate values are falling in major portions of the country but not in Kansas?

A session that I attended in Louisville showed how to take sales and convert them to Google Earth and apply a “light show” to maps and point out sales that are foreclosures, sales that are valid and sold for more than they are appraised at, etc. (The limit of what can be displayed is limited only by the user's applications.) This is done partly through the wonderful world of GIS and partly through our local reports from

our sales files.

Some of my ancestry came from Missouri, the Show Me State, and I have inherited that same philosophy. Tell me and I may have a “whatever” attitude; show me and, as the saying goes, “a picture is worth a thousand words.” I like lights anyway, so why not do a light show of my own!

Sumner County is currently working on putting some type of sales map presentation together to demonstrate to the public what is happening in our county. When complete, we will get it out on the Web for the world to see. All because I attended a meeting in Kentucky! (That ball bouncing around in my head was giving me a headache anyway!)

Annual conferences are truly learning experiences and tools, whether KCAA, NCRAAO, IAAO or others. The sessions offered all count toward continuing education for RMA and eligibility points. Try and attend any or all. The networking between sessions and in the evenings is sometimes even more beneficial than the sessions themselves. Vendors and other appraiser/assessor's experiences can be learning tools. Communication is the most powerful tool we can possess.

Mark Low told me once that “an organization is only as strong as you want it to be.” Be active and get involved. Too many times when it is time to elect officers, organizations don't have anyone willing to participate. Without officers these organizations will fold. Start at the local level and do what you can do.

Several active people have retired, left or have just run out of new ideas! Education, events and policies don't happen by themselves. Get involved-get active!

Great Performances at IAAO.
Rick Norejko, CMS, portrays one of his characters who explains the history of mapping.



Something to read in your spare time...

By Rick Stuart, CAE

The IAAO Library has recently placed on its shelves *Shopping Center Appraisal and Analysis, Second Edition*. This book will never make the best seller list but has some interesting parts in it. The first two chapters on the nature and investment aspects of shopping centers were interesting, and I came across some new terms and concepts. Then the next six chapters were mainly on market studies with long discussions on retail market areas, supply, demand and residual analysis—necessary components or valuing a shopping center, but *yuck!* The last three chapters deal with the three approaches to value and are more exciting to us appraiser types.

Overall, this book is worth reading. It gives some good insight on the descriptions of various types of shopping centers, the thought process for development of the center, and some discussion on investor consideration. I was somewhat disappointed that more detail was not presented on the income approach, but am sure the authors assume the reader already has substantial experience in this area.

To have the book mailed to you, contact the IAAO Library at library@iaao.org or phone 800.616.4226 extension 8117.



IAAO Conference is Coming to KC!

Minutes of Organizational/Planning Meeting of KCIAAO for 2012 IAAO Conference

Sackey Kweku put together a meeting on Sept. 22, 2009, to discuss planning for the IAAO national conference in Kansas City, Mo., in 2012. Those in attendance were: Gene Bryan, Wyandotte County; Mark Hixon, Shawnee County; Kathy Wagner, Jefferson County; Curtis Koons, Jackson County; Sackey Kweku, Jackson County; Megan Carter, Jackson County; Carol Mcrell, Jackson County; Kathy Liles, Jackson County; Jeff Busche, Property Tax Advisory Group; and Ed Crane, ESRI.

Gene Bryan distributed two handouts to the group at the start of the discussion: one being the “IAAO Local Host Committee Guidelines” and pages 92 & 93 of the IAAO Procedural Rules, which contained in section 11.4.2 information regarding the Local Host Committee’s (LHC) purpose and responsibilities. Discussion followed regarding:

- (1) the guidelines for identifying members of the LHC to the IAAO;
- (2) what part the IAAO would play

in assisting the chapter;

(3) number of “chairs” the LHC could have and number of members;

(4) what the LHC would be responsible for and how many “subcommittees” and volunteers we might need; and

(5) how much money the KCIAAO chapter would need to raise before the conference.

To address some of these items, Gene also had some statistics regarding the number of chairs, members and volunteers that some of the jurisdictions in charge of prior IAAO conferences had. Other discussion focused on what the “guidelines” and procedural rules stated. Since there appeared to be some deviation from these guidelines and rules in prior conferences, it was decided to contact IAAO and get some clarification on several of our questions.

Areas of responsibility that the LHC would be responsible for include, but are not limited to: opening reception

and social program, LHC booth, registration desk assistance, membership booth, education session monitors, ticket takers, and golf outing.

It was decided that Sackey and Gene would contact IAAO to follow up with their conference liaison and/or meeting coordinator to discuss some of our questions, and then schedule another meeting to initiate a more formal LHC committee structure and work on the subcommittee assignments and members. Everyone agreed that there was a lot of work to do, and each jurisdiction in the KC Chapter and all of our members would need to help in making the conference one of the best ever.

Editor’s Note: KCAA has made a financial pledge to this conference. and the Wichita Chapter of IAAO has indicated they would like to also become involved. This is a massive undertaking that will require “all hands on deck.” Look for more information in future issues.

Rewarding Jobs But Sometimes Unappreciated

Editor’s Note: The following concerning Cindy Magill, RMA, Marion County appraiser, was reprinted with permission from Susan Berg, *Marion County Record*.

There are many thankless jobs in the world. Some that come to mind are bill collectors, trash haulers, and process servers. Being a public servant sometimes falls in the “thankless” category. Commissions, councils, and governing boards determine taxes based on the needs of their entities.

The appraiser’s office has the task of setting property values and the treasurer’s office collects those taxes. Yes, being an employee in the county treasurer’s or county appraiser’s office can be challenging. Employees are blamed for taxes even though they had nothing to do with determining them. These positions can be rewarding.

Employees probably won’t hear anyone thanking them for setting values or collecting their money, but hopefully office staffs are helpful and accommodating. Paying taxes is no fun, but having maintained roads and adequate facilities isn’t just “fun”—it’s necessary.

One misconception the public continues to have is that the county appraiser is independent—establishing her own rules and regulations. Appraisers in every Kansas county have to follow protocol established by a Kansas taxation department. Appraisers’ offices are routinely scrutinized to make sure rules are being followed. If rules are not being followed, the appraiser and county commission are cited for not following them.

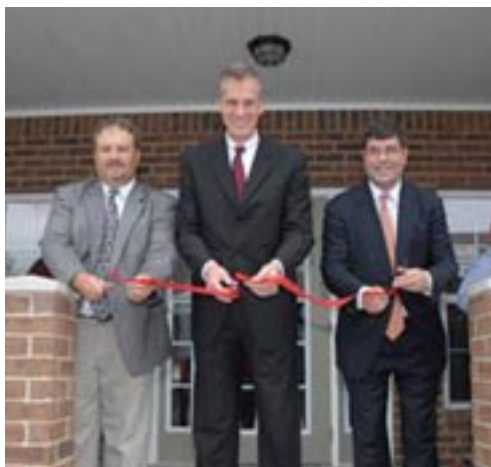
As taxpayers, we sometimes want to have our cake and eat it, too. We want our properties to be worth a lot

when we’re trying to sell them but not worth much when we’re paying taxes. I have been one of the complainers when the last valuation notice came out and had the process explained to me—again. The rules are complicated; the process is tedious. We have to trust that people in these decision-making positions are doing the right thing. Most of us just want a fair shake.

Oh, yes. I have one more to add to the list of thankless jobs—newspaper editors. But that topic is for another day.

Being a public servant sometimes falls in the “thankless” category.

The ribbon-cutting. From left: Osawatomie Mayor Phil Dudley (who is also Franklin Co. appraiser), Gov. Mark Parkinson and U.S. Deputy Treasury Secretary Neal Wolin help to cut the ribbon Thursday (July 30th) at Woodland Hills Estates senior housing development in Osawatomie.
 —Photo by Gene Morris.



Atta Boy, Phil!

(Phil Dudley, RES, RMA is the Franklin County appraiser.)

Osawatomie received national recognition Thursday for its recently constructed Woodland Hills Estates senior housing development, which was the first housing project in the country to be completed under the American Recovery and Reinvestment Act.

Kansas Gov. Mark Parkinson and U.S. Deputy Treasury Secretary Neal Wolin were on hand Thursday along with a number of city, county and legislative officials.

For a complete recap of the event, including what Gov. Parkinson had to say about Osawatomie, pick up a copy of the Aug. 5 edition of the Osawatomie Graphic.

The information below is part of the Governor's press release on the event.

Woodland Hills Estate is the first project in the country to be completed under the Treasury Department's new Tax Credit "Exchange" Program to provide state housing agencies resources to help developers of qualified affordable housing developments with cash assistance.

Funded through the Recovery Act, the program assists developers in filling the Low Income Housing Tax Credit (LITC) gap and provides affordable housing that

With help from the Recovery Act in the amount of \$2.4 million, this facility is now complete.

otherwise may not have come to market due to current economic conditions. That was the case for Woodland Hills, as only a few months ago, this project almost stalled indefinitely. With the building three-fourths done, investment dried up, construction stopped and foreclosure seemed certain. With help from the Recovery Act in the amount of \$2.4 million, this facility is now complete.

Woodland Hills also received a state disaster loan in the amount of \$517,200 to help finance construction and the City of Osawatomie received a \$940,277 grant due to SB 417, passed in the 2008 Legislative Session, to help pay for housing related infrastructure improvements.

The Kansas Housing Resources Corporation is receiving \$45.1 million from the Tax Credit Exchange Program through the U.S. Department of the Treasury.

Article reprinted with permission from Sandy Nelson and the *Osawatomie Graphic*.

Thank You

Words are not enough to thank you ALL for the support you provided me and my family during my Dad's bout with cancer. The cards, flowers, words of encouragement, understanding, and especially the prayers provided me so much comfort and strength during this time. I am truly blessed to work with such an amazing group of people.

Thanks again—

Cindy Brenner



The Weird Keep on Coming!

Submitted by Kevin Bradshaw, CAE, RMA, Wyandotte County



Above: Pickle Barrell House, Grand Marais, Mich. **Below:** Dancing Building, Prague



Life in the Fee World

Editor's Note: The independent fee appraisal world has an effect upon the mass appraisal world. Currently this group is undergoing some serious attacks and second-guessing. There are several articles that I think you will find of interest. I was able to get a Topeka appraiser to respond to the "Apples vs. Oranges" article below (see "Blowing the Deal?"). It is always nice to hear both sides of a story. —Rick Stuart

Apples vs. Oranges

Appraisers need regulatory guidelines that acknowledge today's realities.

By Joe Robson
Reprinted from Builderonline.com
Aug. 19, 2009

Picture this: For the first time in months a small builder sells a new home. The sales price cut the builder's profit to the bone, but it's a reasonable price given today's housing market. The buyers are well qualified, and everything is going along smoothly until the appraisal comes in at tens of thousands of dollars less than the sales price. Why? The local market has been hit hard by the recession and the comparables include foreclosures and other distressed sales.

Now the builder faces a wrenching dilemma. Does he cut the home's price to be consistent with the appraisal value and take a loss, or does he cancel the sale even though it could take a long time to find another buyer and the next appraisal could come in equally low?

Scenarios like this are playing out daily in markets across the country as the use of foreclosed and distressed sales as comparables for appraisals on single-family homes needlessly drives down home values, slows new-home sales, and puts a drag on the housing recovery.

Equally important, using foreclosed and distressed properties as comparables is affecting the availability of AD&C credit. Falling appraised values for land and subdivisions under development have led some financial institutions to stop lending to developers/builders, to demand additional equity, and even to call performing loans.

This is a complex situation with

many interconnected parts. In the wake of criticism that lax appraisal standards contributed to the economic and housing crisis, appraisal standards and procedures were tightened earlier this year. But now the pendulum has swung too far, and reports of homes failing to appraise at the sales price, or even construction cost, have become more prevalent.

There's no question that the conditions in today's housing market are unprecedented. The practices that may have been effective in the past are no longer responsive to the realities of today's housing market.

For example, appraisers generally are only required to inspect the exterior of a property that is being used as a comparable. But, too often, properties that have been subject to foreclosure or distress sales have issues related to deferred maintenance or internal damage that an external inspection cannot detect.

The NAHB believes that it's time for appraisers to have regulatory guidelines that acknowledge such realities. In neighborhoods where the comps include a large number of short sales or foreclosures, appraisers should have the option of expanding the geographic area or extending the time frame for eligible sales to get a more representative picture of the value of homes sold in the area.

The NAHB has been working on this issue for some time, and we have reached out to the Appraisal Institute, which held an informational session at the fall board of directors meeting last year to help builders better understand the appraisal process. We continue to work with the Institute and other housing industry groups to address this important issue. We have also made our position clear to the regulators who set the standards for home sales.

What the market needs most is

clear, concise regulatory guidance from Fannie and Freddie and the housing and financial regulators that will allow appraisers to develop realistic valuations based on sales that are truly comparable.

The bottom line is that you just cannot compare a well-constructed new home with a foreclosed home that has been vacant for months. They simply are not "comparable," and the standards need to be adjusted to reflect that reality.

Blowing the Deal?

By Stacy Salters, Salters & Associates,
Topeka

We've heard and read a lot about appraisers "blowing the deal" because of using foreclosures as comps. Fortunately, foreclosures are not a big problem in our area, or no more than they have been in years past, but we have had several sales come in low lately. These have not been because we were using foreclosure, short sales, or other distressed sales as comparables. Typically, it's because the agents involved simply price the property higher than could be supported by the current sales in the market.

Many agents got in the habit of taking the price the people bought the house for a year or two ago and adding on 6% per year or 6%–7% to cover their commission. While this used to work in our market, it generally doesn't in today's market. Is this the appraisers fault? We can't see how, but explaining that to individuals is very difficult.

As most people know, lender guidelines have changed in the past year. Most lenders now want comps within three months instead of the desired six, and we are obligated to use the most recent comps in the area or have a darn

good explanation of why we didn't use them. Leaving the area because the houses aren't selling high enough to support the sales price is not acceptable, but then it never has been.

If there aren't any comps within three months, we have to use older ones just like before or if there are sales nine months ago that are more similar than the current ones, we provide both. We have to provide the current comps (if truly comparable), but we can also include the old ones if they are more similar. We also now are required to include active listing and pending sales if there are any.

These aren't huge changes, and although we grumbled about it at the beginning, we've gotten used to it and now it seems odd if we don't have a total of six comps in our reports. Fannie, Freddie, and FHA do allow the appraiser to expand their search area if necessary and even require a comp from out of the area or by a competing builder on new construction. The most important part is that the appraiser explains what's going on in the market and why they did what they did.

Lenders don't want us to use distressed sales for typical arms-length transactions, and we generally don't, but in some cases, there may not be a choice. I do know of one subdivision in our area where this has happened. Many of the homes went into foreclosure, and it brought the whole area down. Once this started happening, the only comps available were foreclosure or short sales. Would it be reasonable for an appraiser to go outside the area for comps that sold higher or weren't foreclosures? No. The basic principle of substitution tells you that if you can typically buy a property in a particular area at a discount, the typical buyer isn't going to pay more just because this particular seller is in a better financial situation than the one down the street.

If the houses were damaged or "stripped" by the previous owner, then this would have to be taken into consideration and possibly thrown out as a comp, but that would generally be reflected in the sale price. While many news outlets are reporting this as a new

"Lenders don't want us to use distressed sales for typical arms-length transactions, and we generally don't, but in some cases, there may not be a choice. I do know of one subdivision in our area where this has happened."

"epidemic," anyone in the real estate industry for very long knows this isn't something new. There may be more of it going on now, but we've seen this happening in our area for 20 years.

The main issue for appraisers is doing their due diligence and researching the comparables to see what kind of condition the properties were in and what's going on in the area. This may require actually calling the agents or parties involved. Would it help to go inside the comparable properties? Absolutely, but three to six months after the sale, would it be relevant? Since we can't walk through every sale in town, this is a ludicrous suggestion.

What I think people need to keep in mind is that the job of the appraiser is to report the current activity in the market and what the property should sell for to the typical buyer as of the date the appraisal is done. What was going on two years ago is no longer relevant.

Our job is increasingly more difficult and even though, thanks to the new HVCC, there is supposed to be less "lender pressure," there are also less experienced appraisers out there doing a lot more of the work because they are cheaper and faster and cut a lot of corners in doing it. But HVCC is a whole different subject that I could go on about for a long time. We'll save that for another time.

Stacy is a fee appraiser with Salters & Associates in Topeka, KS and also is the past president/director and education/programs chair of the local NAPMW (National Association of Professional Mortgage Women).

Realtors vs. Appraisers – Round 2

By Gary Post, CKA

An article in the July newsletter discussed how the realtors were upset with the new HVCC (Housing Valuation Code of Conduct). The memo below from NAR President Charles McMillan to "All REALTORS" shows the political influence of the National Association of Realtors (NAR).

Dear Fellow REALTOR®,

I am writing to you with an important update on NAR's efforts to address ongoing problems with recent changes to appraisal rules. As a direct result of my recent meetings with the New York Attorney General's office, the Federal Housing Finance Agency, and Fannie Mae, both Freddie Mac and Fannie Mae this week issued new guidance to all lenders on the Home Valuation Code of Conduct.

The alert clarifies two very important points that we raised in our meetings with officials. First, it states that lenders should use appraisers who have clear experience in the geographic area. Second, it clarifies that appraisers are not prohibited from talking to real estate agents.

http://www.fhfa.gov/webfiles/14611/hvcc_NOTICE_7_22_09F.pdf

In addition to this guidance, both Fannie Mae and Freddie Mac recently posted extensive Qs and as on their respective web sites, based on information that NAR provided when the code was first adopted in May.

<https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/hvccfaqs.pdf>

http://www.freddiemac.com/singlefamily/hvcc_faq.html

We have posted links to all of this information at www.Realtor.org/HVCC. Although this is certainly a step in the right direction, more still needs to be done to address problems with the HVCC. NAR will continue to push for a moratorium on the Code, and I will continue to meet with industry partners and officials to convey our concerns.

Broker Price Opinions

By Rick Stuart, CAE

A couple of months ago, someone asked on IAAO's Assessor Net if Broker Price Opinions (BPO's) should be considered as an indication of market value in this time of distressed markets. I found the following article in the winter 2009 Newsletter from the Kansas Real Estate Appraisal Board.

AARO Expresses Concerns Regarding BPOS

In a letter to Timothy Geithner, Secretary of the Treasury, Washington, DC, dated February 24, 2009, Neva Conway, President of AARO, addressed some concerns of the AARO Executive Committee.

Dear Mr. Secretary:

The Association of Appraiser Regulatory Officials (AARO) is an organization whose members are real estate appraiser licensing agencies of U.S. States and Territories; it was created after Congress passed the Financial Institution Reform Recovery and Enforcement Act (FIRREA) of 1989. AARO membership includes forty-eight of the fifty-six jurisdictions mandated by FIRREA to create appraiser licensing agencies. These agencies issue appraiser licenses and certifications to those individuals who possess the education and experience requirements promulgated by The Appraisal Foundation; and, they oversee compliance, by appraisers, with the Uniform Standards of Professional Appraisal Practice (USPAP) and other standards of professional conduct.

The AARO Executive Committee wishes to express concerns to you about federal regulations and policies that would allow Broker Price Opinions (BPOs) to be used in establishing real property collateral values for mortgage modifications. Our concerns are as follows:

1. BPOs are unreliable and real estate appraisals are far more likely than BPOs or AVMs (Automated Valuation Models) to produce accurate opinions of the fair market values of single family

collateral properties;

2. Individuals performing BPOs lack meaningful (or sometimes, any) valuation qualifications, may not be objective and unbiased or even independent of the transaction for which they're opining a value, and are not properly accountable to anyone for their BPO work;

3. Permitting real estate agents and/or brokers to provide valuations for the millions of loan modifications predicted, would severely weaken the Congressionally established system of state appraiser certification and licensing which – while not perfect – is operating effectively throughout the country to oversee appraisal practice, to protect the safety and soundness of mortgage loans and provide consumers who buy homes with an important, independent source of information on the actual market values of their properties;

4. There is an ample supply of appraisers (the Appraisal Subcommittee's Registry of appraisers indicates almost 120,000) who can perform appraisals quickly and reliably; and

5. Appraiser licensing agencies are consumer protection agencies and have responsibility to protect the public and to protect the integrity of appraisals used by the financial market.

To reiterate, we are very concerned that using valuation products (such as BPOs) prepared by unqualified individuals who are not accountable to any valuation oversight entity, and who are not held to any valuation standards of professional practice, is dangerous to the mortgage bailout program, to the financial and banking industry, and to the consumer.



Not Your Typical Western Kansas Home

Submitted by Lisa Ree, RMA

So, just how fast can a \$38 million home sell? Even though this is not a Kansas home, the appraiser in Lisa found it very interesting. See more of this Tennessee mansion at:

<http://www.showcasebyagent.com/sba/r0s0614.php>

Unusual Lawsuit

Submitted by Sackey Kweku

Sackey is a market modeler for the Jackson County, Mo., (Kansas City) Assessor's Office and a current IAAO Board Member. The case below concerns a Missouri school district filing suit against the Jackson County Assessor's Office over valuation issues.

IN THE CIRCUIT COURT OF JACKSON COUNTY,
MISSOURI AT INDEPENDENCE

BLUE SPRINGS REORGANIZED SCHOOL
DISTRICT NO. 4 OF JACKSON COUNTY,
MISSOURI, et al.,

PLAINTIFFS, CASE NO. 091 64V24152

v.

JACKSON COUNTY, MISSOURI, et al.,

DEFENDANTS.

ORDER

On August 13, 2009, the Court heard argument and evidence on Plaintiffs' Motion for Temporary Restraining Order ("TRO"). The Court also heard argument on Defendants' Motion to Dismiss insofar as it questioned the Court's subject matter jurisdiction.

Before January of this year Defendants' claim that a failure to exhaust administrative remedies deprives this Court of subject matter jurisdiction might have been well-founded. However, in *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249 (Mo. 2009), the Supreme Court clarified the law of subject matter jurisdiction in this state. Subject matter jurisdiction is established solely by Article V, §14 of the Missouri Constitution, which vests subject matter jurisdiction in Circuit Courts to hear all civil and criminal cases. Since the case at bar is a civil case, it follows that this Court has subject matter jurisdiction, *Webb*, 275 S.W.3d at 254. Accordingly, the motion to dismiss for lack of subject matter jurisdiction must be DENIED.

The Court will turn to Plaintiffs' Motion for TRO. Plaintiffs argue that the County's assessment process is skewed so as to undervalue real property in their respective school districts. They argue that this process was exacerbated by an arbitrary and capricious reduction in assessed value in 2009 that will cost Plaintiffs over \$35 million in tax revenues this year and irreparably damage the quality of education provided by Plaintiffs. Defendants argue that their assessment process comports with generally accepted assessment practices. They aver that the reduction in assessed value accurately reflects the decline in the housing market that has been going on for the last two years.

The Court cannot reach the merit of these arguments without determining the preliminary question of whether

Plaintiffs have standing to present their claims for injunctive relief.

In order to prevail on their Motion for Temporary Injunction, Plaintiffs must demonstrate, among other things, the likelihood of their success on the merits of their case, *State ex rel. Director of Revenue v. Gabbert*, 925 S.W.2d 838, 839 (Mo. 1996). The Court finds that a determination of the standing issue is integral to the question of the likelihood that Plaintiffs' claims will succeed on their merits.

"Standing is the requisite interest that a person must have in a controversy before the court. [Citation omitted.] Standing requires that a party seeking relief have a legally cognizable interest in the subject matter . . ." *Cook v. Cook*, 143 S.W.3d 709,711 (Mo. App. 2004). "Persons seeking relief have no right to do so in the absence of standing." *Conseco Finance Servicing Corp, v. Missouri Dept. of Revenue*, 98 S.W. 3d 540, 544 (Mo. 2003). If a party lacks standing, the court must dismiss the case, *Farmer v. Kinder*, 89 S.W.3d 447, 451 (Mo. 2002).

Do the Plaintiffs have standing to sue to attack the method used by Defendants in assessing the value of real property in Jackson County? That issue is resolved by *State ex rel. St. Francois County School District R-III v. Lalumondier*, 518 S.W.2d 638 (Mo. 1975). In that case a school district sued the County Board of Equalization, claiming that the County grossly undervalued real estate, such that it negatively affected the tax revenues realized by the school district. In ruling on whether the district had standing, the Missouri Supreme Court described the issue as "whether in a suit of this nature a school district may obtain a review of a decision of the county board of equalization which failed to increase an alleged underassessment of the real estate of a taxpayer." 518 S.W.2d at 640. In that connection the Court noted that the District had no right to appeal the assessment by the county to the State Tax Commission pursuant to § 138.430 because that statute limited the right of appeal to property owners who sought to correct the assessment of their properties: "We have the view that if the General Assembly had intended to provide a review of alleged underassessments at the request of a governmental subdivision, it would have so provided in § 138.430(2) which provides for an appeal by property owners." 518 S.W.2d at 643.

The Court also noted that most states have recognized "that in the absence of express statutory authorization no appeal or other review is provided for political subdivisions of the state in regard to alleged underassessments." (Emphasis added.) 518 S.W.2d at 642. The Court cited with approval *Chicago R.I & G.R. Co. v. State*, 241 S.W. 255 (Tex.Civ.App.

continued on next page

Lawsuit, continued

1922), for the proposition that political subdivisions could not go to court to question assessments in the absence of a statute permitting such review, 518 S.W. 2d at 642. The Court also referred to its earlier opinion in *In re St. Joseph Lead Company*, 352 S.W. 2d 656, 659 (Mo. 1961), where it held that the legislature could, if it chose to do so, deny political subdivisions the right to judicial review of tax assessments. 518 S.W.2d at 640– 641. The Court concluded as follows:

We recognize that [the School District] has a vital interest in the assessment valuation of property located in its district. In the situation presented it may be that the legislature should review the matter and give consideration to an appropriate amendment of [§138.430 1]. Until appeal or other review procedure is provided, however, we must rule that school districts do not have standing to obtain a review of alleged underassessment of property by the county board.

(Emphasis added.) 518 S.W.2d at 643.

Under the law this Court is required to follow binding precedents of the Missouri Supreme Court, This Court believes that *Lalumondier* determines that school districts do not have standing to seek relief in court from alleged underassessment of property by counties, the gravamen of what Plaintiffs claim in this case.

Plaintiffs cite two cases to support their claim that they do have standing: *Ste. Genevieve School District v. Board of Aldermen of the City of St. Genevieve*, 66 S.W. 3d 6 (Mo. 2002), and *State ex rel. School District of Independence v. Jones*, 653 S.W. 2d 178 (Mo, 1983). Neither case involved an attempt to question the assessment of real estate in a school district. *Ste. Genevieve* did not discuss *Lalumondier* at all. *School District of Independence* did discuss it, but the Supreme Court distinguished *Lalumondier* precisely because it involved an attempted attack on assessment:

In *Lalumondier*, we examined the comprehensive statu-

tory scheme for assessment of property values for property tax purposes. From this statutory scheme, especially the express provision for judicial review at the request of affected property owners but not interested school districts, we inferred a legislative intent to preclude relator school district from obtaining judicial review of alleged underassessments of private property by the county board of equalization. Plaintiffs, here, however, do not challenge the assessment or taxing practices in any county or dispute the interpretation of any tax statute. This is a contest between competing school district and state authorities as to the proportion of future state school funds such districts are legally entitled to receive. As such, it involves the school fund apportionment statutes, not the property tax scheme. In the school fund apportionment statutes, we discern no legislative intent to bar school districts in plaintiffs' situation from their common law and equitable remedies.

653 S.W. 2d at 188-189. Significantly, the Supreme Court recognized that *Lalumondier's* holding would bar a school district from using common law remedies to challenge assessment of real estate values, 653 S.W.2d at 188 n.9. Based on *Lalumondier* this Court finds that Plaintiffs' Motion for Temporary Restraining Order must be DENIED.

A different rule may apply to Plaintiffs' request for a writ of mandamus. In *State ex rel, City of Cabool v. Texas County Board of Equalization*, 850 S.W.2d 102 (Mo. 1993), the Supreme Court recognized a narrow exception to the rule in *Lalumondier* where a political subdivision seeks mandamus. Although the Defendants have filed a Motion to Dismiss Plaintiffs' claim for mandamus, that Motion is not ripe, and the Court will defer ruling on Defendant's Motion until Plaintiffs have had the opportunity to respond to it.
IT IS SO ORDERED.

Dated this 14th day of August, 2009.
Michael W. Manners, Judge

**BREAKING
NEWS!!
Elvis and
MJ found
ALIVE!**

—Submitted by Bruce
Woodzell, IAAO
President-Elect



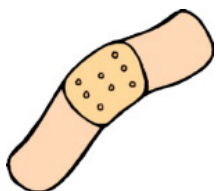
Public Relations

From Gary Post, Lyon County Appraiser...

The information below is always included in my published market study five day prior to mailing notices. PVD does not require nor do they encourage the inclusion of Ag values, but I think it is important data owners need.

Agricultural Use Values are set by the Division of Property Valuation in Topeka, not by the county appraiser. Lyon County agricultural dry crop land will be 11% lower while grass land has been reduced 6% on average for 2009. These are Use-Value numbers based on an eight year moving average.

Property owners are urged to review the 2009-year value estimates by the county appraiser for their property. These notices should be in the mail by March 1, 2009 and the appeal window closes thirty days later. In conclusion, some values may be up; some will be down, while others will stay the same in this sales based system.



Communicating Tough News in Tough Times: Employee Communications

When you have difficult news to communicate, do it like removing a bandage: swiftly and completely. How you and your business

cope in tough times is a reflection of true character. How you communicate during those tough times reflects your values. It may be instinctive to duck and run for cover when things look bad, but just like your mother told you, it's best to stand up and face the music.

If you have bad news to tell your staff, make sure it's not "out of left field." Regular employee briefings are essential, making them aware of the state of business, how things are going in the industry, what the competition is up to and what the company is planning are all important pieces of information so everyone is pulling in the same direction. They won't feel blindsided if you've keep them apprised all along.

Tell everyone the same story. Don't embellish or minimize or put a 'spin' or different emphasis on it in anyway for anyone. Stick to the facts and you won't have to remember anything else. As Mark Twain said, "If you tell the truth, you don't have to remember anything."

—Deborah L. Folka
<http://www.articlesbase.com>



Your Local News is Great PR Tool

Look to your local newspaper to get the word out. Articles stating what field staff is doing in neighborhoods, when personal property renditions are due, or when notice of valuation notices are to be mailed. Your local newspaper and, if you are lucky to have one, the local radio station can be a great PR tool for the appraiser's office.

In McPherson, we have a daily newspaper and a local radio station. One day a week the station has a call-in show where organizations can pitch an upcoming event or present a platform for discussion. Although newspapers are stretching for business these days, and radio and newspaper compete against the Internet, smalltown USA still relies on the local paper and radio for news, local events and updates, and for their local official's activity and business. I am always surprised at how many people approach me in the grocery store commenting on something that was reported about county business. So, they are reading and listening out there; keep them informed. —Dianna Carter

"The colossal misunderstanding of our time is the assumption that insight will work with people who are unmotivated to change. Communication does not depend on syntax, or eloquence, or rhetoric, or articulation but on the emotional context in which the message is being heard. People can only hear you when they are moving toward you, and they are not likely to when your words are pursuing them. Even the choicest words lose their power when they are used to overpower. Attitudes are the real figures of speech."



—Edwin H. Friedman
from <http://www.wisdomquotes.com/002877.html>

Please submit your PR ideas or suggestions to Dianna Carter, KCAA Public Relations Committee Chair, at dcarter@mcphersoncountyks.us



Real Estate Notes of Interest

■ Peter Coy, *businessweek.com*, June 30, 2009. The rate of decline in home prices has slowed, but the foreclosure problem is getting worse despite strengthened efforts to modify unaffordable loans, so any recovery in the housing market is still a ways off.

In April the seasonally adjusted S&P/Case-Shiller 20-City Composite Home Price Index fell by just 0.9% from the month before, making it the smallest monthly decline since August 2007. The bad part is that foreclosures are eating upward into prime mortgages—the safest kind. Some 2.9% of prime loans were 60 or more days past due in the first quarter, nearly triple the rate of 1.1% in the year-earlier quarter.

■ Stephanie Bell, *cire.com*, July 2009. Leasing agents are being creative in attempts to keep tenants. Some examples are the use of bartering. An example would be if a tenant is a lawn service, that they would provide all lawn service for the rented property or all other properties the owner has in the area for reduced rent. One agent is reducing rent proportionately with the length of lease that is being signed.

■ James Kirkpatrick, CCIM, *cire.com*, July 2009. A very good article titled “It’s a Mad, Mad, Mad Market” can be found at the web address shown below, and particularly good is a section about halfway down in the article titled “Current Capital Market Trends.”
http://www.ciremagazine.com/article.php?article_id=1421

■ *The Seattle Times*, June 29, 2009. Off with the head. The head tax, that is! Seattle implemented a head tax in August 2006. At \$25, the employee head tax is not so expensive, but it sends a terrible message toward business and employment. Additionally, the tax cre-

ates an annoying paperwork headache: Employees who walk to work or take transit are exempted from the annual tax. Earning the exemption requires employers to fill out complicated paperwork.

Editor’s Note: Probably one more example of unintended consequences of legislation. It would be easy to envision that the cost of administering would be considerably greater than the \$25.

■ Bruce Flory and Todd Myers, *The Seattle Times*, June 29, 2009. Just one more plan to eliminate property tax. British Columbia recently passed legislation for a carbon tax. The tax will reach \$30 per ton of carbon dioxide or about 30 cents per gallon of gasoline by 2012. Some in Washington are saying this is a way to get rid of property tax that everyone hates.

Here is the good part of the article which, once again, probably would be far different after, implementation versus on paper. At \$30 per ton of carbon dioxide, there would be enough revenue left after replacing the state property tax to provide a rebate to low-income households who spend a higher percentage of their income on energy. Raise the rate to \$50 per ton of carbon dioxide—equivalent to about 50 cents per gallon of gasoline—and you could also cut the state business and occupations tax on businesses by 50 percent across the board, spurring business expansion and job growth. Reducing the drag on the state economy created by the B&O tax was a goal of a previous work study group.

■ Michael Corkery, *The Wall Street Journal*, June 22, 2009. Business is looking brighter for the Lennar Corp, one of the country’s largest home builders, although in 2008 they built

around 15,000 homes as compared to a peak of about 50,000 in 2006. One way they have survived was by selling large chunks of land to Morgan Stanley Real Estate Fund and the California Public Employees Retirement System (Calpers) just before the bottom of the real estate market fell out. Now Lennar is buying back some of that same land at severe discounts as Calpers in particular disposed of land in a fire-sale method. Financing has also remained available to Lennar as many as 50% of private builders have gone bust, according to Credit Suisse. But let’s not feel too sorry for them: The land losses from selling off before cost has provided them a \$2.55 billion tax refund.

■ Nick Timiraos, *The Wall Street Journal*, June 22, 2009. Two U.S. Representatives, Barney Franks of Mass. and Anthony Weiner, NY, are trying to get Fannie and Freddie to lighten up on condo loans. In March, Fannie Mae stopped guaranteeing any mortgages on new condos where fewer than 70% of the units have been sold, which is up from the previous 51%. Fannie also stopped purchasing mortgages where 15% or more of the owners are delinquent on association fees, and that is up from 10%. Freddie Mac is scheduled to implement the same policies next month.

■ Kris Hudson, *The Wall Street Journal*, June 24, 2009. The Red Roof Inn hotel chain defaulted on \$367 million in loans. It is estimated that the hotel chain is carrying nearly \$1.2 billion in debt. The chain just installed a \$20 million reservation system, and the downturn in the economy has stressed the cash flow. Occupancy has coincided with the hotel industry as it currently is just under 51% and was at 62% when the mortgages were issued in 2007. There are 210 hotels in the chain.

■ James Hagerty, *USA Today*, June 24, 2009. Some home builders are now starting to purchase buildable lots as the price has been severely reduced in some areas. One large builder in the Phoenix area was purchasing lots for the value of the improvements and thus

receiving free land. Although a large number of builders have excess lots currently, they are now buying in areas closer to cities. One example was lots selling in 2005 for \$120,000 with the current purchase price of \$35,000.

■ Stu Woo, *The Wall Street Journal*, June 26, 2009. Home prices rose in California for the third straight month leading to optimism in the residential markets. As California is the largest residential market, it is considered a barometer for the national market.

■ Jeffrey Ball, *The Wall Street Journal*, June 26, 2009. It may soon become more difficult for homes to receive the U.S. government Energy Star logo for being a more energy efficient home. Typically homes that receive this logo are 30% more energy efficient, and any additional cost, resulting in higher mortgage payments, is counteracted by lower utility bills. It was discovered that a large home of around 4,400 square feet actually had a better chance of receiving the logo than a smaller home of around 2,800 square feet, even though the larger home would consume more energy.

■ Bobby White, *The Wall Street Journal*, June 29, 2009. I guess it is a matter of priorities. The state of California is currently in a \$21 billion budget deficit, and there are two bills proposed to extend the state's home buyer tax credit. The \$10,000 tax credit for first-time home buyers is about to expire, and some legislators want to extend the deadline on the current legislation from March 2010 to March 2011 with a projected cost of \$200 million.

■ James Haggerty, *The Wall Street Journal*, June 30, 2009. This is not good news for your invested tax dollars. Fannie Mae reported that April delinquent single-family residential loans, 90 days or more past due, are at 3.42%, up from 3/15% from the previous month. Freddie Mac has similar bad news as the delinquency rate rose from 2.44% to 2.62%.

■ M.P. McQueen, *The Wall Street Journal*, July 1, 2009. All of us who have

been watching new home construction for the last several years are not surprised that the number of complaints on faulty construction is increasing. It has become even more difficult for the new homes to be corrected as some of the builders have declared bankruptcy.

■ David Graham, *The Wall Street Journal*, July 1, 2009. Amazingly, several REIT's (Real Estate Investment Trusts) have seen some very large returns of late, according to the 114 publicly traded REIT's tracked by the Dow Jones Equity All REIT Total Return Index (that just rolls off your tongue, doesn't it?). The stocks rose by almost 29% in the April to June time period and, surprisingly, the largest gains were in hotels, regional malls and retail.

Editor's Note: We have to be careful that we understand about losses versus gains. If, for example, the stock was at \$100 below a 29% decline, an increase of 29% does not make it even. Here is the math: \$100 – 29% would have a stock value of \$71. Adding 29% to \$71 would only get you back to a value of \$91.59.

■ Kris Hudson, *The Wall Street Journal*, July 1, 2009. A slowdown has occurred in the largest U.S. enclosed mall. The Mall of America in Bloomington, Minn., already has 4.2 million square feet but was planning a \$2.6 billion, 5.6 million square-foot addition (if you can call that an addition). With the downturn in the economy, the expansion has been delayed, but the 500-room Renaissance hotel may get started on construction in 2010.

Editor's Note: The 2010 NCRAAO (North Central Regional Association of Assessing Officers) Annual Conference will be held at a hotel on or near the mall grounds.

■ Maura Sadovi, *The Wall Street Journal*, July 1, 2009. An investment firm based in Chicago has made a large amount of money with investments geared towards property types that do well in a recession than in more normal markets. The property types being invested in are self-storage, student housing and medical offices. The Har-

rison Street Real Estate Capital equity fund just purchased into 42 self-storage units in 15 states for an average cost of \$95 per square foot. Although that price is down from a previous high of \$120 per square foot, real estate analysts believe this property type has reached the bottom of the market already.

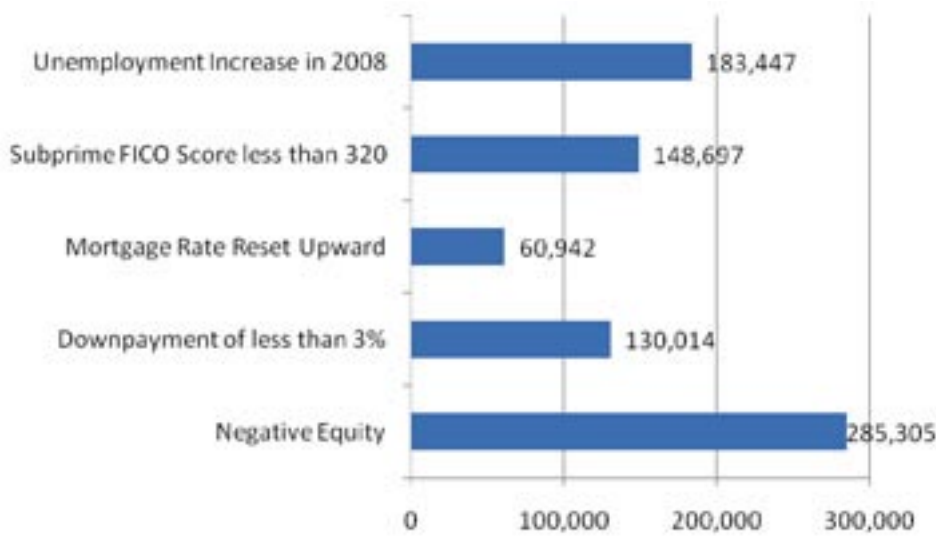
■ James Hagerty, *The Wall Street Journal*, July 1, 2009. Okay, so maybe some of the California home sale stories above have been slightly exaggerated. Supposedly a new computer system over-reported the monthly increase in the number of sales in the San Diego area. The actual increase was a very healthy 30%; it was far below the stated 63%.

■ Geoffrey Fowler and Erica Alini, *The Wall Street Journal*, July 3, 2009. A large number of states are considering new laws in an attempt to tax online sales. The biggest targets would be online giants such as Amazon and Overstock. Historically, the federal government has blocked online sales tax, but up to 20 states have been working over the last few years to develop a streamlined collection system. As states are looking for revenue to plug budget deficits, the online sales tax decision has resurfaced. There are about 200,000 affiliate marketers in the U.S. tied to about \$14 billion in annual sales. Affiliate means the companies do not have situs in a state and thus now required to pay local sales tax.

■ Stan Liebowitz, *The Wall Street Journal*, July 3, 2009. The author is an analyst for McDash Analytics, a component of Lender Processing Services Inc., and the chart provided on page 20 is from the second half of 2008. It is interesting as the analysis indicates the largest reason for home foreclosures is not the interest rate reset but negative equity.

■ David Cauchon, *USA Today*, July 6, 2009. A few states and cities have raised taxes on hotel rooms and rental cars to help balance budget deficits. The most typical is to raise hotel room tax and let the visitors and business

REAL ESTATE NOTES, continued



Source Stan Liebowitz, *The Wall Street Journal*, July 3, 2009 (see p. 19)

people pay more. The hotel industry is complaining as occupancy rates continue to decline and now fear a higher tax will even make the occupancy worse. New York City bed tax is now 14.25%.

■ Stephanie Armour, *USA Today*, July 6, 2009. The federal government has now expanded the bailout of delinquent homeowners. Freddie Mae and Fannie Mac will now purchase mortgages so that homeowners who owe 25% more than their homes are worth on the market can get refinancing help through the federal agencies.

■ Allison Rice, *builderonline.com*, July 8, 2009. Builders in North Carolina could get a temporary breather from property taxes on their unsold inventory under a proposal currently moving through the state's legislature. The measure (House Bill 852), which has been approved by the North Carolina House and is now with the state's Senate, would allow builders to defer paying property taxes on unsold homes for up to three years beginning in 2010. It would be simply a tax deferral, not a tax cut, so builders would be required to pay the accrued property taxes once the home was sold.

■ *Crenews.com*, July 9, 2009. The decline in retail property fundamentals

continued at full throttle in the second quarter as vacancy rates hit their highest levels and rents suffered their steepest drops this decade, according to Reis Inc. Vacancies climbed by 50 basis points at shopping centers and malls, while rents fell 1.1 percent and 1.4 percent, respectively.

■ *Crenews.com*, July 8, 2009. Another \$3 billion of securitized commercial mortgages were transferred to special servicing in June, bringing the total to 2,588 loans with a balance of \$39.9 billion, or 5.54 percent of the entire CMBS universe, according to Realpoint. A total of \$7.8 billion of loans on General Growth Properties are included in the total.

Editor's Note: Special servicing indicates they are a delinquent or problem loan. The 5.54% is substantially higher than recent history and higher than was projected.

■ Walter Molony, National Association of Realtors, July 1, 2009. Pending home sales show a sustained uptrend, rising for four consecutive months with very favorable housing affordability and a first-time buyer tax credit boosting activity, according to the National Association of Realtors®.

■ Sibley Fleming, *nreionline.com*, July 8, 2009. The U.S. office vacancy

rate climbed to 15.3% in the first quarter, up from a low of 12.5% in the third quarter of 2007. Over the same period, effective rents fell by 3.6% and by year's end, the projected effective rents will shrink by 8.1%.

■ Jenifer McKim, *The Boston Globe*, July 9, 2009. Refinancing a home when the borrower is unemployed is practically impossible, but U.S. Rep Barney Frank, a Massachusetts Democrat who chairs the House Financial Services Committee, is proposing to spend \$2 billion to help. The proposal would revive a 1975 program that lends money to the unemployed so they don't lose their homes....

"There has to be a reasonable likelihood that the home owner will be able to resume making the mortgage payment without state help," said Brian A. Hudson Sr., the chief executive of the Pennsylvania Housing Finance Agency, in a prepared statement, noting that the assistance is temporary.

Frank's proposal would also earmark \$1 billion to build and preserve affordable housing, \$1.5 billion to redevelop foreclosed and abandoned homes, and \$2 billion to protect tenants in apartment buildings when the owner is facing foreclosure.

■ Lliana Jonas, *Reuters News*, July 9, 2009. Vacancy rates in malls fell to a 17-year low of 10% and the rents fell 2.9% from a year ago to an average of \$39.42 per square foot. Strip malls were also 1.7% lower to an average rent of \$19.28 per square foot.

■ Nick Timiraos, *The Wall Street Journal*, July 8, 2009. Apartment vacancies are at a 22-year high. Vacancy levels nationally rose to 7.5% in the April-June period from 6.19% a year earlier. The hardest hit is mostly in New York, Florida and California.

■ *The Wall Street Journal*, July 9, 2009. Some mall tenants are receiving rent reductions as a result of other mall tenants leaving. Most of the leases have a "cotenancy clause" that lets tenants demand cuts in rent if key tenants or a specified number of stores leave

the center. Chico's FAS Inc. with over a 1,000 stores, has received rent reductions of \$8.1 million to date.

■ Stephanie Armour, *USA Today*, July 16, 2009. According to RealtyTrac, there were 1.9 million foreclosures filing for the first six months of this year, which is a 15% increase from one year ago. Currently one in every 84 homes is in some stage of foreclosure, but the worst remains California with one in every 34.

■ Sara Lin, *The Wall Street Journal*, July 15, 2009. Oh hum, just another \$43 million home sale in Aspen, Colo., but considering that even high-valued homes have been somewhat depressed in the market, this sale was eye-catching. The house has 21,400 square feet with 10 bedrooms on 4.5 acres, is the highest residential sale for the year in that area, and was not even for sale when a buyer approached.

■ M.P. McQueen, *The Wall Street Journal*, July 16, 2009. I am sure this article would not shock many of you—property tax appeals are up nationwide. The article gives several examples and a few of the numbers are shown:

(1) Cuyahoga County (Cleveland, Ohio) typical number of appeals was 1,700 per year but this year was 23,000.

(2) Sacramento, Calif., appeals increased from 1,800 in 2007 to 12,000 in 2008.

(3) Clark County (Las Vegas, Nev.) went from a 1,000 to 6,000 with most reductions in the 30% to 40% range.

Editor's Note: Considering how bad the market is in Vegas, I cannot believe there were not more appeals. With all this activity, of course, there have been online services pop up to help homeowners with their values, and for as little as \$50 to \$100 you can get an online valuation.

■ Haya El Nasser, *USA Today*, July 16, 2009. Going urban continues to gain momentum. In more and more cities, people are starting to move back into the urban areas and away from the suburbs and the long commutes.

Developers are seeing this trend and in some cities are planning new housing around this. In the Atlanta area a large number of immigrants are coming from China. They are used to living in more crowded spaces and in high-rise structures, so accommodations are being developed to meet their expectations. The anticipation of a light-rail system between Irving and Dallas, Texas, is fueling more high-rise apartments and offices and thus a more efficient use of available land.

■ A.D. Pruitt and Mimosa Spencer, *The Wall Street Journal*, July 17, 2009. Profit for Marriott fell 76% last quarter and Accor (Hotel 6) fell 9%. Most hotel analysis consider Marriott to be the bell weather for the industry and that it indicates the worst is not over for the hotel industry.

■ Kelly Evans, *The Wall Street Journal*, July 18, 2009. New home construction rose by 3.6% in June, which is the third straight month of gains.

■ Teresa Burney, *builderonline.com*, July 10, 2009. One of the largest home-building companies, Toll Brothers, has introduced a new ARM loan that is somewhat fixed. They started offering 7/1 ARMs at 3.75% at some of its projects. The rates compare to the company's conforming fixed-rate loans of 4.375%. The ARM is actually a seven-year fixed loan. It is expected to appeal to those who are planning to move or refinance in the next seven years, including first-time buyers, as well as to other borrowers who just want to save money on their loan.

■ Teresa Burney, *builderonline.com*, July 16, 2009. An interesting article titled "7 Ways the New Appraisal Code Goes Wrong." Read the article online at <http://www.builderonline.com/business/7-ways-the-new-appraisal-code-goes-wrong.aspx?cid=BLDR090716002&page=2>

■ *Crenews.online*, July 20, 2009. Moody's Investor Services and Real Estate Analytics indicates that commercial real estate prices dropped

by 7.6% in May, which is the second highest on record with April indicating a decline of 8.6%. Prices are showing a 28.5% decline from one year ago and a 34.8% decline from the peak in October 2007.

■ Lingling Wei and Maurice Tamman, *The Wall Street Journal*, July 20, 2009. Commercial banks are writing off bad commercial loans at the fastest rate in 20 years. If the rate of write-offs continues at that pace, it is projected there could be as much \$30 billion written off by the end of 2009.

■ Charisse Jones and Barbara DeLollis, *USA Today*, July 27, 2009. What may be bad for the Starwood Hotels & Resorts could be good for the traveler. Starwood has announced that they will cut room prices by up to 50% in more than 600 of their 1,000 Sheraton and W hotels.

■ Janice Revell, *Money Magazine*, August 2009. Mortgage rates for homes could be rising soon as Treasury bond rates rose from 2.5% in mid-March to 4% in mid-May.

■ Amanda Gengler, *Money Magazine*, August 2009. Some real estate experts say there are just a few items to consider when looking for the best place to buy a home and be comfortable it is a solid investment. Those items are: (1) proximity to the city, (2) great schools, (3) strict limits on new construction, (4) plenty of commerce, and (5) lots of flower boxes. (**Editor's Note:** No, I did not make that last one up).

■ Adam Shell, *USA Today*, July 28, 2009. Wow! Can this really be a true picture: Sales of new homes jumped in May by 11%. This is the third straight month of increases and the largest increase since November 2008.

■ Stephanie Armour, *USA Today*, July 29, 2009. Under pressure from Treasury officials, lenders have agreed to significantly increase the rate of home loan modifications. The top 25 lenders were at the meeting and agreed

REAL ESTATE NOTES, continued

to reach a

goal of 500,000 mortgage modifications by November.

■ Brad Heath, *USA Today*, July 30, 2009. Local governments are facing additional pressures as the rate of delinquent real estate taxes rise. It is not a surprise that some of the largest increases are in the areas of high foreclosures such as Michigan and Florida.

■ John Caulfield, *Builder Magazine*, July 28, 2009. A Seattle-based law firm that filed a class action lawsuit against KB Home and Countrywide Financial alleging they conspired to inflate home appraisals in several Western states, is now trawling for plaintiffs with similar complaints in Florida, where the builder is currently selling homes from 37 communities, according to its website. Also named in the suit is LandSafe Appraisal Services. The suit states that Countrywide was the primary lender for KB and that LandSafe was a subsidiary of Countrywide.

■ Kenneth Harney, *Realty Times*, July 28, 2009. There are some very positive points to indicate an uptick in the housing market and the economy. Some of these positive points are:

(1) It is the first time since 2004 that the Conference Board's Index of Leading Economic Indicators is up for three straight months.

(2) New housing starts in June were up over 14% for the fourth straight month of increases from the previous year.

(3) Sales of existing homes were up in many areas of the country.

(4) Mortgage applications are up.

■ H. Michael Schwartz, *cirenews.com*, July 30, 2009. Self-storage units have had annual revenue increases of around 4.4% over the last 10 years. Almost 10% of all Americans rent a unit. The Self Storage Confidence Index found that although actual rental rates were down in the first quarter of 2009,

40 percent of responding owners and operators in 39 states expect rates to increase, and 26 percent expect no change. In terms of occupancy, 45 percent predicted increases while 23 percent expected no change in the second quarter.

■ Steven Bertoni, *Forbes.com*, July 24, 2009. Golf anyone? A new golf course is open just minutes from Wall Street. You can get to the course by land, sea or air. The 57,000 square foot clubhouse cost \$70 million and then a modest \$180 for the course. Initial member fees are \$500,000 with annual dues of \$25,000.

■ Allison Rice, *Builderonline.com*, July 30, 2009. According to housing economist Kermit Baker, chief economist for American Institute of Architects (AIA), with some economic indicators up (housing starts) and others down (consumer confidence), "we are getting conflicting signals (about the economy), "which is typically the case when we are near a turning point." His colleagues generally agreed, suggesting that the economy should begin growing again in 2010. Is the stimulus working?

Editor's Note: The AIA was out front when the housing industry went crazy, and they were out front when the housing market crashed. I believe the AIA is a great barometer of the future housing market.

■ *Hotelnewssource.com*, July 30, 2009. Domestic system-wide revenue per available room ("RevPAR") declined 15.7% for the second quarter of 2009 compared to the same period of 2008.

■ Allison Rice, *Builderonline.com*, Aug. 3, 2009. For the first time in more than three years, spending for single-family construction grew in June on a monthly basis, increasing 2.4% compared to May. It represents the first increase in this category in 40 months, according to Patrick Newport, U.S. economist of IHS Global Insight, who predicts single-family construction will continue to grow in the months to come.

■ Allison Rice, *Builderonline.com*, Aug. 4, 2009. Chuck Shinn minced no words when presenting the 2008 results of Shinn Consulting's annual finance and operational study Friday. "This was the worst performance since 1970" for builders, said Shinn, with average net profit plunging from 7.96% in 2007 to less than zero (-0.75%) in 2008.

■ Lauren Etter, *The Wall Street Journal*, Aug. 5, 2009. Farm land prices dropped by 3.2% over the last year to an average of \$2,100 per acre as reported by the U.S. Agriculture Department. The drop was the first since 1987.

■ Anton Troianovski, *The Wall Street Journal*, Aug. 5, 2009. It would appear that not everyone is watching the decline in mall values and struggles to get financing. Both the Ontario Teachers' Pension Plan and the California Public Employees' Retirement System have made substantial investments in shopping centers.

■ Haya El Nasser, *USA Today*, Aug. 5, 2009. The percentage of households that own homes hit a peak of almost 70% in 2004 and 2005. By the second quarter of this year, that slipped to 67.4%, according to the Census Bureau. Now, a University of Utah analysis projects it'll drop to about 63.5% by 2020—the lowest since 1985.

■ Daniel Wagner, *The Associated Press*, Aug. 5, 2009. Some groups are profiting greatly from the government programs to help stop foreclosures. Mortgage servicers act as middle-men between the borrower and the lender and receive fees for this service. This service has become a very large business, and not all the players have always been on the ethical side.

■ Stephanie Armour, *USA Today*, Aug. 5, 2009. More and more short-sales are not actually coming to a conclusion. The time frames are often very long as a result of slowness by the lender, inexperience by the realtors, or the buyer backs out because of the

slowness of the transaction.

■ Zachary Goldfarb and David Cho, *Washingtonpost.com*, Aug. 5, 2009. The Obama administration is considering an overhaul of Fannie Mae and Freddie Mac that would strip the mortgage finance giants of hundreds of billions of dollars in troubled loans and create a new structure to support the home-loan market, government officials said.

Editor's Note: For those of you around in the early '90s after the savings and loan crisis, does this sound like another RTC (Resolution Trust Corporation). Wow, that was really successful!

■ Sibley Fleming, *nreionline.com*, Aug. 5, 2009. As valuations and net operating income continue to decline and debt financing remains scarce, borrowers are feeling the pinch. Valuations are reaping the most havoc on maturing loans. Since peaking in October 2007, asset values have plummeted 29.5% year-to-date through April, according to the Moody's/REAL Commercial Property Price Index.

■ Stephanie Armour, *USA Today*, Aug. 13, 2009. Okay, some good news: Thirty-nine states saw home sales increases from the first quarter, and sales in nine states were higher than a year ago, according to the National Association of Realtors (NAR). But prices on existing homes are continuing to fall. The national median price for single-family homes was \$174,100 in the quarter, which is 15.6% lower than during the same period last year. (See table above.)

■ Lingling Wei and Jon Hilsenrath, *The Wall Street Journal*, Aug. 12, 2009. One of your recently acquired properties is struggling: You, as in the Federal Reserve. When the federal government bailed out Bear Stearns, they received a \$900 million investment in the Extended Stay hotel chain, a chain that has now filed for bankruptcy. The Federal Reserve finds themselves facing other financial firms such as Cerberus Capital-Management that they teamed up

Metropolitan Area	Qtr 2 (2008)	Qtr 1 (2009)	Qtr 2 (2009)	Change from Qtr 2 (2008)
Kansas City KS/MO	\$152,800	\$126,600	\$144,100	-5.7%
Topeka	\$110,300	\$106,500	\$113,300	2.7%
Wichita	\$125,800	\$108,100	\$125,300	-0.4%

Source: Stephanie Armour, *USA Today*, Aug. 13, 2009 (see below).

with for the Chrysler & GMAC bailouts. The Fed takeover of the \$30 billion in assets of Bear Stearns included 79% of the assets in hotel debt—not a very strong industry right now. Please try to do better with your money next time!

■ Michael Carolan, *The Wall Street Journal*, Aug. 12, 2009. Just to make the above article seem all the worse, InterContinental (Holiday Inn) posted a \$56 million loss for the second quarter as compared to a \$101 million from a year ago.

■ Dawn Wotapka and James Hagerly, *The Wall Street Journal*, Aug. 12, 2009. Has residential new construction started to turn the corner? Toll Brothers reported a 3% increase in orders from a year ago and the first gain since 2005. D.R Horton, Inc. reported sales for the third quarter, ending in June, were up 23% from the prior quarter.

■ Paul Davidson, *USA Today*, Aug. 18, 2009. Unfortunately, just a sign of worse things to come. "About \$83 billion of office, retail, industrial and apartment properties have fallen into default, foreclosure or bankruptcy this year, says research firm Real Capital Analytics. The default rate for commercial mortgages jumped from 1.62% to 2.25% in the first quarter and should hit 4.1% by the end of the year, says Sam Chandan, president of Real Estate Econometrics. To ease that crunch, the Federal Reserve is extending a program to lend investors up to \$200 billion to buy assets backed by commercial mortgages and consumer loans. The program, which has lent just \$29.6 billion, was to expire by year's end."

■ John Caulfield, *builderonline.com*, Aug. 14, 2009. This year, FEMA

is wrapping up its six-year-long Flood Map Modernization Program, for which Congress appropriated more than \$800 million. These maps are used by the federal government to set rates for its National Flood Insurance Program, which homeowners and businesses in high-risk areas use to purchase lower-priced insurance policies. In many markets, floodplain maps hadn't been updated in 30 years. New technology is allowing FEMA to better identify those high-risk areas where there is at least a 1% annual chance of flooding. (In such markets, lenders almost always require borrowers to take flood insurance.) The maps are digitized so their geo-spatial data can be used with local Geographic Information Systems. Eventually all of the maps will include new floodplain boundary standards.

Editor's Note: I would anticipate some property owners appealing for a lower value as they are now being placed in a floodplain.

■ Sara Murray, *The Wall Street Journal*, Aug. 19, 2009. Maybe some encouraging signs of improvement in the single-family residential market are starting to show. Construction of new homes rose by 1.7% in July and permits rose by 5.8%.

■ Dawn Wotapka, *The Wall Street Journal*, Aug. 19, 2009. Pulte Homes, Inc. purchased Centex to become the largest single home builder in the nation. The target market for this company is the entry-level and retiree market. Pulte is banking on the recovery beginning in the smaller, lower-priced homes.

■ Nigel Maynard, *builderonline.com*, Aug. 20, 2009. Every now and then a new product wins points for its sheer

REAL ESTATE NOTES, continued

coolness, ingenuity, and audacity. The automated kitchen cabinetry system by Anvil Motion of Brigham City, Utah, fits squarely into this category. What exactly does this involve? It means that homeowners can simply wave a hand, and cabinet panels and doors rise and fall vertically. Or they could use a wireless touch-screen device that accomplishes the same function. For a video demonstration, go to: <http://www.anvilmotion.com/>.

Editor's Note: Oh, in case you were wondering about the price of the above cabinets? Price starts at \$2,000 per linear foot up to \$4,000 per linear foot. As soon as my fee for writing these Real Estate Notes of Interest increases by about 1,000 times, I will invite everyone over to see them.

■ Nick Timiraos, *The Wall Street Journal*, Aug. 21, 2009. The Mortgage Bankers Association national delinquency report showed that even as delinquencies have slowed on exotic subprime loans at the root of the foreclosure crisis, delinquencies have accelerated on loans extended to borrowers with better credit. Currently, over 13% of mortgages on homes with one to four units were at least one month overdue.

■ *USA Today*, Aug. 21, 2009. Average rates on 30-year mortgages slid to the lowest levels since May this week, Freddie Mac said. The average rate for a 30-year fixed-rate mortgage was 5.12%, down from 5.29% last week, Freddie Mac said. At this time last year, the average rate for 30-year fixed-rate mortgages was 6.47%.

■ Walter Molony, National Association of Realtors, Aug. 22, 2009. Sales of single-family homes, including condos and cooperatives, were up 7.2% last month for the largest single month-over-month increase since 1999. Although this is a positive step that most attribute to the \$8,000 first-time homebuyer credit and continuing low interest rates, values still remain lower than last year. As compared to last year:

Northeast -15%, Midwest -5.9%, South -7.1% and West -28%.

■ Denise Kalette, *nreionline.com*, Aug. 27, 2009. The research firm Reis is projecting that retail vacancy rates for neighborhood and community shopping centers to rise to 12% this year and increases in the capitalization rates. Cap rates have risen to 10.1%, but in the Midwest the recent sales are indicating cap rates of 12.2%.

■ *Hotelnewsnow.com*, Aug. 27, 2009. In year-over-year measurements, the industry's occupancy fell 7.2 percent to end the week at 60.4 percent. Average daily rate dropped 10.2 percent to finish the week at US\$95.70. Revenue per available room for the week decreased 16.7 percent to finish at US\$57.84

Editor's Note: If you have the time, go to the link shown below and read the article—and make sure and read the comments.

<http://www.hotelnewsnow.com/Articles.aspx?ArticleId=1663&ArticleType=0>

■ James Hagerty, *The Wall Street Journal*, Aug. 25, 2009. A recent report shows that once homeowners fall behind on their mortgages, fewer are catching up. The cure rate has dropped to 6.5% as of July from an average of 45% for the years 2000 – 2006. Cure rate is the portion of delinquent loans that return to current payment status each month.

■ Anne Tergesen, *businessweek.com*, Aug. 27, 2009. Okay, here is the latest in mortgage fraud. An agent or title agent will receive the proceeds for a reverse mortgage and then never pay off the loan as is intended.

■ James Stewart, *smartmoney.com*, Sept. 2, 2009. The S&P Case-Shiller Price Index has reported the first quarter-over-quarter increase in three years. Only Detroit and Las Vegas showed declines in the 20 major markets included in the index. Add to this that the National Association of Realtors (NAR) sales volume increased from June to July by 7.2% has some people thinking that the residential real estate market has bottomed out.

■ Nick Timiraos, *The Wall Street Journal*, Sept. 3, 2009. Now, didn't you expect something like this? In an attempt to help the housing market, the Federal Home Administration (FHA), may have over-extended and will need a taxpayer bailout.

■ John Caulfield, *builderonline.com*, Sept. 8, 2009. Another sign of builder confidence is the increased number of lots that builders are buying. Some is for current construction, some for speculation for increased new home demand, and some is for selling to other builders when the economy gets better. One example was in the Las Vegas area where some lots selling for \$10,000 are now selling for \$25,000 to \$30,000. The builders are getting some competition from investors.

■ Ruth Simon, *The Wall Street Journal*, Sept. 9, 2009. It only gets worse for the creditors of Extended Stay hotels. An appraiser hired by the loan servicer indicated the value of the 664 hotels to be \$2.8 billion. Now the real problem is that the primary loan is for \$8 billion with a mezzanine loan of an additional \$3.3 billion. Ouch!

■ Hannah Cho, *The Baltimore Sun*, Sept. 8, 2009. According to the U.S. Census Bureau, the median new home size shrunk for the first time in 14 years. In 2007 the median size was 2,277 square feet and it is now 2,215.

■ Dawn Wotapka, *The Wall Street Journal*, Sept. 11, 2009. First-time home buyers are moving quickly in order to qualify for the federal government \$8,000 credit that expires on November 30. Extension of the credit has been discussed, but no action taken to date by Congress.

■ Beth Braverman, *Money Magazine*, October 2009. There are five interesting items related to an FHA loan.

1. Chances are good that you'll come across one—they are the only loan that you can receive with a down payment of less than 10%.

2. Borrowers can qualify with any income—even though they were

primarily for lower-income borrowers, anyone can receive a loan as it is based more on the ability to pay.

3. Expect a tough appraisal—any repairs must be made before the loan will be approved.

4. These loans are pricier than they seem—upfront fees are higher than for traditional loans.

5. But they've gotten easier to obtain—they have loosened up on the rigid paperwork and loans are being approved faster.

■ Lingling Wei, *The Wall Street Journal*, Sept. 16, 2009. Hopefully, this will help the commercial real estate market. A very large amount of CMBS (Commercial Mortgage Backed Securities) are coming due in the next few years. These loans could not be renegotiated until they become delinquent without some severe income tax consequences. The Treasury is now allowing for the lowering of the interest rate or stretching out the loan term without triggering any tax consequence.

■ Gwendolyn Bounds, *The Wall Street Journal*, Sept. 17, 2009. Some southern and western cities are rewarding builders for cutting back on the amount of grass in the yards. Some cities in Florida, Nevada and Texas are giving financial incentives to builders if they reduce water consumption by 20% and use high-efficiency toilets and faucets.

■ Peter Eavis, *The Wall Street Journal*, Sept. 18, 2009. Now, this is a scary thought: More than half of U.S. residential mortgages are being made by the three large banks of Wells Fargo, Bank of America and J.P. Morgan Chase, which means those Treasury backed entities are guaranteeing about 85% of all new mortgages.

■ *Associated Press*, Sept. 21, 2009. Moody's/REAL Commercial Property Price Indices report that commercial values are down over 5% from June and down over 38% since peaking in October 2007.

■ Denise Kalette, *nreionlin.com*,

Sept. 21, 2009. Now, this is taking modular construction to new limits. The photo below is a 24-story college dormitory built in England and is the tallest modular building in Europe. It took only 27 weeks to build the modules and about one-year to complete the project versus at least two years for typical construction.



■ Sibley Fleming, *nreionline.com*, Sept. 18, 2009. Foresight Analytics has raised their projected office vacancy rate from 17.5% to 18.4% by year end.

■ Stephen Rushmore, *lhonline.com*, Sept. 17, 2009. I found the link below discussing hotel franchise fees very interesting.
http://lhonline.com/development/franchising/rushmore_franchise_fees_0909/

■ Stephanie Armour, *Daily Real Estate News*, Sept. 19, 2009. The federal government is considering some type

Wyoming Land Wars

Sackey Kweku, Jackson County, Mo., Assessor's Office and current IAAO Executive Board Member, emailed me an article "New Johnson County Land Wars." It's too long to reprint here but can be found online at the address below. It is interesting reading. Thanks, Sackey.

—Rick Stuart

<http://wyofile.com/2009/09/new-johnson-county-land-wars/>

of program to start discussions with lenders to extend payment on home loans for those that have lost their jobs.

■ Stephanie Armour and Barbara Hansen, *USA Today*, Sept. 22, 2009. The bad news, according to the U.S. Census Bureau, is that more than 40 million spent more than 30% of their income on housing in 2008, which is up 600,000 from 2007. The good news, if you can call it that, is that for the first time since 2002 the number of homeowners spending less than a third of their income on housing did not increase.

■ There is an interesting article titled "How the Cap-and-Trade Bill Could Transform the Real Estate Sector can be found at the following link:

<http://www.reuters.com/article/gwm-Buildings/idUS91020028420090729>

I believe this would be far superior to a "No Trespassing" sign!

—Submitted by Della Rowley, RMA

