



APPRAISING THE PLAINS

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of Kansas



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Kansas Wins IAAO Virginia Cup!



◀ Paul Welcome, CAE, ASA, RMA, accepts the 2012 Virginia Cup from IAAO President Debbie Asbury. Kansas walked away with the top prize for the number of new professional designations since last year's conference.

Read more about this year's IAAO conference beginning on page 10.

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the President's View

Greg McHenry, RMA, Riley County Appraiser
KCAA President

The last two to three months have absolutely flown by and are probably another sign of my advancing age, but also a symptom of a hectic schedule. The good news is a lot has been accomplished this late summer and early fall. After months of work and anticipation, bids have been received for the Oil & Gas Guide review project. Four companies submitted bids, and each of them seem to have high levels of expertise and experience. KCAA Board members, along with Oil & Gas Committee Chairman Rick Batchellor, will be meeting October 12th to review the bid proposals and choose a vendor. PVD has promised to assist and cooperate by providing their data.

Legislative items continue to be a high priority, particularly the proposed legislation to change the definition of trade fixtures (Senate Bill 51), otherwise known as the machinery and equipment bill. The Kansas Association of Counties (KAC) invited several of us to participate in a meeting with other KAC members to discuss the issue. This KAC subcommittee is working with KAC staff to provide facts and data for legislators and others involved in the debate.

One of the crucial pieces of information needed will be some sort of fiscal impact analysis if the bill is passed into law. To assist in that goal, a questionnaire has been developed to obtain fiscal impact data from counties. At the writing of this column, the questionnaires were in the process of being emailed to each county in the hope that we can obtain a general sense of the potential loss in revenue to counties statewide. This information will be given to KAC staff so they can compile and

provide it to legislators, industry organizations, business groups, school board representatives, farm organizations, Chambers of Commerce, and others. The information will likely be needed for Legislative Post Audit's review as well, which will likely occur in early 2013.

I'd like to offer my thanks to Rod Broberg, RMA; Gene Bryan, RMA; Paul Welcome, CAE, ASA, RMA; and Mary Kay Strauss for their hard work and participation in this project. Rod, Gene, and Paul are members of the KAC subcommittee, and Mary Kay worked tirelessly to develop the questionnaire/spreadsheet.

One of the highlights of the summer/early fall was the IAAO conference in Kansas City, Mo. Kansas provided much of the leadership, most of the volunteers, and many attendees to the conference. The Kansas City Chapter of IAAO hosted the conference and provided awesome venues for the evening social events. Barry and Anna Porter were in charge of the Sunday golf tournament, which received excellent reviews by those in attendance.

The majority of the conference volunteers were from Kansas, including several PVD staff. Kansas also made a prominent appearance in the awards breakfast. Fourteen Kansans were recipients of IAAO designations; Paul Welcome, CAE, ASA, RMA, received the Verne Pottorff Professional Designee Award; and KCAA won the Virginia Cup for having the largest number of new designees this year. Last but not least, Kim Lauffer, RES, RMA, played a prominent leadership role in her current position as IAAO vice president, soon to be president-elect.

As you can see, there has been a

lot going on in our state and region, and KCAA members are making an impact in a variety of ways. I can't begin to say how important it is for us to continue our involvement in legislative issues, IAAO, KAC, etc. Kansas county appraisers have opportunities to provide input and leadership in areas of public policy and our professional organizations. As my wise grandfather always said, "It's always better to be part of the solution instead of being part of the problem." KCAA has a rich history of doing this. Let's continue being part of the solution!



Mark Hixon

Hixon A Good Selection

By Gene Bryan, CKA, RMA

Mark Hixon, CKA, RMA, Shawnee County appraiser, was recently nominated by the KCAA to fill an open position on the (Kansas Association of Counties' (KAC) Legislative Policy Committee (LPC). The LPC is made up mostly of county commissioners (seven of the eight positions are commissioners). KAC affiliates nominate a person from their respective organizations to serve as the eighth member. The seven commissioner members of the LPC choose the eighth member from the nominations they receive. Mark was chosen to fill that open LPC position. The KCAA feels this was an excellent decision, especially with the M&E (Machinery & Equipment) exemption issues that we know will be coming up in January.

The LPC meets to develop a draft legislative statement that is presented at the November KAC conference. This ultimately becomes the KAC Legislative Policy. The LPC will also help "guide" the KAC legislative efforts during the upcoming 2013 legislative session.

Mark's years of experience and familiarity with county government and the legislative process will definitely help him on the LPC. His selection speaks well of the standing that appraisers have with the KAC and perhaps means that the LPC also feels that the M&E exemption issue could be a VERY important issue for us.

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. Visit KCAA online at www.kscaa.net

Board Meeting Highlights

**■ KCAA Executive Board Meeting
June 17, Manhattan**

Attendees: Gene Bryan, Toni Viens, Craig Clough, Paul Welcome, Dean Denning, Rod Broberg, Lori Reedy, Sandra Drake, Della Rowley, Greg McHenry, Cindy Brenner

Previous Meeting Minutes: Approved with minor edits addressed by Cindy.

Financial Report:

KCAA CD	\$ 11,487.28
KCAA Checking Acct	\$170,838.70
KCAA Money Market Acct	<u>\$ 56,937.17</u>
Total KCAA Funds	\$239,263.15
Orion Revenue	\$ 1,431.80
To Date Orion Revenue	\$158,032.55
	<u>\$159,464.35</u>
Orion Paid Out	\$ 36,680.00
Total Orion Funds	\$122,784.35

Treasurer’s Report: Lisa was not in attendance but sent the report, which reconciled with financial report.

Oil & Gas: Cindy spoke on questions for bidding on Oil & Gas Guide. Ginny Whipple with IAAO has questions on the bid for reviewing the guide. Date of completion??? Contact Guy Griscom regarding other contacts for this. What about IAAO technical committee? Greg will talk to August to find out who was on the committee. Cindy to ask Kenton for contact for Oil & Gas.

Education: Cindy reported on education numbers. Cancel IAAO 312 due to low enrollment. Upper series 300 courses new versions are coming out. KCAA will be offering “Evaluating Res & Comm Construction” classes in July in Wichita. Enrollment is at 24 and 26 students. KCAA is offering three one-day courses in August in Manhattan with enrollment at 17, 22 and 23. The RMA reviews are scheduled to be offered this fall.

Orion: Orion issues: Field help from

PVD is not as well-informed as they need to be. Paul reported system is better than expected. Gene suggested that there be an Orion Enhancements tab on the website. Cindy is to get with Chris on outstanding enhancements and Kenton for prior information. History tab enhancement is scheduled for later this year.

Legislation: Legislative committee meeting will follow this board meeting. Rod would like to reintroduce the bill that was introduced this year. Paul extended a thanks to Rod for his work chairing the Legislative Committee. Interim study on M&E has no date or members.

Annual Business Conference: Cindy and Greg spoke about the conference. 101 full registrants, 17 education only, 15 vendors/sponsors, 27 bowlers and 35 golfers.

Committee Reports: Maintenance Specs Committee met and basically re-wrote maintenance specs to eliminate references to old CAMA. Changes have been given to PVD. Paul discussed meeting with David Harper about USPAP. There will be discussion on Wednesday.

Other Business: Toni suggested grouping together areas for a ratio study for different types of properties. There will be a meeting on subsidized housing with PVD immediately following the sessions on Wednesday.

- Leanne from IAAO contacted Greg about being a sponsor for the IAAO Conference. Logo, etc., for signage? Do we need to get a logo to IAAO for our banner?

- Paul Welcome: Historical database of county appraisers is something he would like to see.

Meeting adjourned.



FINDING
COMMON
GROUND

37th Annual Conference & Exhibition | Kansas Association of Counties
Topeka/Shawnee County, Kansas
November 13-15, 2012

KAC Annual Meeting

The Kansas Association of Counties 37th Annual Conference and Exhibition takes place in Topeka on November 13–15. County appraisers and staff are encouraged to attend the entire conference. However, if you choose to attend only Director’s Update and/or the KCAA Business Meeting, there are registration options for “One Day Only” and “Affiliate/Associate Meeting.” Registering online at www.kansascounties.org will save you \$5!

AGENDA

KCAA Meeting & Director’s Update

Tuesday, November 13

1:00 p.m.– Director’s Update
4:30 p.m

Wednesday, November 14

1:00 p.m.– KCAA Business Meetg
1:45 p.m. • Financial Report
• Treasurer’s Repor
• Audit Report
• Legislative Report
• Installation of Officers
• 2012 Budget
• Committee Appointments

2:15 p.m. – Break
2:30 p.m.

2:30 p.m. – COTA
3:00 p.m.

3:30 p.m. – Committee Mtgs.
4:00 p.m.

2013
Mark your^calendar!

The 2013 KCAA Annual Business Conference will be held June 2-5 in Wichita at the Drury Plaza Hotel Broadview, 400 W. Douglas. Watch the website and newsletter for more conference information!



The Director's Update...

By David Harper, RMA, Director, Property Valuation Division

[PVD will hold a director's update in conjunction with the Kansas Association of Counties conference, November 13–15 in Topeka.](#)

The third quarter of 2012 concluded with a flurry of activity for the Division of Property Valuation. On September 25 in Salina, Roger Hamm, deputy director of PVD, hosted a personal property guide meeting. The purpose of the meeting was to allow county appraisers and interested groups the opportunity to bring to the attention of PVD items of concern or interest which pertain to the Personal Property Valuation Guide.

K.S.A. 75-5105A(b) states that PVD shall devise or prescribe guides for the valuation of personal property and shall confer with representatives of the county appraisers and seek counsel from official representatives of organized groups in the preparation of the guide. PVD has annually held such meetings during the formulation of the Oil and Gas Guide, but the September 25 meeting was the first directed solely towards other personal property valuation.

On September 26, Roger, Bill Waters, Gene Edwards and I were in St. John to host a meeting on severed mineral interests. The meeting was in response to the August 2012 Kansas Attorney General Opinion No. 2012-18. The Kansas attorney general opined severed and non-severed mineral interests may be separately classified for property taxation purposes without violating equal protection guarantees under the Kansas and United States Constitutions. (*See next page to read the Attorney General's opinion.*)

The statute requiring severed mineral interests to be appraised separately from the land originated in 1897; however, the recent increase of petroleum exploration and discovery in Kansas has brought renewed attention to K.S.A. 79-420 and exposed a wide range of practices amongst Kansas jurisdictions. PVD's intent for the meeting was to open the discussion on the duties of the county officials in accordance with K.S.A. 79-420, and discovery, listing and valuation

problems brought forth by application of the statute. Submissions for this newsletter were due prior to the meeting, but it will be a topic for discussion at the Kansas Association of Counties conference. PVD's goal is to work with county officials to gain compliance with the requirements of K.S.A. 79-420.

In Topeka on September 27, the subsidized housing committee chaired by Brad Eldridge, MAI, and comprised of county and PVD staff was scheduled to hold their first committee meeting. The large number who attended our impromptu meeting at the Kansas County Appraisers Association Annual Business Conference in June emphasized to us the need to review current procedures for subsidized housing. Thank you to Brad and to Greg McHenry, AAS, RMA and KCAA for their support of this joint PVD and county effort.

In September PVD also conversed with KCAA leadership and the Maintenance Specifications Committee on our plans for releasing the revised maintenance specifications. For numerous reasons, we have delayed the release until next year. The KCAA Maintenance Specs Committee will have the opportunity to review and comment on specification drafts before final release.

In conjunction with the new specs, we will hold compliance workshops to review and discuss procedural compliance. One issue of debate has been the reinspection "cycle." For the current year, we have not changed the compliance requirements for six-year inspection. However, we do hold it is the primary intent of K.S.A. 79-1476 to assure each parcel is inspected once every six years, that the six-year inspection requirement is parcel specific, and compliance requires an inspection once every six years not once in a six-year cycle.

Section 12.1 of the PVD Maintenance Specifications were revised in 2006 to state, "The selection of parcels

for inspection shall be performed in such a manner to ensure that 100% of the parcels are viewed and inspected every six years," but we did not change our compliance review procedure accordingly. We will likely work towards a change but not until concerns of those working under a reinspection plan in accordance with a six-year "cycle" have been addressed.

PVD will hold a director's update in conjunction with the Kansas Association of Counties conference November 13–15 in Topeka. The time for the PVD presentation has not yet been set, but all the above-mentioned items will be discussed. Also scheduled to present at the update is Deann Williams of the State of Kansas Motor Carrier Services Division. Deann will give an overview and take questions on the commercial vehicle registration fee, which will replace the current motor carrier property tax in 2014.

PVD was excited to send seven staff members to the International Association of Assessing Officers (IAAO) business conference in Kansas City. We extend our congratulations to IAAO and to Paul Welcome, CAE, ASA, RMA and the local host committee for an exceptionally well-organized, productive and enjoyable conference. The opportunity to volunteer in exchange for a reduced fee provided us the opportunity to attend and actually turned out to add to our enjoyment of the conference. Most of our volunteer time included work at the registration desk and as the welcoming committee for the guests at the Sunday night reception, giving us the occasion to meet many participants from all over the world.

We look forward to seeing many of you at KAC in November, and please feel free to share any suggestions for topics of discussion you would like included in the director's update.

See agenda for KCAA Meeting & Director's Update at KAC on page 3.

AG Opinion 2012-18

Below is the text of Attorney General Opinion No. 2012-18 dated Aug. 8, 2012. It was written in response to a query from Secretary Nick Jordon, Kansas Department of Revenue, concerning the constitutionality of K.S.A. 79-420.

Re: Constitution of the United States—Amendments to the U.S. Constitution—Rights and Immunities of Citizens; Surface and Mineral Rights Taxed Separately

Constitution of the State of Kansas—Finance and Taxation—System of Taxation; Classification; Exemption

Taxation—Listing and Valuation of Real Estate—Surface and Mineral Rights Taxed Separately

Synopsis: The Kansas Legislature may separately classify severed and non-severed mineral interests for taxation purposes without violating equal protection guarantees under the Kansas and United States Constitutions. Cited herein: K.S.A. 79-420; Kan. Const., Art. 11, § 1; U.S. Const., Amend. 14.

Dear Secretary Jordan:

As Secretary of the Kansas Department of Revenue, you ask our opinion regarding the constitutionality of K.S.A. 79-420. Specifically, you ask whether there is a violation of the equal protection guarantees of the United States and Kansas Constitutions when the same mineral interest is valued at a different rate for taxation purposes based upon ownership of the interest in the surface land.

K.S.A. 79-420 states in relevant part:

Whenever the fee to the surface of any tract, parcel or lot of land is in any person or persons, natural or artificial, and the right or title to any minerals therein is in another or in others, such mineral interest shall be listed and the market value, if any, determined separately from the fee of such land, in separate entries and descriptions. Such land and such mineral interest shall be separately taxed to the owners thereof respectively.

In plain language, this statute requires a mineral interest to be taxed separately from the land in which the minerals are located when the land and the mineral interest are owned by different persons.

Your question relates to Article 11, § 1 of the Kansas Constitution, which states that the Legislature shall provide for a “uniform and equal basis of valuation and rate of taxation of all property subject to taxation.”¹ Article 11, § 1 (a) further provides that “[p]roperty shall be classified into the following

classes for the purpose of assessment and assessed at the percentage of value prescribed therefor.” Real property is classified into four subclasses. The two subclasses relevant to your question are “Land devoted to agricultural use which shall be valued upon the basis of its agricultural income or agricultural productivity ...”² and “[a]ll other urban and rural real property not otherwise specifically subclassified.”³

As you note in your letter, severed mineral interests are not specifically subclassified in Article 11, § 1 (a) and therefore fall into the “all other” classification. You further note that in the vast majority of cases, the land in which minerals are located falls within the “agricultural use” classification. This means that land containing a non-severed mineral interest is usually valued based upon agricultural income or productivity. If the same mineral interest is severed from the fee to the surface land, the mineral interest is valued based upon fair market value. As a result, the same mineral interest may be subject to very different tax assessments depending on whether the interest is severed from the surface fee.

You ask whether disparate treatment of severed versus non-severed mineral interests for taxation purposes violates equal protection. Your question requires an analysis of the Equal Protection Clause of the United States Constitution, which prohibits states from denying “to any person within its jurisdiction the equal protection of the laws.”⁴ The Kansas Supreme Court has held that Article 11, § 1 provides equal protection to Kansas citizens for taxation purposes that is virtually identical to the protection afforded by the Equal Protection Clause of the United States Constitution.⁵

Kansas courts have previously determined that K.S.A. 79-420 does not violate equal protection. In *Cherokee & Pittsburg Coal & Mining Co. v. Crawford County Commissioners*, the Kansas Supreme Court considered Laws 1897, c. 244, the statutory predecessor to K.S.A. 79-420.⁶ In that case, a coal company owning mineral rights in real estate, but not the fee to the surface land, challenged the statute on the ground that it provides for “unequal and inequitable valuation and assessment” of mineral interests in violation of Article 11, § 1 of the Kansas Constitution. The Court held that the statute did not violate the Kansas Constitution, and further noted that “[m]inerals in the earth are real estate, and, when the owner of them has not the fee to the surface of such land, they should be separately assessed and taxed.”⁸ The Court has reaffirmed its 1905 holding in *Cherokee*.⁹

Generally, lawmakers are afforded broad discretion in creating taxation schemes, even if such schemes result in unequal taxation. “[I]n taxation, even more than in other fields, legislatures possess the greatest freedom in classification.”¹⁰

AG Opinion, cont.

A tax classification that does not involve a fundamental right or suspect classification need meet only the rational basis level of scrutiny to satisfy equal protection.¹¹

In this case, owners of mineral interests are classified according to whether the mineral interest is severed from the fee to the surface land. Such classification does not involve a fundamental right (e.g. freedom of speech or the right to vote) or a suspect classification (e.g. race or religion). Therefore, the tax classification of severed versus non-severed mineral interests need meet only the rational basis level of scrutiny to satisfy equal protection.

The rational basis test examines whether a statutory classification bears some reasonable relationship to a valid legislative purpose.¹² A tax classification is constitutionally valid on equal protection grounds “if there is any reasonably conceivable state of facts that could provide a rational basis for the classification.”¹³ “[I]t is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature.”¹⁴

The statute requiring severed mineral interests to be valued separately from the surface land was originally enacted in 1897,¹⁵ and later codified at K.SA 79-420. There is no legislative history available to explain the actual reason for enactment of the statute. However, Kansas courts have noted that the purpose of K.SA 79-420 is to ensure that property is properly listed for taxation. The *Cherokee* court described of the purpose of the statute as follows:

The act under consideration was passed to meet a newly developed class of property or division of ownership of real estate in Kansas, by which lands came to be divided horizontally, as it were. But for this provision, it would be possible for a very large and highly valuable class of real estate to escape taxation.¹⁶

In *Hushaw v. Kansas Farmers’ Union Royalty Co.*, the court stated:

It is a matter of common knowledge that Kansas contains vast reservoirs of oil and gas. The value of these mineral deposits baffle computation. The purpose of the statute is to place these properties on the tax roll. The method selected by the legislature was to compel disclosure of the true ownership of such minerals as they are from time to time transferred.¹⁷

Thus, K.SA 79-420 serves to place severed mineral interests on the tax rolls. In our opinion, this is a valid legislative purpose, and K.SA 79-420 bears a reasonable relationship to such purpose. As previously noted, a tax classification distinguishing owners of severed versus non-severed mineral interests does not involve a fundamental right or a suspect

class. Therefore, we conclude that K.SA 79-420 meets the rational basis level of scrutiny under an equal protection challenge.

Accordingly, we opine that the state may separately classify severed and non-severed mineral interests for taxation purposes without violating the equal protection guarantees of the Kansas and United States Constitutions.

¹ Kan. Const. Art. 11, §1(a).

² *Id.* at §1(a)(2).

³ *Id.* at §1(a)(7).

⁴ U.S. Const., Am. 14.

⁵ *State ex rel. Tomasic v. City of Kansas City*, 237 Kan. 572, 583 (1985).

⁶ 71 Kan. 276 (1905).

⁷ *Id.*

⁸ *Id.* at Syl. 2.

⁹ See, e.g., *Hitch Land & Cattle Co. v. Board of County Comm’rs of Seward County*, 179 Kan 357, 361 (1956); *Catlett v. Roemer*, 174 Kan. 309, 313 (1953); *Hushaw v. Kansas Farmers’ Union Royalty Co.*, 149 Kan. 64 (1939).

¹⁰ *Peden v. Kansas Dept. of Revenue*, 261 Kan. 239, 253 (1996) (quoting *Madden v. Kentucky*, 309 U.S. 83 [1940]).

¹¹ *Armour v. City of Indianapolis*, _ U.S. __, 132 S. Ct. 2073, 2076 (2012); *In re CIG Field Services Co.*, 279 Kan. 857, 878 (2005).

¹² 279 Kan. at 878.

¹³ See, e.g., *F.C.C. v. Beach Communications, Inc.*, 508 U.S. 307, 313 (1993).

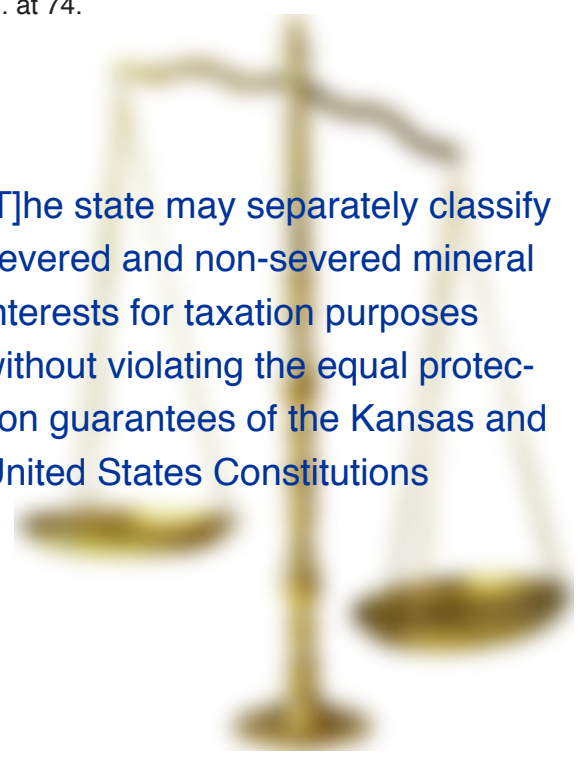
¹⁴ *Id.* at 315.

¹⁵ Laws 1897, c. 244.

¹⁶ 71 Kan. at 278.

¹⁷ 149 Kan. at 74.

[T]he state may separately classify severed and non-severed mineral interests for taxation purposes without violating the equal protection guarantees of the Kansas and United States Constitutions



In Memoriam

Mary Ruth Cech • 1952–2012

Mary Ruth Cech, 60, Colby, died Monday, July 16, 2012, in Hays. She was born Jan. 19, 1952, in Oakley to Charles and Eileen (Tauscher) Cech. She started working for Thomas County in 1978, and in 1984, started as the Thomas County appraiser, serving for 28 years.

She was active with Kansas State Real Estate Appraisal Board, Kansas County Appraisal Association, Northwest County Appraisers Association, Certified Kansas Appraiser, American Legion Auxiliary and Order of the Eastern Star.

Survivors include her significant other, Dennis Hayes; two brothers, Joseph Cech and wife, Jean, Goodland; and Jim Cech and wife, Lisa, Hays; a sister, Barbara Cech, Lincoln, Neb.; two stepchildren, Dawn Nesheim, Denver, and Matt Hays and wife, Wendy, Tennessee; an aunt, Carol Durham and husband, Bob; an uncle, Dale Domeney; five step-grandchildren, Colin, Elle, Connor, Hannah and Adain; and seven nieces and nephews.

She was preceded in death by her parents and two brothers, John Cech and David Cech.

Services will be at 10:30 a.m. Monday at Sacred Heart Catholic Church, Colby; inurnment in Sacred Heart Catholic Cemetery.

Doors will open at 2 p.m., and family will receive friends from 3 to 5 p.m. Sunday at Baalmann Mortuary, 190 S. Franklin, Colby, KS 67701.

Memorials are suggested to Wounded Warrior project in care of the mortuary.

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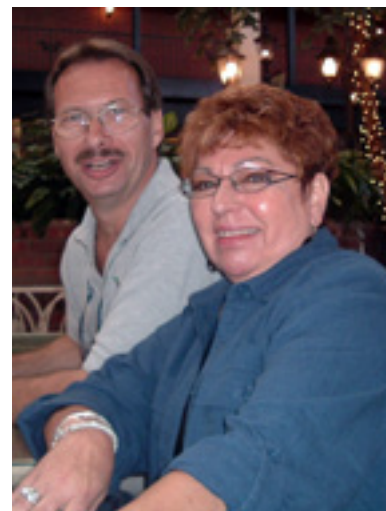
Mary Cech, KCA: “Keeper of the Cooler”

I knew who Mary was, but I really didn't get to know Mary the person until we served together on the KCAA Executive Board many years ago. I quickly learned what a delightful, fun loving person she was. But, above all, I discovered she had a great passion for the KCAA and the people who made up the KCAA. She worked tirelessly for the association over the years, and that is something I really appreciated. However, the one thing I will always remember about Mary was her role as “Keeper of the Cooler” for the executive board. When I was elected as KCAA vice-president she was the current president and Rick Stuart was the president-elect. During one of our long road trips together, Rick came up with this idea to present Mary with a surprise award at her last board meeting. That was the birth of the “Keeper of the Cooler” position.

Rick purchased a Styrofoam cooler and filled it with ice and cold beverages. (I will let you guess what those were.) At the close of our last meeting with Mary as president, he recognized her with a few remarks and told her that the board had a presentation to make to her. She had a shocked look on her face and I am sure she wondered in her mind what was going on. When we brought out the cooler, she took a long look at it and then lifted the top and started smiling when she saw the contents. We all know how much Mary enjoyed those cold beverages. Rick's first meeting of his presidency was in Pittsburg. As you know, Mary's county was Thomas County, which is in the far northwest part of Kansas. On our trip to Pittsburg, Rick and I wondered if Mary would be there since it was such a long trip for her. We should have known better. Mary, “Keeper of the Cooler,” was there. The cooler was full of those cold beverages, and it looked like it had been around the world more than once with stickers and notes from various places plastered all over the cooler. It was battered and worn but still keeping the beverages cold. She packed that cooler to every board meeting that year.

She was truly a remarkable person and a good friend. You will be missed, “Keeper of the Cooler.”

—Marion Johnson, CAE



Mary Cech and Rick Stuart at the NCRAAO Conference in 2011.

Mary Cech – We Lost a Character

I remember when I first starting going to classes (some 25 years ago) and didn't know a soul. Mary took me by the arm one day and said, “Let's do lunch girl!” She always made you feel at ease and was so easy to talk to. I learned so much from her in those early days, she was a good and patient teacher! Laughed until I hurt most times I was around her, she truly was a special lady! They don't make them like her anymore and that is a shame! She will be missed, and she will always remain in our hearts.

—Sandra Drake, RMA
Allen County Appraiser

Read current and past issues of Appraising the Plains online at <http://www.kscaa.net/newsletter-2/>

NCRAAO Directors Meeting

By Steven Miles, RMA, Douglas County

Fargo, ND, is the site of next year's NCRAAO Conference.



NCRAAO members outside the historic Fargo Theater.

The North Central Regional Association of Assessing Officers traveled to Fargo, ND, August 10 to hold their post-conference meeting. This gave us an opportunity to preview the location of the 2013 NCRAAO conference. The next host, North Dakota, greeted early arrivals and had organized a tour of the vibrant downtown that has been revitalized in recent years.

After a brief overview of the revitalization project by one of the city staff, we had the opportunity to explore on our own for part of the afternoon. We gathered at the Fargo Theater for a history lesson and demonstration of the original pipe organ that was used during the silent film days. Not only did it provide the background music, but it also supplied many of the sound effects that brought the films to life. Amazingly, this organ was “programmable” even then. The theater was restored to its 1926 Art Deco design in 1999 and currently plays first-run films and hosts

other cultural events.

After a great get-together and meal, we took a group photo of the directors in front of the Fargo Theater “reading” the *Fair & Equitable* that I brought along.

Fargo was established in the Red River Valley as a farming community and shipping hub. Steamboats and barges supplied the early transportation but were replaced by the railroads. Fargo served as the headquarters for a couple of the major railroad companies in the northern US.

The host committee has a great conference planned at the Best Western Doublewood Inn with education and lots of fun things to do. It's a great time to get to know our fellow appraisers and colleagues in the Midwest and to find out how things are different and the same.

Make your plans now to attend the 2013 NCRAAO Conference next June 17–19 in Fargo, ND. Watch for registration and details in future notices.

Report from the KCAA Enhancement Committee

By Chris Morlan, AAS, RMA, Chairperson

Sales Report enhancement.

The Selectable Photo on Comp Sales Report enhancement should be included in the next patch supplied to PVD. This is our last current, active enhancement request that Tyler has in its development schedule for KCAA.

The PRC enhancements are on hold for now, but we are continuing to communicate with Tyler as they are in the discussion and planning phase on implementing some changes to the Appraisal Card in mid- to late 2013.

We decided not to fund a proposal for the purchase of Apex software for the remaining Kansas counties that have not purchased it yet.

We are currently working on requests for estimates from Tyler on the following possible enhancements:

- Income Functionality and Report Changes.
- Option to include the QuickRef and/or remove the bar code from the Change of Value Notice form.
- Ability to determine order of Components and Ag Land entries in a Batch Process.
- Make the Permits Tab a versioned tab.

The communication with PVD and Tyler is ongoing and positive. Our next meeting has not been decided yet, but trying to get together sometime around the Director's Update during the KAC Conference has been suggested.



The Enhancement Committee held a conference call on Tuesday, August 28th to review the status of current enhancement requests, discuss recent requests for enhancements and choose the next enhancements to be submitted for costs estimates.

KCAA Enhancement Fund paid \$33,874 in July 2012 for four completed enhancement requests: History Tab, Reformatting of Comp Sales Report, and two for the Final Value Review program. We have a current balance of \$88,910, but \$9,660 of that will be used for the Selectable Photo on Comp

Minutes: Personal Property Committee

June 18, 2012

By Barb Konrade, Barton County

Attending: Barb Konrade, chair; Ellen Fischer; Dannette Cook; Patty Israel; Georgianna Rail; Shirley Ehrlich and Dianna Carter. Guests were: Rhonda Banks, DMV (Department of Motor Vehicles); Roger Hamm, PVD (Property Valuation Division); Lisa Mena; Caroline Petty; Robin Taylor and Jim Lampke.

House Bill 2501 and Senate Bill 317 were discussed at length. Roger relayed the story behind the push for a change in the definition of real and personal property. COTA's decision on the Montgomery County nitrogen plant prompted the Legislature to think that the counties are not valuing specialty properties uniformly. The broadening of the M&E exemption (fixture law change) was being pushed very hard by the Chamber of Commerce and the oil industry and other industries for this reason. The legislative session ended with the bill on hold pending further study.

The issue is on the post audit list and will be decided this summer as to whether there should be an audit in some counties in the state. PVD believes it will be pushed to the top of the list and that a post audit will take place. Unfortunately, the other side did the best job of spinning the truth about the valuation situation in the state, so this will probably come up again next year.

The PVD Director wants to know what in the Guide would help the counties determine personal and real. Roger had previously emailed the guidelines comparing PVD and Orion prepared for Johnson County. A review of this document showed little difference than the past guideline.

It was suggested that when an IRB or EDX is presented, a fee appraisal should accompany the application. This way the company couldn't come later and say that either the value or the classification of property is incorrect. Counties need to watch the applications and make sure they comment on the real and personal issue before mailing to COTA for their review.

The 90/10 rule was discussed as

an old formula still used by some counties on specialty properties.

PVD feels it is the judicial responsibility to determine real and personal and that the Legislature is jumping ahead when they should just wait for the Montgomery case to conclude. That way the judicial branch is making the decision for all to follow. PVD feels that the Kansas Supreme Court will reach down and grab this case making it a shorter process.

A suggestion that counties have fee appraisals done on specialty properties was made. Discussion ensued whether the counties could afford to do that. PVD will not have the money to pursue this even with the counties pitching in. The KCAA board should come up with an idea for counties to follow or bring this idea up at a meeting.

Another suggestion was to have meetings like oil and gas meetings, but most thought that was a bad idea. The specialty properties are too diverse, unlike oil and gas industry.

Other legislative business included:

HB 2557. Over 10,000-pound trucks classified as commercial would be on a fee schedule rather than listed with personal property and taxed. Roger felt that it would not be a problem and that most farmers and others will not want to go through the hassle of obtaining a commercial KDOT number. This number will be the proof that the vehicle is commercial for the county. The fees are quite a bit less than the taxes were previously. The vehicles will have an intrastate tag. Intrastate monies will go to the county and state. The interstate will be distributed to funds at the state. 16&20M, after January 2014, will no longer be tagged in January/February but will now be staggered like other vehicles.

House Concurrent Resolution No. 5017. If this passes in a constitutional amendment in November, the Legislature will be able to change the way watercraft are taxed. Roger said this has been before the voters before

and has not passed. Watercraft would be on a fee schedule, not sure about trailers and motors. KDWP (Kansas Department of Wildlife and Parks) does not want to collect the fee, so it may be in the tag department. Proration was an issue discussed.

HB 120, treasurer's bill for titling boats, did not go anywhere.

Proration was discussed for personal property going from one county to another, and whether you list it or prorate if it's after September 1. The answer is that if between counties, you leave it in the county it resided in January 1. If it goes out of state, you still do not prorate if after September 1.

Dept. of Motor Vehicles

Rhonda Banks talked about the new MOVRS (Motor Vehicle Registration System) and how it affected the appraiser's office. Many offices now have to look up MSRP for the tag departments and that is our statutory duty. Rhonda talked about the problems and that solutions were underway, such as trailers and trucks not coming across on the report. Discussion on access concluded with getting passwords and downloads for appraisers for more access to MVRS and being assured that the reports will have more information in the near future. Rhonda will make herself available for appraiser's to call at anytime.

The MVRS does not automatically populate the rates in the tag dept. MOVRS only goes back to 1996, so the older models have to be looked up by the appraisers or they can call PVD.

A file was provided by the counties for addresses associated with taxing units. If the addresses do not match exactly, they will not have a tax unit in MOVRS.

The KDOR vehicle estimator can be used by appraiser to give tax information. It is only an estimate!!!

Tag departments are not supposed to have to print out the registrations, so the report system was to be used. Appraisers just need access to the reports.



This year's IAAO Annual Conference was held September 9–12 in Kansas City,

Mo., hometown of IAAO's headquarters. The meeting attracted participants from around the world (including next-door neighbor Kansas) and received great reviews. Congrats to IAAO on a successful conference!



Welcoming smiles: Kansas volunteers at the IAAO registration booth.

Good Times at IAAO Conference

By Rick Stuart, CAE

Based upon the title, I am sure some of you were thinking I would be discussing the parties and networking during the conference. Well, maybe another time. The good times in this article relate to the professional good times, i.e. awards!

Kansas was the winner of the coveted Virginia Cup. In 1990, the Virginia Association of Assessing Officers challenged other states to increase the number of designees in their respective states and, ultimately, to increase professionalism in the assessing field. The state with the most members receiving an IAAO Professional Designation since the previous annual conference is awarded the Virginia Cup. Kansas shared the award in 2003 and 2007, but this is the first year that we have won the award outright.

The Virginia Cup was basically won by Johnson County. The 11 appraisers who received their IAAO designation during the counting period for the Cup are: Christopher R. Edstrom, RES; Michael J. Lorus, RES; Michael Quilty, RES; Shannon Winter, RES; Michael Shoun, RES; Jared Thomason, RES; J. N. Cooper, RES; Jon Hiss, RES; Tiffany M. Miller, RES; Tracy Weaver, RES; and Jeffrey L. White, RES.

IAAO further recognized Paul Welcome, CAE, ASA, RMA, with the Verne Pottorff Award. (See photo on

cover.) This award was named in honor of the late Verne W. Pottorff, CAE, former Executive Board member, and is presented to the IAAO Professional Designee who has most effectively promoted the interests and mission of the IAAO Professional Designation Program. Contributions may have been in the area of enrolling, advising, and encouraging candidates; developing programs to assist candidates; and in other ways promoting the goals of the program.

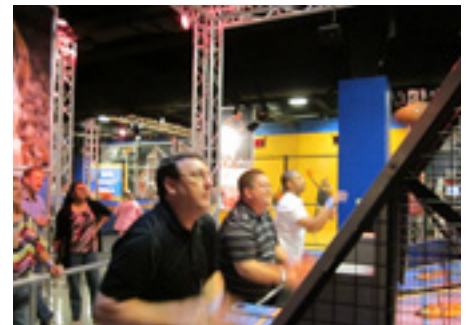
Not being a state content to rest on our laurels, Kansas already has a fast start on winning the Virginia Cup in 2013. Although those listed below received their designation at this year's conference, they are actually in the 2013 count. The newest designees are: Greg McHenry, AAS, RMA, Riley County; Lori Reedy, AAS, RMA, Reno County; and Todd Reynolds, AAS, Sedgwick County. (See photo, right.)

Okay, all you other Kansans, this is truly an unbelievable start. It is time to choose your designation or designations and get going. You know I will help if I can. I look forward to the 2013 IAAO Annual Conference in Grand Rapids, MI, and seeing you cross the stage and Kansas being announced as the Virginia Cup winner for two straight years!

Not being a state content to rest on our laurels, Kansas already has a fast start on winning the Virginia Cup in 2013.



Congrats! Todd Reynolds, AAS, of Sedgwick Co., is awarded his AAS designation by IAAO President Asbury.



Game on! Sedgwick County staff show their prowess shooting free throws.



Last Dance: Participants enjoy the ninth and final Kansas Night, an annual event.

Out With a Blast!

By Rick Stuart, CAE

The 9th and final Kansas Night at the annual IAAO Conference went out with a blast. Kim Lauffer, RES, RMA, and I started this event and have had a great time putting them on but, frankly, are glad this was the last. Vicki Johnson helped the last two years with registration and the finances, taking a large burden from me. Linda Cwiek from Rhode Island always was bringing items to help decorate tables or as gifts. A special thanks also to Laci (Lauffer) Ulrich and Ralph DiFebo for setting up the facility.

Kim spent an incredible amount of time preparing for this event annually and often had started the contacts for the next year's conference before the upcoming one was complete. Over the last several years it has continued to grow, we had to start getting liability insurance, rent busses, and solicit money from sponsors early to make down-payments on facilities. Having said all that, we always had fun!

This year's was the best. The theme was "come dressed as you did in high school." Dave Lewis from Manhattan was our DJ, and not only did he play great music, but his games using the crowd as participants were a big hit. There were 139 in attendance from the following locations: Florida, California, Idaho, Arizona, Arkansas, Connecticut, Rhode Island, Michigan, Texas, Oklahoma, North Carolina, Iowa, Maine, Virginia, Indiana, Illinois, Missouri, Kansas and Canada.

Over the years the event was held in Boston, Anchorage, Milwaukee, Atlanta, Reno, Louisville, Orlando, Phoenix and Kansas City. Thank you for all the years of supporting this function. I made this statement at the event, but a special shout out to our friend Ralph DiFebo from the Chicago area. Although he is now retired, he flew down for the night so he could say he had attended all of the Kansas Nights.



Kim Lauffer and Mark Hixon.



Signing off. Kim Lauffer thanks everyone for attending the last Kansas Night event at IAAO.



IAAO Rocks. Music and dancing at the free Monday night members event in the Power & Light District.

IAAO Conference Session

50 Years of Wal-Mart

Presented by Charles Terrill, CMI, senior director, Wal-Mart Property Tax Dept.

By Lori Reedy, AAS, RMA

Sam Walton, Wal-Mart founder, began his career in retail as a Ben Franklin owner in Rogers, Ark. The first Wal-Mart store opened in July of 1962, had 22 departments, and was celebrated with door prizes and discount prices. Sam and his wife put up 95% of the startup money for the first store. Wal-Mart went public in 1972 with 276 stores in 11 states.

Sam would steal ideas shamelessly from other stores like K-Mart and was known for his grassroots meetings with employees. Sam would require the managers to take over the front line positions so he could personally meet with the employees. These types of meetings still take place today. Sam was always thinking about what they could do better, resulting in things like moving the cash registers to the front of the store.

Wal-Mart came of age in the 1980s, opening the first Super Center in 1988 featuring a complete grocery. By 1989 there were 1,402 Wal-Mart stores and 123 Sam's Clubs. Net worth increased from \$1 billion in 1980 to \$26 billion in 1989.

Currently, Wal-Mart has 10,351 units; 3,913 Wal-Mart stores and 613 Sam's Club stores are located in the United States. There are 5,825 international Wal-Mart stores located in several other countries including China, Brazil, Argentina, Canada and Mexico.

The average Super Center is 182,000 square feet, down from around 200,000 square feet, primarily because customers don't want to walk that far and the smaller stores are more cost efficient to operate. Wal-Mart typically sticks to the same or a similar prototype floor plan, making it easy to equip the stores. Super Centers generally house alternate retailers, including hair and nail salons and restaurants. Most retailers lease space from Wal-Mart; however, vision clinics and health centers located in the stores are usually owned by Wal-Mart. Sam's Club stores

are typically 134,000 square feet and collectively employ 110,000 in the U.S.

Wal-Mart is now moving into more urban areas with smaller stores. The average discount store is 106,000 square feet with around 225 employees. Wal-Mart operates 600 such stores that have little in the way of groceries. Typical Neighborhood Markets are 38,000 square feet with 95 employees and supply mostly groceries. Recent ventures include Wal-Mart Express stores, which are typically around 15,000 square feet, providing pharmacies and limited groceries and general merchandise.

Wal-Mart operates 150 distribution centers, each supporting 90–100 stores in a 200-mile radius. These facilities are often over 1,000,000 square feet with 12 miles of conveyors. Hundreds of thousands of cases of merchandise move through these facilities daily. They have an elaborate computerized tracking system to manage this work flow. Wal-Mart demonstrated Good Samaritan values when they utilized this tracking system to assist in tracking ships used in the cleanup of the oil spill in the Gulf at no cost to the government.

Wal-Mart has stores in all 50 states, and trucks transport merchandise over 700 million miles annually. Each driver averages around 100,000 miles per year.

Wal-Mart's property tax department consists of a team of tax professionals. Their expertise comes from years of experience in both government and corporate settings. Many of the tax managers have experience working in government offices. The property tax department's responsibilities include maintaining a database of all parcels, tracking and researching market value, personal property reporting, audits and appeals. They also assist with timely tax bill payment, which is handled by the individual stores. Wal-Mart pays around \$1.3 billion annually in property taxes.

Kansas Presenters at IAAO Conference

By Rick Stuart, CAE

Although Kansas was a large part of the 90-plus volunteers helping at conference, several also were presenters.

► **August Dettbarn** was one of three presenters of *Emerging AVM Trends: IAAO's Role*: "Assessors have always led in the application of modern technology to real property appraisal. The IAAO and the assessment profession need to be proactive and promote their expertise and experience and take a leadership role in the development of regulations that assessors will be judged by in the future."

► **Ed Crane** assisted in the presentation *Tax District Boundaries in Legislative Policy Impact Analysis*: "A local/state collaborative project in Kansas that resulted in a statewide GIS database that enables policy makers to visualize the impact of tax policy changes at a more refined level of geography than just county or city boundaries. Examples will illustrate the use of GeoNotes visualizing potential impacts on people/places that supplement fiscal notes and other bill explainers common to legislative deliberation processes."

► **Antonia "Toni" Viens, MAI**, was a presenter in the session on *Valuation Strategies Using Customized Market Analysis*: "The audience can expect to see firsthand analytic capabilities that are used to pinpoint key value statistics used in the valuation process. The presenters will identify sales and cap rate trends and sort through the relevancy in today's markets."

► I filled in for an ailing George Donatello, CMS, presenting *The Art of Making a Powerful Presentation*: "Join the presenter in this definitive 'how to' make a presentation session and learn how to succeed or fail in the first ten seconds, how to use learning strategies to engage your audience, and how to use dynamic pictures, slides and charts to make the message."



IAAO Conference Feedback

By Todd Reynolds, AAS,
Sedgwick County

“The conference was a great opportunity to network and was well-run overall. I would like to have seen the use of computers rather than paper spreadsheets used by volunteers assisting with the educational sections. The sessions were a mix of not so good to pretty darn good.”

—Allan Black, RES, RMA, Residential Project Leader, Sedgwick Co. Appraiser's Office, Local Host Committee

“I thought the Exhibitors Booth Bingo card was a very clever idea. To complete a bingo card, you were drawn past all of the exhibitors' booths. That way you completed your card, saw the exhibitor's displays and were forced to interact a little bit with the exhibitors to get their initials on your card, and exposed to a lot of different vendors and ideas in a very compact amount of time. The way the bingo card was laid out forced me to go through all of the booths at least twice to make sure I had all of the initials for the card. Congratulations to the marketing team for the concept and application of the bingo card concept.”

—Kris Gentry, RMA, Major Industrial Appraiser, Sedgwick Co. Appraiser's Office, Local Host Committee, First Time Attendee

“I really enjoyed the Keynote Speaker, Ken Miller, and NFL Referee Walt Coleman.”

—Chris Morlan, AAS, RMA, Project Leader, Sedgwick Co. Appraiser's Office, Local Host Committee

“First a big thanks to IAAO staff and the volunteers for the education sessions. Education session volunteers did a great job of showing up on time and handling all the required paperwork. Kansas winning the Virginia Cup was certainly a highlight for me. It demonstrates that Kansas appraisers are committed to professional development and we should thank KCAA, PVD, local IAAO chapters, and local instructors for promoting IAAO education. Let's hope Commissioners continue to support it, too. Thank you to Tyler Technologies for the fun and entertainment at the College Basketball Experience. Our team from Sedgwick County took full advantage of that and really enjoyed it. We'll likely never be able to send this many folks to an IAAO Conference again, so thanks to Kansas City and the Local Host Committee for making it a conference to remember.”

—Michael S. Borchard, CAE, RMA, County Appraiser, Sedgwick Co. Appraiser's Office, Local Host Committee



KCAA Board Endorses IAAO Candidates

By Rick Stuart, CAE

The KCAA Executive Board has unanimously endorsed two candidates for the upcoming election to the 2013 IAAO Executive Board, Tim Boncoskey and Scott Winter. Election will be held November 1 through November 30. IAAO members will receive a paper ballot in the mail and have the opportunity to vote via the IAAO website. Please read about each candidate below and if you are an IAAO member, remember to vote!

■ Tim Boncoskey IAAO Executive Board, Representing Region 1

I am the Chief Deputy Assessor of Maricopa County, Arizona, and lead 330 assessment professionals in the administration of over 1.6 million parcels/accounts of property annually for the elected County Assessor. For nearly 30 years, my professional career has been devoted to the service of the public as an employee of local, state and federal government. At the University of Arizona I received a bachelor's degree in public administration and continued my education at the LBJ School of Public Affairs at the University of Texas, where I earned a master's degree. I have also completed numerous management and leadership programs, including IAAO courses.

Commitment: “I highly value the development of individuals that carry the responsibility for property tax assessments throughout the world. I will work tirelessly to ensure IAAO provides each assessment professional with the tools, resources, education and contacts needed to fulfill this important public service.”

State Leadership: The Arizona Chapter of IAAO has elected me as its President twice—in 2007–2008 (18-month term) and 2011. I have also served twice on the State of Arizona Annual Tax Conference Planning Committee and directed the first Property Tax Conference, “We Value Arizona,” in the state's history in 2008.

The Arizona Association of Assessing Officers and the Arizona Chapter of IAAO have endorsed my run for this position.

IAAO Leadership:

Representative since 2009—IAAO Rep of the Month in August 2011
Chair of the Metropolitan Jurisdictions Council in 2011
Co-Chair of the Local Host Committee for the 77th Annual IAAO Conference
Council and Sections Committee Chair in 2012

continued on next page

KCAA Board Endorses, continued*Bonconskey, cont.***Some of my endorsements include:**

Jeffrey Holsapple, CAE, RES, RMA, Kansas
 Wendel Ingram, Jr., IAAO Chairman Membership Services Committee, Virginia
 Past IAAO President Ed Crapo, CFA, ASA, AAS, Florida
 Past IAAO President George Donatello, CMS, Georgia
 Linda Cwiek, Former IAAO Board Member, Rhode Island
 Amy Rasmussen, RES, Polk County Deputy Assessor, Iowa
 Jay Graber and Josh Ledgerwood, Vice Presidents of Apex, Texas
 Kellianne Nagy, CAE, Director of Property Tax, Time Warner Cable, North Carolina
 Past IAAO President Wayne Trout, Virginia
 Past IAAO President Guy Griscom, CAE, Texas
 Rick Stuart, CAE, TEAM Consulting, Kansas

■ **Scott G. Winter, RES, IAAO
 IAAO Executive Board, Region 2**

I respectfully request your support of my candidacy for the IAAO Executive Board. I began my assessment career as a data collector for CLT, now Tyler Technologies, after graduating from the University of Wisconsin-Milwaukee. My degree is a Bachelor of Business Administration, with a Real Estate major. In 1989 I was hired by the City of Milwaukee Assessor's Office and promoted to management in 2003. I became a member of IAAO in 1991, and benefited greatly from the excellent IAAO educational offerings and network opportunities. I earned my RES designation in 1999.

I have had the privilege to serve on the IAAO Conference Content Committees for the Anchorage and Milwaukee conferences, and was the Chairman of the Content Committee for the 2008 NCRAAO Conference. I also served on the IAAO Research Committee, where we earned both the Bernard L. Barnard award and the Distinguished Research and Development award for published assessment articles. I also served as Chair of the Curriculum Development Special Committee. Currently I serve on IAAO's Education Committee.

I am an IAAO National Instructor and present several courses per year. I have presented at five IAAO conferences, two IAAO Webinars, and at many Wisconsin Assessor events. I hold a Certified General Appraiser License and have been a teacher of assessment and appraisal courses at a local college for the past five years. I developed a new online Assessor Certificate Program for the school, and the entire curriculum. Our Wisconsin chapter, WAAO, has awarded me the Publication Award in 2003, the Chairperson of the Year Award in 2006, and the Distinguished Research and Development Award in 2008. I am on my sixth year as a WAAO Executive Board member and am Chairman of the IAAO Designations Committee.

I am committed to excellence in IAAO education, devel-

oping research partnerships with academics, a solid Technical Assistance program, the Excellence in Assessment Administration Program, International Relations, quality conferences, and the needs of our members. My experience at various levels gives me valuable insight on how to best serve this organization. I promise to show up and work hard.

Stats Last Year's IAAO Election

Information about last year's IAAO election is shown below. Kansas has the seventh largest number of IAAO members per state, and we have slipped down one notch in recent years. The total number of members in the state is not my concern, but rather how few of the members are voting. There are some very large issues facing the IAAO in the next few years, and we need a strong board, Kansas needs to be a strong voice, and incoming President-Elect Kim Lauffer, RES, RMA, needs a strong board to rely upon. When states vote, some IAAO candidates may go to their conferences and this is a wonderful opportunity to meet the candidates. We can do better!

State	# Voted	# IAAO Member	% Voted
Florida	199	455	43.7%
North Carolina	76	350	21.7%
Virginia	128	346	37.0%
Illinois	111	324	34.3%
Michigan	85	266	32.0%
Texas	70	232	30.2%
Kansas	62	220	28.2%

The slate of IAAO candidates is shown below, and you can vote during the month of November. Cast your ballot early!

IAAO Executive Board Candidates

Kim Lauffer, RES, President-Elect

Martin D. Marshall, Vice President

Lisa Andres, Region 1
 Tim Boncoskey, Region 1

Thomas May, AAS, Region 2
 Scott G. Winter, RES, Region 2

Brian E. Gordineer, AAS, Region 3

David M. Heinowski, Associate Member
 Kenneth Voss, CAE, Associate Member

**IAAO Elections****November 1 – 30, 2012**



New IAAO Designees

Reprinted with permission from Chris Bennett, IAAO F&E

► Tracy Weaver, RES, received the Residential Evaluation Specialist designation in May 2012. Weaver serves as a Residential Valuation Specialist for the Johnson County Appraiser’s Office in Olathe, Kansas. She has worked a total of four years for Johnson County and previously served as an Appraiser I and District Appraiser. Weaver is a certified real estate appraiser in Kansas and Missouri since 2003 and a registered mass appraiser in Kansas. She attended Emporia State University and received a bachelor’s degree in business and a master’s degree in business administration from the University of Phoenix. Weaver joined IAAO in 2011.

► Jeffrey L. White, RES, received the Residential Evaluation Specialist designation in June 2012. White serves as a Residential Real Estate District Appraiser for the Johnson County Appraiser’s Office in Olathe, Kansas. He has held that position for two years and previously served as a Residential Real Estate Appraiser and as a Fee Appraiser. White attended Emporia State University and joined IAAO in 2011.



Delinda White, RMA

**Welcome Delinda White, RMA
Labette County Appraiser**

We have a new Labette County appraiser, Delinda White, RMA. Please make sure to welcome her to the easy, hassle-free, no politics, and taxpayer-happy position of county appraiser.

Why and how did you get started in the appraisal profession?

I had been with the county for 12 years, and started as a personal property clerk. I decided a few years after that. I found the real estate part of the office very interesting, so I started taking the classes and keeping track of my hours. Two appraisers, later I stepped into the position.

What did you want or intend to be when you grew up?

I wanted to be a nurse, but after a field trip in school to the local hospital, all that changed. Appraisal wasn’t really what I had in mind either, but things change.

If you could change one thing associated with appraisal, what would it be?

Over the years of being in the County Appraiser’s office I have also worked with oil and gas valuation. I wish there was a better way of tracking new leases in a county. It would be a lot easier on the office if operators would have to come and report to us when they start a new lease.

What person(s) has had the greatest affect upon your personal and professional life?

I would have to say my husband of almost 20 years now. I was gone a lot taking the courses I needed, and he never complained; he just took up the slack at home for me.

What personal and/or professional goals do you have for yourself?

To be someone that my staff can feel comfortable coming to in any situation; but at the same time, having their respect in any decisions I make. Also to be very fair and professional with the taxpayers at all times.

What are your hobbies or ways you like to spend your spare time? (Okay, pretend you have spare time!)


Spending time with my family as much as possible. My kids have a lot of activities in school, and I try to make as many as I can. They are only this age once.

IAAO Member News

15-year Member:
Jami Clark, Greenwood County

5-year Member:
Travis Rozean, Manatron

Thanks for your support of the IAAO!



**79th Annual International Conference
on Assessment Administration**

August 25– 28, 2013
Grand Rapids, Michigan

Dannetta Cook to County Treasurer

By Dannetta Cook, Sumner County

I was told at the beginning of my campaign that I should be able to explain in 30 seconds why I was running for the office of the Sumner County treasurer. My statement went as follows: "I have been an employee with Sumner County since 1990, first being hired in the Treasurer's Office then serving 21 years in the Appraiser's Office. I have the skills, talents and experience to serve in the office. and I have a keen sense of duty to participate in a leadership role in Sumner County government, which I believe is needed at this time. I will strive to treat everyone ethically and have a sincere interest in helping them."

Those who really know me know I mean every word of this statement. Kent Keith said, "If you're in it for other people, then helping them will give you satisfaction that having your name in lights could never compete with!" I know some of you are thinking, "That poor woman! She actually thinks she can make a difference." I can, for the amount of time I am the Sumner County treasurer I can, because I care. I also know that there will be negatives, repercussions, roadblocks and pitfalls. This is best said in Ken Miller's "Paradoxical Commandments of Government":

1. The reward for doing good work is more work. Do good work anyway.
2. All the money you save being more efficient will get cut from your budget now and forever. Find efficiencies anyway.
3. All the bold reforms you make will be undone by the next administration. Make bold reforms anyway.
4. There is no time to think about improving what we do. Make time anyway.
5. Employees may fight the change every step of the way. Involve them anyway.
6. The future is unpredictable and largely out of your hands. Plan anyway.
7. The press only cares when something goes wrong. Share your success stories anyway.
8. Legal will never let you do it. Simplify it anyway.
9. If you develop your people they will move on to better jobs. Train them anyway.
10. Your ideas will at best make someone else look good and at worst get you ostracized by your co-workers. Share your ideas anyway.

I had one opponent, and I won the primary with 72% of the vote. The incumbent county treasurer has resigned her position, and I have been selected by the Republican Committee to finish her term. I am slated to take the oath of office and begin my work on October 15, 2012. I am looking forward to the challenges I am sure will come my way.

Much of my confidence and knowledge comes from the meetings and classes I have taken through the Kansas County Appraisers Association. Thank you to everyone. I truly value your friendship and support.



Sumner County Courthouse



A Lesson on Stress

Submitted by Dean Denning, CKA, RMA, Ellis County

A young lady confidently walked around the room with a raised glass of water while leading and explaining stress management to an audience. Everyone knew she was going to ask the ultimate question, "Half empty or half full?" She fooled them all.

"How heavy is this glass of water?" she inquired with a smile.

Answers called out ranged from 8 oz. to 20 oz. She replied, "The absolute weight doesn't matter. It depends on how long I hold it. If I hold it for a minute, that's not a problem. If I hold it for an hour, I'll have an ache in my right arm. If I hold it for a day, you'll have to call an ambulance."

"In each case it's the same weight, but the longer I hold it, the heavier it becomes," she continued. "And that's the way it is with stress. If we carry our burdens all the time, sooner or later, as the burden becomes increasingly heavy, we won't be able to carry on."

"As with the glass of water, you have to put it down for a while and rest before holding it again. When we're refreshed, we can carry on with the burden—holding stress longer and better each time practiced."

So, as early in the evening as you can, put all your burdens down. Don't carry them through the evening and into the night. Pick them up tomorrow.



Meet the COTA Judges

The COTA webpage was finally updated (http://www.kansas.gov/cota/Meet_the_Judges/index.html) to include brief bios of new judges Sam Sheldon and Jay Cooper, and the continuing judge, Trevor Wohlford.

Sam H. Sheldon

Sam Sheldon, chief judge of the Court, grew up in Ottawa, Kansas. Judge Sheldon earned a bachelor's degree in 1979 from the University of Kansas, and graduated from the University of Kansas School Of Law in 1983. He worked in private practice for two years in the Kansas City metropolitan area, and then returned to his hometown of Ottawa, where he practiced law for another 27 years before joining the Court.

During his time in private practice, he taught law courses at the undergraduate and law school levels, most recently at the University of Kansas School of Law from 1993 to 1996. He continues to own Haley Title Company in Ottawa.

His public service has included the Ottawa Library Commission, the Kansas Library Commission, the Ottawa School Board, and the Blue Ribbon Commission on Kansas Courts. Judge Sheldon was appointed to the Court of Tax Appeals in 2012.

James (Jay) Cooper

James (Jay) Cooper, CPA/ABV, is from Wichita, Kansas. He received his Bachelor of Business Administration degree from Wichita State University in 1970 and became a Certified Public Accountant in 1971. He is a retired partner of Kirkpatrick, Sprecker & Company, LLP, where he practiced for over forty years.

He is a member of the American Institute of Certified Public Accountants, from which he received the

Accredited in Business Valuation credential in 2009. He is a member of the Kansas Society of Certified Public Accountants (KSCPA), which recently honored him with the designation of Life Member.

On behalf of the Kansas Board of Accountancy, he provided oversight of the KSCPA's administration of the state's CPA Peer Review Program.

As a member of the Wichita Metro Chamber of Commerce, he was selected for its Leadership Wichita Class of 1996. Other community involvement included service as President of the Board of Trustees of the Wichita Children's Home. Judge Cooper was appointed to the Court of Tax Appeals in 2012.

Trevor C. Wohlford

Judge Wohlford was born in Washington, D.C., but has spent most of his life as a Kansan. He attended the University of Kansas, earning a bachelor's degree in English and economics and a master's degree in journalism. He graduated from the University of Denver School of Law.

After law school Judge Wohlford worked in private practice in Wichita, primarily in the areas of business litigation and real estate law. Immediately prior to his appointment to the bench, he served in various capacities with the tax court, including executive director, chief legal counsel and chief hearing officer.

When is Ag Land Not Ag Land?

When the Court of Tax Appeals (COTA) says it's not. In two Sumner County appeals, the county appraised some land that previously was classified as agricultural land, but the county changed it to "Other," as they believed the use was non-qualifying for agricultural land valuation purposes. The county was upheld.

You can read the decisions on the KCAA website at <http://www.kscaa.net/cota-decisions/>. Select the titles of "Other" Classification COTA Orders.



Kansas Tax Loophole Makes News

The *Kansas City Star* ran an article this spring about the classification of vacant lots in Kansas as agriculture and thus providing owners a substantial tax break. The story was picked up through the media and a segment was aired on CNN. To view this segment you can go to the address below. (There is a short commercial preceding it.)

CNN video:

<http://www.cnn.com/video/#/video/bestoftv/2012/07/04/oleary-fake-farms-tax-breaks.cnn>

Read the *Kansas City Star* article, "Developers get huge tax breaks for property labeled agricultural" at:

<http://www.kansascity.com/2012/04/16/3555502/developers-get-huge-tax-breaks.html>

Stored Natural Gas

By Kevin Suelter and William E. Waters, Kansas Division of Property Valuation

On October 25, 2012, the Kansas Supreme Court will hear oral arguments on the stored natural gas case which could impact the state assessed values for stored natural gas in thirteen Kansas counties for the 2009 – 2012 tax years.

Prior to the approval by the people of the Classification Amendment to the Kansas Constitution in 1986, which became effective January 1, 1989, all inventory, including stored natural gas, was subject to property taxation. The 1986 amendment exempted from property taxation merchants' and manufacturers' inventories.

Upon the amendments implementation in 1989, several public utilities contended that the inventory exemption included their stored natural gas. Several of these utilities filed a case at BOTA, now COTA. BOTA ruled that their stored natural was taxable; however, the Kansas Supreme Court, in 1990, reversed BOTA and ruled that it was exempt inventory. *Colorado Interstate Gas Co. v. Board of Morton County Comm'rs*, 247 Kan. 654 (1990).

In reaction to this decision of the Court, the Legislature submitted another constitutional amendment to the people, specifically providing that all inventories of public utilities, including stored natural gas held for resale, were to be subject to property taxation. This amendment was approved by Kansas voters in 1992, and once again stored natural gas was subject to property taxation in Kansas.

The taxation of stored natural gas held for resale was not challenged so long as it was own by state-assessed public utilities. In fact, most of the stored natural gas was owned by the pipeline companies that own the underground storage facilities. In the late 1990s the Federal Regulatory Commission (FERC) implemented FERC Order 636, which prohibited the pipeline companies for owning and marketing stored natural gas. Upon the implementation of FERC Order 636, title to the stored natural gas was transferred from the pipelines to various marketing com-

panies, municipalities and out-of-state utilities. These entities did not meet the Kansas statutory definition of a public utility; therefore, there was no longer a legal basis to value the stored natural gas and tax it.

Several counties did, however, attempt to value the stored natural gas and tax it. Several of these companies appealed the counties' taxation of their stored natural gas, ultimately to the Kansas Supreme Court. In *In re Tax Exemption Application of Central Illinois Public Service Co.*, 276 Kan. 612 (2003), the Kansas Supreme Court held that these non-resident utilities, marketing companies and municipalities did not meet the statutory definition of a public utility and, for that reason, the natural gas was exempt inventory.

In 2004, the Kansas Legislature amended K.S.A. 79-5a01, which is the statutory definition of public utilities for property tax purposes, to provide that such natural gas was to be taxed. After this statutory change, commencing in 2004, the state (PVD) again valued the stored natural gas. And once again several of taxpayers appealed; and once again the Kansas Supreme Court, in *In re Appeal of Director of Property Valuation*, 284 Kan. 592 (2007), held that the stored natural gas was exempt inventory.

In 2009, the Kansas Legislature adopted House Substitute for Senate Bill 98. This bill amended K.S.A. 79-5a01 to provide that any entity owning, brokering or marketing natural gas inventories stored for resale in an underground formation in this state is a public utility. The property of such public utilities, including inventories, is to be valued and assessed by the director of property valuation at fair market value and assessed and 33%.

Numerous entities filed appeals of the director's valuations, contending that they are not public utilities as defined by K.S.A. 79-5a01 and that any stored gas they own, broker or market, which is stored in underground formations in this state is exempt merchants' inventory.

On January 13, 2011, COTA held that the appealing entities are public utilities and that the natural gas they own, broker or market, is taxable. COTA's order has been appealed to the Kansas Supreme Court and has been fully briefed. The Court has scheduled oral arguments on October 25, 2012. A decision is likely early in 2013.

Below is a summary of the stored gas assessed values by tax year and county.

COUNTY	2012	2011	2010	2009	2008
ALLEN	226,765	316,204	162,524	138,017	None
ANDERSON	5,644,117	7,349,858	10,559,982	7,594,976	None
CHAUTAUQUA	73,282	49,927	65,835	42,130	None
ELK	1,473,946	1,016,700	1,415,407	1,919,083	None
JEFFERSON	435,552	711,087	796,177	611,611	None
KINGMAN	6,123,055	5,539,520	8,499,530	8,026,883	None
LEAVENWORTH	394,075	647,542	732,392	550,598	None
MEADE	14,675,803	18,272,362	22,853,659	16,440,819	None
MONTGOMERY	4,070,604	2,801,971	3,608,467	2,302,609	None
MORTON	3,349,195	3,081,468	5,385,421	4,734,858	None
PRATT	12,983,192	11,746,100	18,022,564	17,020,380	None
RICE	8,126,597	8,173,774	12,365,698	10,031,473	None
WOODSON	56,689	98,345	131,668	87,167	None
TOTAL	57,632,872	59,804,858	84,599,324	69,500,604	None



New Form of Regulation ‘Dangerous,’ Appraisal Institute Warns Congress

CHICAGO (June 28, 2012)— Warning that a “new and excessive” form of regulation is about to be enacted without Congressional

authorization, the nation’s largest professional association of real estate appraisers told lawmakers today that such a scheme could damage the valuation profession.

Appraisal Institute President Sara W. Stephens, MAI, testified to a Capitol Hill hearing that although appraising is the most heavily regulated activity within the mortgage and real estate sectors, appraiser regulatory agencies are planning to enact further changes that would threaten to tie the hands of appraisers, curtail innovation and increase regulatory burdens on appraisers and financial institutions.

“This is a dangerous and unjustified move that risks hamstringing and jeopardizing the real estate appraisal profession altogether,” Stephens said in written testimony to the House Committee on Financial Services’ Subcommittee on Insurance, Housing and Community Opportunity, adding, “The regulatory burden for appraisers is on the cusp of being expanded exponentially.”

Stephens was referring to The Appraisal Foundation’s creation of a new Appraisal Practices Board delving into appraisal practice matters without Congressional authorization. The Foundation does not have authority to codify appraisal methods and techniques, she said.

“Appraisal methods and techniques require judgment by the appraiser. It is assumed that the appraiser has been thoroughly trained to judge appropriate situations. The choice of methods and techniques are the responsibility of the appraiser in the development of his/her scope of work,” Stephens’ testimony said.

For instance, whether to use re-

production cost or replacement cost or when and how to adjust for sales concessions are dependent on the actions of the marketplace and should not be mandated by a body such as the Appraisal Practices Board, Stephens stated. Since real estate property types and markets are extremely diverse, hard “rules of thumb” do not work within valuation because there always is an exception to the rule, she noted.

The Appraisal Institute offered a seven-part legislative proposal to realign the appraisal regulatory structure to focus oversight and declining enforcement resources where they are needed most; to eliminate or curtail rules that hamstringing the appraisal process; and to support full consumer disclosure of fees relating to appraisal management processes.

The Appraisal Institute offered the following recommendations to Congress:

1. Realign the appraisal regulatory structure with those of other industries in the real estate and mortgage sectors.
2. Protect the independence of the appraisal standards-setting process and require that appraisal standards for federally related transactions be issued by an entity that does not develop or offer education for appraisers.
3. Establish limitations around the Appraisal Practices Board.
 - a. No tax dollars should be used to fund this venture.
 - b. Voluntary guidance should be just that—voluntary.
 - c. States should be restricted from codifying voluntary guidance into state law or regulation, and the Appraisal Standards Board should be prohibited from specifically

referencing its works within the Uniform Standards of Professional Appraisal Practice.

- d. Establish meaningful oversight over the de facto regulatory actions of the Foundation.
4. Reiterate that the Foundation does not have legislative authorization in the area of “methods and techniques” and “appraiser education.”
5. Establish laws that empower state appraisal boards to conduct thorough and fair investigations and to prosecute meaningful complaints involving appraisers. Ensure that appraiser licensing fees are used by state appraiser regulatory agencies for oversight and enforcement through dedicated funds.
6. Authorize Fannie Mae, Freddie Mac and other agencies, such as the Federal Housing Administration and the Veterans Administration, to halt purchase or guarantees of loans in states that maintain deficient appraiser regulatory regimes.
7. Ensure that ongoing federal support for Fannie Mae and Freddie Mac or a future related organization maintains consistent appraisal rules like FHA and VA. Establish a rulemaking process to clarify how appraisals may be used in “subsequent transactions” such as refinancing and loan modifications.

A copy of Appraisal Institute President Sara W. Stephens’ testimony before the Subcommittee on Insurance, Housing and Community Opportunity, House Committee on Financial Services can be found online at:

<http://financialservices.house.gov/uploadedfiles/hhrg-112-ba04-wstate-sstephens-20120628.pdf>

Oil Notes of Interest

By Rick Stuart, CAE

For the last several years, a regular section in the newsletter has been Real Estate Notes of Interest. With all the discussion and articles on oil and gas, it is now time for this topic to have its own section.

■ **Tennille Tracy**, *The Wall Street Journal*, July 26, 2012. After a large amount of media attention and a documentary film titled "Gasland," the EPA has given the all clear to drinking water in Dimock, PA. Water was originally believed to be contaminated as a result of area fracking.

■ **Daniel Gilbert**, *The Wall Street Journal*, July 27, 2012. A Commonwealth Court ruling in Pennsylvania has ruled that "Pennsylvania can't restrict local governments from using zoning laws to regulate oil and gas drilling." The decision is expected to be appealed to the Pennsylvania Supreme Court.

■ **Ana Campoy**, *The Wall Street Journal*, July 27, 2012. More oil and gas, more heavy trucks, more road maintenance: This is a real problem in parts of Texas and other states where the oil and gas boom is in place. From September 2011 through June 2012, the state of Texas collected \$3.1 billion in energy-production taxes, 50% greater than the year before. Unfortunately, none of that money goes back to the

counties. The number of drilling permits in the last five years in the Eagle Ford Shale is shown below and for year 2012 (the count is only through June):

Year	Number of Drilling Permits
2008	26
2009	94
2010	1,010
2011	2,826
2012	2,297

■ **Devon Maylie**, *The Wall Street Journal*, Aug. 6, 2012. Fracking is a worldwide happening. South Africa is running short on energy and is sitting atop what could be a substantial gas reserve. Just as in the United States, there is concern about the environmental effect of fracking and whether the need for energy overrides that concern.

■ **Ana Campoy**, *The Wall Street Journal*, Aug. 24, 2012. A Lamar County, Texas judge has ruled in favor of pipeline operator TransCanada on an eminent domain case. The company used eminent domain laws to secure an easement from a property owner who refused the \$21,000 payment. This section of the pipeline is part of the company's effort to build a pipeline from the Canadian tar sands to the U.S. Gulf Coast.

Pro-Biz Ranking, cont.

said, "It is nice to receive this recognition as one of the top states for business. We have worked diligently over the past 18 months to create an environment that will encourage business expansion and job growth in our state."

The top 10 states for 2012 are: 1. Utah; 2. Virginia; 3. Wyoming; 4. North Dakota; 5. Indiana; 6. Nebraska; 7. South Dakota; 8. Kansas; 9. Missouri; and 10. Oklahoma.

"Kansas has gone from one of the highest taxed states in the region to one of the lowest," George said. "The elimination of taxes on non-wage income is going to really help the 191,000 small businesses in Kansas grow. That's what we need to get our economy growing."

Brent Pollina, vice president of Pollina Corporate Real Estate and co-author of the ranking, said that Kansas has proved why it has a reputation for understanding the needs of business. In 2004, Kansas was ranked No. 23 in the survey.

"[Kansas'] consistent approach to creating a pro-business environment has paid off because the state has continuously adapted and changed to fit the needs of business, refusing to sit back and rely on past success," Pollina said. Pollina also praised the state's economic development tools as an asset in recruiting companies.

Reprinted with permission from Hawver's Capitol Report, Aug. 30, 2012.

Kansas Gets High Pro-Biz Ranking

Submitted by Lisa Ree, RMA, Ellis County

Kansas has been named a top 10 "Pro-Business State" for 2012 by two well-known eco-devo watchers.

The annual ranking is compiled by Pollina Corporate Real Estate Inc., a global real estate brokerage and consulting firm, and the American Economic Development Institute. The ranking is

based on 32 factors controlled by state government, including taxes, human resources, education, right-to-work legislation, energy costs, infrastructure spending, workers compensation laws, economic incentive programs and state economic development efforts.

Commerce Secretary Pat George





Spotlight on Decatur County

Home of the Last Indian Raid in Kansas

By Lisa Ree, RMA, Ellis County

Decatur County (county code DC) was created in 1873 and named in honor of Commodore Stephen Decatur, a naval officer whose naval victories against Britain, France and the Barbary states helped establish



Commodore Decatur

the United States as a rising power. Commodore Decatur played a major role in establishing the U.S. Navy and was considered a national hero.

The first record of an expedition through the county was in 1843 by John Fremont, a well-known explorer. The Leavenworth and Pikes Peak Express, established in 1859, located their stage coach Station No. 16 in Decatur County. As with many counties on the Plains, the first settlers were buffalo hunters and trappers. Early trade included being a bone collector, gathering and selling of the buffalo bones left on the prairie by hunters. Texas cattlemen controlled much of the land for winter grazing and stopping points for their herds when they were moved north. It is estimated that 300,000 head of cattle were moved along a trail west of Oberlin each season on their way to the Ogallala, Nebraska, railroad. Early settlers also rounded up wild horses that were shipped and sold back east.



Decatur County emblem

The village of Westfield was established in 1872 along with the

post office named Sappa City. Since another Westfield post office existed in McPherson County, the town was renamed Oberlin and incorporated in 1878. It was only one year later, with the appropriate number of inhabitants established, that the county was officially organized. Upon organization, Oberlin was temporarily named county seat. Although Decatur Center campaigned to be the county seat, a vote in 1880 resulted in Oberlin becoming the official county seat.

Last Indian Raid in Kansas

Although the Cheyenne Indians had been previously assured by the government that they would not be moved, in 1877 the Northern Cheyenne nation was ordered by General McKenzie to move to Indian land to the south. The young braves of the nation favored a war while the older warriors, such as Wild Hog, Little Wolf and Dull Knife argued the futility of fighting the white man.

After another council with General McKenzie, it was agreed that if the nation went south and did not favor the country, they could return to the north. They were required to give up their weapons and ponies but were promised their return upon arriving on the southern reservation. Abundant rations were also promised.

Approximately 2,500 Cheyenne traveled south. Soon the nation became susceptible to the white man's diseases. No medicines were made available and only two days' rations for one week were supplied. The Cheyenne pleaded to be able to return north to the Black Hills, agreeing to go peaceably and work as the white man demanded. The request was denied.

In the early fall of 1878, the remaining warriors decided it meant death to remain on the reservation and advised



Decatur County, 1899

the government agent they were returning back home. The reply to the Indians was that troops would intercept and kill them. The Indians did not wish to fight but were determined to return home. Gathering horses, supplies and arms, although not known how, the remaining 300 (approximately) sick and starving Cheyenne began the trek back to the Black Hills. The first 200 miles of the trip were basically uneventful. South of Dodge City the tribe was intercepted by U.S. troops. Wild Hog relayed a proposal for council, but the troops were ordered to fire upon the Indians. The Cheyenne managed to drive off the soldiers and continued their journey north. The tribe had decided to only fight the troops and to leave the settlers

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The Decatur County Courthouse

Decatur County, cont.

alone. But as settlers joined the troops in fighting, the Cheyenne are said to have left a trail of blood.

The Cheyenne reached Decatur County on September 29, 1878, and it is not known why the fighting escalated in this area. The tribe broke into small groups, and as they came upon settlers, men were killed, women were “subjected to every cruelty” with some kidnapped, livestock was either taken or killed. That first day alone over a dozen settlers were killed. The next day 14 more settlers were killed.

As word spread of the Indian killings, settlers flocked to Oberlin until the threat passed. The prairie was searched for two weeks before all of the dead were found and laid to rest in the Oberlin cemetery.

The Cheyenne eventually reached their northern home and scattered among the Sioux. The government demanded the Sioux give up the Cheyenne who did surrender voluntarily. They were imprisoned and told they had to return to the south. Wild Hog in-




Bank of Oberlin building

formed the government that his people were sick and could not return until spring. This was viewed as a refusal, and rations were stopped. Believing that they were to be killed, the imprisoned tribe escaped and headed north. Troops followed and killed men, women and children. The few remaining alive were captured and forced to return to the southern reservation.

In all, 40 settlers were killed and well over 2,000 Indians perished. The Indian Commission awarded a total of \$101,766.83 to settlers that lost family and property during the raid. Thirty-three years after the raid, a monument was dedicated in memory of the raid victims.

Decatur County



2010 Population: 2,961	Median Household Income: \$35,383
1900 Population: 9,234	2011 Assessed Real Estate: \$19,730,893
Area: 894 square miles	2011 Assessed Personal Property: \$1,790,672
Persons per square mile: 3.3	2011 Assessed Oil & Gas: \$6,850,578



The LandMark Inn

The LandMark Inn

The Bank of Oberlin building was built in 1886 and was described as the prettiest building in Oberlin. The building served as a bank until 1894 and was used as the courthouse until 1927. A telephone company occupied the

building until the 1960s. The building then sat vacant for many years. In the early 1990s, with many of the original features still intact, restoration of the building began.

The LandMark Inn opened in 1996 as a gathering place for local residents and as a bed and breakfast. It was named in honor of R.A. Marks, the founder of the Bank of Oberlin, and in recognition of the U.S. Land Office that was located in Oberlin in the 1800s. The Inn includes the Teller Room Restaurant, The Oberlin Mercantile Co. gift shop and a vintage exercise room. In 2010 USA Today included the Inn in their list of 10 Great Places to Find an Offbeat B&B.

Camouflaged House Goes Green

By Nancy Dillon, New York Daily News, July 17, 2012
Submitted by Lisa Ree, RMA, Ellis County



A Southern California man is behind bars after building a secret, camouflaged house in a public park—and adding a nearby marijuana garden, police said.

Los Angeles County Sheriff deputies discovered the secret spread Monday in a remote area of the Tujunga Ponds Wildlife Sanctuary. They said suspect Robert Downs, 51, admitted he’s

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Real Estate Notes of Interest

By Rick Stuart, CAE

■ Tami Luhby, *www.money.cnn.com*, June 26, 2012. Home prices rose in April for the first time in seven months, though they are still near record lows, according to a report out Tuesday. Average home prices increased 1.3% in April in 20 major markets, according to the S&P/Case-Shiller home price index. This comes after prices hit new post-bubble lows in March. The entire article is at http://money.cnn.com/2012/06/26/real_estate/home-prices/index.htm?iid=HP_River.

■ Alan Zibel and Dawn Wotapka, *The Wall Street Journal*, June 26, 2012. “Sales of newly built homes climbed to the highest level in two years, driven by limited supply of previously owned homes and record-low mortgage rates.”

■ Dinny McMahon & Robbie Whelan, *The Wall Street Journal*, June 26, 2012. The article is titled, “Chinese Target U.S. Homes,” but I think it should be something like, “Chinese continue to buy up U.S. real estate.” The China Development Bank is in discussion with Lennar Corp. to invest approximately \$1.7 billion in capital to help fund two large residential projects. Lennar is one of the largest U.S. home builders.

■ Maura Webber Sadovi, *The Wall Street Journal*, June 27, 2012. Benton Harbor and St. Joseph, MI, are re-inventing themselves. In an area where Whirlpool Corp. was the manufacturing king for years, is now a Jack Nicklaus Signature golf course, which held a Senior PGA Championship this past May, and developments to include condos, hotels, cottages, a conference center and boat marinas.

■ Claire Easley, *builderonline.com*, July 2, 2012. Residential construction

spending was up in May, the largest increase for one month this year and up 7% from one-year ago. <http://www.builderonline.com/housing-data/residential-construction-spending-up-strongly-in-may.aspx?cid=BBU:070312>.

■ Dawn Wotapka, *The Wall Street Journal*, July 5, 2012. Reis, Inc. has stated that landlords boosted apartment rents to record levels in the second quarter this year in all the 82 markets that they track. The increases are due to high demand as some people continue to wait to enter or re-enter the housing market. National vacancy rates for apartments are now at 4.7%.

■ Karen Weise, *www.businessweek.com*, July 12, 2012. “With some 29 percent of borrowers underwater or almost underwater on their home loans, a plan in California to use eminent domain to reduce mortgage principal is attracting a lot of attention. The idea is that municipalities use their power of eminent domain to help homeowners who owe more than their house is worth. The municipality would set up a special entity to buy the mortgages—not the homes themselves—and then give the homeowners new, smaller loans that more accurately reflect the market value of the properties.”

Seems like a wild idea, so leave it up to California to consider. See the article at <http://www.businessweek.com/articles/2012-07-12/why-some-cities-may-try-to-seize-mortgages>.

■ *www.hotelnewsresource.com*, July 13, 2012. “The U.S. hotel industry experienced mixed results in the three key performance metrics during the week of 1-7 July 2012, according to data from STR. In year-over-year comparisons for the week, occupancy ended the week

with a 3.7-percent decrease to 61.4 percent, average daily rate increased 3.0 percent to US\$101.67 and revenue per available room ended the week virtually flat with a 0.8-percent decrease to US\$62.37.” http://www.hotelnewsresource.com/article64747US_Hotel_Occupancy_Declines_____Week_Ending_July_th_____html.

■ *www.hotelnewsnow.com*, July 11, 2012. “The total active U.S. hotel development pipeline comprises 2,741 projects totaling 296,333 rooms, according to the June 2012 STR/McGraw Hill Construction Dodge Pipeline Report. This represents a 6.7-percent decrease in the number of rooms in the total active pipeline compared to June 2011. The total active pipeline data includes projects in the In Construction, Final Planning and Planning stages but does not include projects in the Pre-Planning stage.” STR is Smith Travel Research. Read the article at <http://www.hotelnewsnow.com/Articles.aspx/8548/STR-reports-US-hotel-pipeline-for-June>.

■ Daily Real Estate News, July 12, 2012. It just seems hard to believe that mortgage rates can go lower. Here’s a closer look at rates for the week ending July 12 with the information provided by Freddie Mac:

- **“30-year fixed-rate mortgages:** averaged a new low of 3.56 percent, with an average 0.7 point, down from last week’s previous record of 3.62 percent. A year ago at this time, 30-year rates averaged 4.51 percent.

- **15-year fixed-rate mortgages:** averaged a new record of 2.86 percent, with an average 0.7 point, dropping from last week’s previous record of 2.89 percent. The 15-year fixed-rate mortgage has been below 3 percent for the last seven weeks. Last year at this time, 15-year rates averaged 3.65 percent.

- **5-year adjustable-rate mortgages:** averaged 2.74 percent, with an

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REAL ESTATE NOTES, continued

average 0.6 point, dropping from last week's 2.79 percent average. Last year at this time, 5-year ARMs averaged 3.29 percent.

- **1-year ARMs:** averaged 2.69 percent, with an average 0.4 point, up slightly from last year's 2.68 percent average. A year ago at this time, 1-year ARMs averaged 2.95 percent."

- Phoebe Chongchua, *www.realtytimes.com*, July 13, 2012. Some home characteristics are changing in new construction. Some brief descriptions are given below, and you can read the article at http://realtytimes.com/rtpages/20120713_hometrends.htm.

- Out go formal dens and in are smaller home management areas (think office, but not quite as spacious or traditional, more like a "pocket office").

- Along the lines of making things more efficient, laundry facilities are now being placed near the "master bedroom's walk-in closet."

- Watch for shadow units, separate units that are built alongside the main home that conveniently accommodate other residents (like elderly parents) but still offer access to the main floor plan through a door connected to the unit.

- Perhaps a bit of Zen-like influence, homes are mixing materials such as metal, wood, and stone, creating a modern look in the home's façade. But the once-common rectangular-shaped home is taking on new shapes and fewer roof lines.

- Instead of a rectangle, you'll notice that the family triangle area is becoming the norm. An open triangular floor plan creates room for residents to have their own space in the family triangle area.

- Kitchens are still one of the most important rooms in the house. Becoming not only more popular but also necessary are walk-in pantries.

- Of course, outdoor living spaces are becoming more desirable, especially in areas where the climate is mild year round.

- Good design, efficiency, and

functionality top the list of things that builders are aiming for and homeowners are hoping for.

- Chuck Raasch, *USA Today*, July 25, 2012. Foreign investors continued to purchase real estate in the U.S., but now some of the attention has turned to forest and farmland. Foreign holdings in these property types rose by almost 7% in the last 10 months of 2010. Ownership in Kansas is less than 1%.

- Roben Farzad, *Bloomberg-Business Week*, July 25, 2012. This article is titled "Why Homebuilder Stocks are Surging," and it's a good read about supply and demand. Over the last six months or longer there has been discussion that the home-building industry is set to start building again. See the article at <http://www.businessweek.com/articles/2012-07-25/why-homebuilder-stocks-are-surging>

- Steve Vernon, *CBS MoneyWatch*, Aug. 6, 2012. "Among U.S. workers age 55 and older, almost two-thirds—62 percent—think that when they retire they will continue to live in their current state of residence, according to a survey by the Pulte Group, parent of Del Webb, a builder of adult retirement communities. That's up 20 percent from a similar survey taken just two years ago. One important reason for this shift is the redefinition of retirement, as more and more Americans move away from the traditional definition of "all play and no work" during their retirement years to start second careers or continuing to work in some manner."

- *www.ccim.com*, Aug. 7, 2012. "Total shopping center operating income on a square-foot basis increased 4.9 percent year over year in 2Q12, according to a report from the National Council of Real Estate Investment Fiduciaries and the International Council of Shopping Centers. And though operating expenses (up 5.8 percent YOY) outpaced gains, net operating income improved 4.5 percent during the same period. The report is based on data collected from investment managers for 1,000 U.S. shopping centers."

- Mark Vitner, *www.ccim.com*, Aug. 12, 2012. The commercial real estate recovery continues to build momentum. A torrent of equity capital has been raised to purchase commercial properties and loans. Lenders continue to come back to the market; loans are being refinanced, purchased, and restructured; and the underlying fundamentals continue to improve.

- **Multi-Family.** The underlying fundamentals for income-producing properties continue to improve, particularly in the apartment market. Demand for apartments remains exceptionally strong across most of the country. Nationwide, vacancy rates have fallen 1.3 percentage points over the past year to 4.9 percent, helping to push up rents 2.8 percent, according to Reis. Demand for apartments is being fueled by stronger employment growth, which is lifting household formations.

- **Industrial.** The strength in industrial development is also helping to drive gains in the warehouse and distribution market. Manufacturing employment has been rising solidly for the past two years and is up 2.0 percent during the past year, with the strongest gains coming in durable goods. Manufacturers have added nearly 500,000 jobs since manufacturing employment bottomed in early 2010. Gains are largely concentrated in the Midwest and South but are evident in most regions of the country.

- **Retail.** While online retailing is booming, the retail market itself continues to struggle. Several big-box chains have reported disappointing earnings and are closing underperforming stores. The upside is very little new supply has come on line, and vacancy rates have edged slightly lower. The retail market is becoming increasingly bifurcated, with the strongest growth occurring at the high and low ends of the spectrum.

- **Office.** Office markets are showing only modest improvement. Office employment has increased 2.2 percent during the past year, compared to average growth of close to 3.0 percent during the past cycle and well over 4.0 percent during second half of the 1990s. Moreover, firms continue to find

ways to squeeze more workers into fewer square feet. Even with modest growth, net absorption has risen for five consecutive quarters, but growth is exceptionally modest by past standards. With little new construction, vacancy rates have edged lower, falling 0.4 percentage points over the past year to 17.2 percent, according to Reis.

Read the complete article at <http://www.ccim.com/cire-magazine/articles/204410/2012/07/market-momentum>.

■ Robert Frank, *cnbc.com*, Aug. 7, 2012. “Prices for homes listed at \$1 million or more have fallen 20% this year, according to RealtyTrac. The average sale price for top-tier real estate has fallen to just over \$2 million, from \$2.5 million in 2011. Those prices cuts stand in stark contrast to the broader housing market, which is seeing early signs of price stability and even price increases for the first time in years.” The article can be read at <http://www.usatoday.com/money/economy/housing/story/2012-08-05/high-end-real-estate-sales-cnbc/56753732/1>.

■ Nick Timiraos, *The Wall Street Journal*, Aug. 8, 2012. Existing home prices rose by 2.5% in June from a year ago and by 6% from the previous quarter. This is the largest increase in at least seven years. The large increase is caused by a low inventory and high demand for homes in the lower price ranges.

■ Alessia Pirolo, *The Wall Street Journal*, Aug. 8, 2012. The Italian government and numerous cities and other public agencies are putting billions of euros of surplus properties on the block as a way of raising revenue. **Editor’s Note:** Perhaps this should be an avenue that governments in the U.S. should consider.

■ Nick Timiraos, *The Wall Street Journal*, Aug. 9, 2012. Rising home prices powered Fannie Mae to a \$5.1 billion second-quarter profit, its largest since the mortgage-finance company was taken over by the government in 2008. Who would have predicted this

type of profit and this soon?

■ Ian Berry, *The Wall Street Journal*, Aug. 16, 2012. Farmland prices in Nebraska, Kansas Oklahoma, Colorado, Wyoming and parts of New Mexico and Missouri are 26% higher at the end of June as compared to one year ago. The area increase in Illinois was 15% and in Iowa it was 24%.

■ *www.hvs.com*, Aug. 2012. The hotel/motel industry has released a *Cost Estimating Guide for 2012*. I you have a need to check new costs for these structures, email me at rstuart17@cox.net and I will forward you the pdf.

■ Kelsey Gee, *The Wall Street Journal*, Aug. 23, 2012. The National Association of Realtors reported the sale price of existing homes was up by 2.3% in July, which is over 10% higher than a year ago.

■ Nick Timiraos, *The Wall Street Journal*, Aug. 27, 2012. “Prices have risen this summer for a simple reason: more buyers have chased fewer properties. But the drop in supply and the boost in demand isn’t the only reason that Case-Shiller is now turning positive. Another related factor is that the share of non-distressed home sales is rising and the share of distressed sales—foreclosures and short sales, mostly—is falling.”

■ Annamaria Andriotis, *The Wall Street Journal*, Aug. 27, 2012. The number of jumbo home loans is on the rise. Private-market jumbo loans accounted for about 15% of the total dollar amount of mortgages distributed by Bank of America Corp. during the second quarter of 2012, up from 4% a year earlier. See a chart of the amount of jumbo loans from 2008-2012 on this page (right).

Editor’s Note: As we are finally concluding the Presidential campaigns, I thought it would be of interest to see what each political party’s platform is on the housing market. The Republican platform is discussed below, and if the Democrats release theirs, it will be

shown later:

■ *www.appraisalinstitute.org*, Aug. 29, 2012. “Republicans Target Housing, GSEs at National Convention.” Mitt Romney officially was nominated as the Republican presidential nominee Aug. 28 at the Republican National Convention in Tampa, Fla. As part of the event, the GOP announced its platform, including its positions on housing and the government-sponsored enterprises.

“The collapse of the housing market over the last four years has been not only a severe blow to the entire economy, but also a personal tragedy to millions of Americans whose homes have lost value and to so many others who have lost their homes,” the platform reads.

The platform stated the GOP’s opinion that the Obama administration has not sufficiently boosted the housing market, and they singled out the Dodd-Frank Act as a particular failure, calling it “a massive labyrinth of costly new regulations that deter lenders from lending to creditworthy homebuyers and that disproportionately harms small and community banks.” The platform states the GOP’s belief that Dodd-Frank hindered home sales and investment in housing in general, and depressed the construction and mortgage lending industries.

A Romney administration, the platform stated, would establish a mortgage finance system based on “competition and free enterprise that

continued on next page



REAL ESTATE NOTES, continued

is transparent, encourages the private sector to return to housing, and promotes personal responsibility on the part of borrowers.”

The platform also stated that “both Fannie Mae and Freddie Mac should be wound down in size and scope” because they cited the two GSEs as a primary cause of the housing crisis. The GOP also stated its plan to downsize the Federal Housing Administration and limit its scope to helping first-time homebuyers and low- and moderate-income borrowers.

Additionally, the platform noted the GOP’s position on principal write-downs, saying “taxpayer dollars should not be used to bail out borrowers and lenders by funding principal write-downs,” and that “banks should be well capitalized, which is the best insurance against future taxpayer bailouts.”

“Homeownership is an important goal, but public policy must be balanced to reflect the needs of Americans who choose to rent,” the platform stated. The GOP advocated for a comprehensive housing policy that addressed the demand for apartments and multifamily housing, and any assistance should be subject to stringent oversight.

■ *Remodeling*, <http://www.remodeling.hw.net/2011/costvsvalue/national.aspx>. The annual Cost vs. Value Remodeling report is now available. This site compares the average cost for 35 popular remodeling projects with the value those projects retain at resale.

■ *Cnnmoney.com*, Sept. 2012. “This year *Money* set out to find America’s best small city (pop. 50,000 – 300,000). Using data from Onboard Informatics and other sources, we identified locations with economic strength, quality health care, low crime, great schools, and lots to do.”

Congratulations to Overland Park on being selected No. 9!

Editor’s Note: The following two articles are encouraging and maybe reflect that the real estate market is improving.

■ *Ccim.com*, Sept. 6, 2012. “Although single-family homes in foreclosure accounted for 23 percent of total residential sales in 2Q12, the total supply of homes in foreclosure is declining, according to RealtyTrac’s 2Q12 U.S. Foreclosure Sales Report. The number of foreclosure-related sales in 2Q12 decreased 22 percent year-over-year, marking the first annual decrease in foreclosure-related sales after five quarters of increases.”

The full report can be found at http://www.realtytrac.com/content/foreclosure-market-report/low-supply-pushes-foreclosure-sales-lower-average-prices-higher-7363?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+foreclosure-market-report-rss-feed+%28RealtyTrac+Foreclosure+MarketCommercialNDR/2Q12CommercialNDR.pdf.

■ *Ccim.com*, Sept. 5, 2012. “Commercial mortgage delinquency rates for banks and Fannie Mae declined in 2Q12, according to a report from the Mortgage Bankers Association.” The entire article is located at <http://www.mortgagebankers.org/files/Research/>

■ *USA Today*, Sept. 12, 2012. More encouraging news. “About 600,000 fewer homeowners were underwater on their mortgages in the second quarter than the first, market researcher CoreLogic says.” However, that still leaves around 22% of all residential property underwater.

■ Ruth Simon, *The Wall Street Journal*, Sept. 8, 2012. New home construction appears to be picking up. “Overall sales of new homes surged 22% from Sept. through July, according to the National Association of Home Builders.” The median price in July was up almost 10% since the lows in 2010. The largest share of new homes being constructed is much closer to job centers.

■ Vauhini Vara, *The Wall Street Journal*, Sept. 14, 2012. Most U.S. cities expect property tax revenues to decrease almost 4% on the av-

erage as a result of continued low property values.

■ Haya El Nasser and Paul Overberg, *USA Today*, Sept. 19, 2012. Okay, all you residential market-modeling people, this might be of interest for building valuation models. “New homes with front or rear porches have grown from 42% in 1992 to 65% in 2011, Census data show.” If the demand is greater, it probably is contributing value.

■ Bill McBride, www.calculatedriskblog.com, Sept. 19, 2012. On the heels of a nearly three-point increase, the Architecture Billings Index (ABI) climbed into positive terrain for the first time in five months. As a leading economic indicator of construction activity, the ABI reflects the approximate nine- to twelve-month lag time between architecture billings and construction spending.

The American Institute of Architects (AIA) reported the Aug. ABI score was 50.2, up from the mark of 48.7 in July. This score reflects an increase in demand for design services (any score above 50 indicates an increase in billings). The new projects inquiry index was 57.2, up from mark of 56.3 the previous month.

Read more at <http://www.calculatedriskblog.com/2012/09/aia-architecture-billings-index-shows.html#coixRKWBKefBWbEr.99>

■ Tim Mullaney, *USA Today*, Sept. 20, 2012. Still more signs the residential housing market may be improving. According to the National Association of Realtors, existing home sales in Aug. were the best since May 2010. Giving consideration to reduced prices and low interest rates, mortgage payments are 16% easier than for about 15 years before the bubble burst.

■ Meghan Hoyer, *USA Today*, Sept. 20, 2012. Now the downside to the above article: The number of renters has increased so much there is a large demand and a limited supply. In the last seven years, average national rents have increased by about 20%.

The Impact of the 3.8% Tax on Rents

By Lawrence Yuri, Chief Economist for the National Association of Realtors
Reprinted from Economist Commentaries in the NAR's "Economists' Outlook" blog, July 20, 2012.

As part of the health care legislation, a new 3.8 percent tax will be imposed on some people starting in 2013. Contrary to rumors among some real estate practitioners, this is not a tax on the sale of a home. Neither a home-buyer nor home-seller will have to fork over \$3,800 to the federal government on the sale of a home.

This tax, however, will impact some landlords and some homeowners who have significant housing equity. Rental incomes will be subjected to this 3.8 percent tax on landlords who earn more than \$200,000 a year. For example, a corporate lawyer who has a high salary but who also owns a rental property will likely be subject to this tax. But as with most taxes, those who have to fork over the money to the federal government and those who actually suffer the burden of the tax will not be the same. The right question to ask is: how much of this tax on rental income will get shifted to tenants as a rent hike?

As an illustration, consider a simple sales tax. Retail stores are the ones sending the tax dollars to the government, but the consumers are the ones who get squeezed. A \$100 bag of groceries without tax suddenly becomes a

\$104 bill with a 4 percent sales tax.

Now consider the following example where consumers do not get hurt because tax shifting is impossible. Georgia is the Peach State, but to its dismay South Carolina overtook Georgia last year in peach production. Surely South Carolina producers must have cheated in some way. So let's impose a tax on peach growers in South Carolina and only for this state. This hypothetical law, though clearly unconstitutional, provides a good illustration of the tax shifting impact. If the peach price at your grocery was \$2 per pound before this tax, then the peach price after the tax will still be \$2 per pound because consumers will have shifted to buying Georgia peaches. South Carolina farmers who try to raise the price to \$2.50 will attract no buyers and will go bankrupt. So they have to match the price of Georgia peaches while cursing the federal government. Consumers are not impacted but South Carolina producers are.

Going back to our original question: how much of the 3.8 percent health care tax on rental income will get shifted to tenants as a higher rent? It will depend on what economists call

elasticity of supply and demand curves. The possibilities are:

- If tenants have many options—like living in their parent's basement or taking on a third roommate—then the tax burden will reside with landlords and not renters.

- If tenants do not have many options—after getting tired of parent's nagging or the loud third roommate—then landlords will witness a strong demand for their rental properties and can raise rent.

- If landlords have many options—like getting out of the rental property business and buying stocks instead—then fewer rental properties will be built over time and fewer rentals will be available, thereby resulting in higher rent for tenants.

- If landlords do not have many options—because of an unwillingness to dump properties onto the market in order to avoid the capital gains tax or because of an historic attachment to the property, then the landlord will bear the tax.

The actual outcome will depend on the above four possibilities. It is very hard to quantify the actual magnitude of the tax shift. However, as can be seen, we should not assume that the 3.8 percent tax is only for top income households. Some of the lower income renters could easily face higher rents.

Camouflaged House, cont. from p. 22

been living in the park undetected for more than a year and began building the concealed crib gradually about eight months ago using materials from a home repair store.

The tiny house boasted four hand-crafted wood bunk beds built into the wood-paneled walls along with tables, shelves some humble decorations and even fire extinguishers in case of emergency, photos reveal. A tidy rock patio in front of the house included a barbecue, cooler and tables. An American Flag adorned the entrance.

"It is illegal to be in a Los Angeles County park after dark, let alone to build a structure and reside there,"

authorities said in a statement. Downs camouflaged the entire structure down to the tire of the wheelbarrow by cutting down trees and using camouflage tarp and paint, cops said.

During their investigation, deputies also found eight marijuana plants growing near the structure. Downs was arrested for the pot and for removing trees from a county park. He is being held in lieu of \$30,000 bail with his first court appearance set for Wednesday.

Two other men from Sun Valley, aged 30 and 45, were found at the structure with Downs, issued citations and released.

The structure is set for demolition

in the next two weeks, cops said.

Editor's Note: If he had just owned the land, he probably could be treated as agricultural!

