



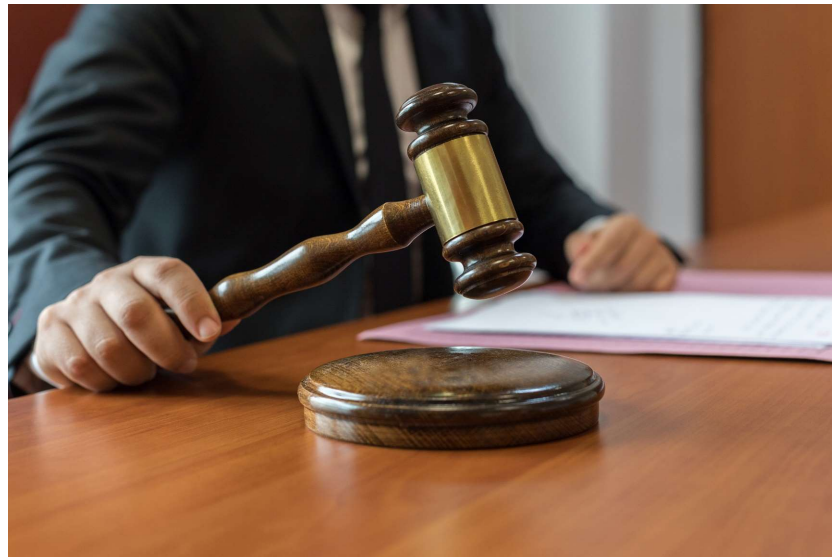
Preparing for a BOTA Hearing

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Douglas County, KS



Session Outline

- The appeal process
- Preparing an exhibit
- Using the Appeal Packet Generator in Orion
- Testimony tips
- Overview of recent decisions
- Ag use hearings at BOTA



The Appeal Process

Appeal Hearings

- Appeal hearings are one of the functions of the appraisal process.
- Appeal hearings are a necessary function every time change of value notice is mailed to property owners.
- The purpose of the appeal hearing is to resolve the difference of opinion between the county appraiser and property owner.
- Finding resolve with the taxpayer can occur with a professional approach, clear communication and good documentation.



Appeals Process in Kansas: The Informal Meeting

- The appeal process begins with an informal meeting with the county appraiser or their designee.
- The county must initiate the production of evidence to substantiate the property's valuation.
- The taxpayer explains why they believe the county's value is incorrect.
- If the appeal includes leased commercial and industrial property, the county's value is presumed correct unless taxpayer furnishes a complete income and expense statement for the property for the 3 prior years to the county within 30 days of the informal meeting.
- The county mails written results of the meeting.



A vibrant field of sunflowers stretches towards a bright, golden sunset. The sun is low on the horizon, casting a warm glow over the scene. The sunflowers are in full bloom, their yellow petals and dark brown centers clearly visible. The background is a soft gradient of orange and yellow, with some light clouds. The overall mood is peaceful and natural.

Appeals Process in Kansas: Third-Party Appraisals (K.S.A. 79-1496)

A third party, fee simple, single-property appraisal may be filed with the county appraiser:

- Within **60 days** after the date the notice of informal meeting results or final determination is mailed to the taxpayer
- If taxpayer has not filed an appeal with the board of tax appeals.
- Performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 for the same tax year being appealed.
- Within **15 days** after receipt of the appraisal, the county appraiser shall review and consider such appraisal in the determination of valuation or classification of the taxpayer's property and mail a supplemental notice of final determination.

Appeals Process in Kansas: Third-Party Appraisals (K.S.A. 79-1496)

- If the final determination is not in favor of the taxpayer then:
 - The county appraiser shall notify the taxpayer that the county is required to perform its own, or commission a fee simple single property appraisal.
- The county appraiser shall then have 90 days to
 - Furnish that appraisal along with a new supplemental notice of determination
 - If not in favor of the taxpayer include an explanation of the reasons the county appraiser did not rely upon the taxpayer's fee simple single property appraisal.
- Whenever a taxpayer submits a fee simple single property appraisal the burden of proof shall be on the county appraiser to dispute the value of that appraisal.






Appeals Process in Kansas: Board of Tax Appeals (BOTA) Small Claims Division

- If taxpayer is not satisfied with the informal meeting or supplemental notice results, they may appeal the informal meeting results within **30 days** to the BOTA Small Claims Division if:
 - a) the property is a single-family residence ,or
 - b) the property has a value below \$3 million and is not agricultural land.
- If property is a single-family residential property, the appeal must go through the Small Claims Division before proceeding to the full BOTA.
- Usually the BOTA appeal form is part of the notice of results

Appeals Process in Kansas: Board of Tax Appeals (BOTA) Small Claims Division

- The county must initiate the production of evidence to substantiate the property's valuation.
- There is no presumption of correctness with regard to the county's value.
- If the property is leased commercial and industrial property, the burden of proof is on the taxpayer unless a complete income and expense statement for the property for the 3 prior years is furnished within 30 days following your informal meeting.
- If the taxpayer submits a fee simple single property appraisal on the property with an effective date of January 1 of the year appealed, the burden of proof returns to the county.





Board of Tax Appeals (BOTA) Regular Division

- The county must initiate the production of evidence to substantiate the property's valuation.
- If the property is leased commercial and industrial property, the burden of proof is on the taxpayer unless a complete income and expense statement for the property for the 3 prior years is furnished within 30 days following your informal meeting.
- If the taxpayer submits a fee simple single property appraisal on the property with an effective date of January 1 of the year appealed, BOTA must accept the evidence and burden of proof may return to the county.
- **Summary** decision provided within **14 days** of hearing
 - Aggrieved party may file for reconsideration within **30 days**.
- **Full and Complete** decisions requests can be made and be provided within **90 days**.
 - Aggrieved party may file for reconsideration within **30 days**.



Finding Resolve

During the appeal process, ask the taxpayer and identify the following:

- What is the nature of the complaint?
- What relief is the taxpayer seeking?
- Is the relief request justifiable?
- Were all the factors and reasoning thoroughly considered?
- Why might this relief not have been granted?
- Are there legal documents or restrictions that would affect this parcel's value?
- How the parcel's value was determined (approach to value, market trends, available data, etc.)?

Understanding and Confirming the Appeal Issues

The following additional steps may need to be taken to understand and confirm the appeal issues:

- An on-site visit;
- A current picture of the appealed property;
- A review of the surrounding area;
- Interviewing people familiar with the property and/or property type; and
- Look for additional comparable sales, rent, and capitalization rate data.



Public Relations

- Be proactive and not reactive during meetings and hearings for the appeal process.
- Have brochures, property information and market studies available to share with the taxpayer.
- Be accessible to the property owners.
- Maintain a professional approach and demonstrate active listening.
- Have an “open door” approach for pre-hearing meetings to discuss the main issues of the appeal.



Know when to hold them, and when to fold them

- Sometimes it is more cost effective to settle a case instead of continuing to fight.
- Calculate the cost of each hearing level to see if another hearing makes financial sense.
- An exception would be when it is a matter of law that needs a higher level of ruling.





Preparing An Exhibit

Evidence Exchange

- Small Claims hearing exhibits should be provided to BOTA and the taxpayer **5 days** prior to the scheduled hearing
- Regular BOTA hearings exhibits should be exchanged no later than **20 days** prior to the hearing
- Rebuttal exhibits should be exchanged **10 days** prior to the hearing



Appeal Exhibits

- Develop a standard template exhibit for the three main property types:
 - Residential
 - Commercial
 - Agricultural
- Each template should reference applicable statutes and PVD directives applicable to the property type
- Explain the county's procedure and reasoning in arriving at the value
- The exhibit should lead the reader to a similar conclusion as made by the county





Typical Exhibit Contents

- Cover Sheet
- Table of Contents
- Appeal Summary – Value summary, background of the issue
- Exhibit Summary – County's valuation procedure, statute references
- Aerial Location Maps – City, Neighborhood, and Subject Parcel
- Property Photo(s)
- Appraisal Card
- Property Sketches
- Valuation Report for Approaches to Value Developed
- Valuation and Appeal History
- Market Analysis – Neighborhood, Rent, Expense, and Cap Rates
- Real Estate Appraisal Terminology
- Appraiser Qualifications

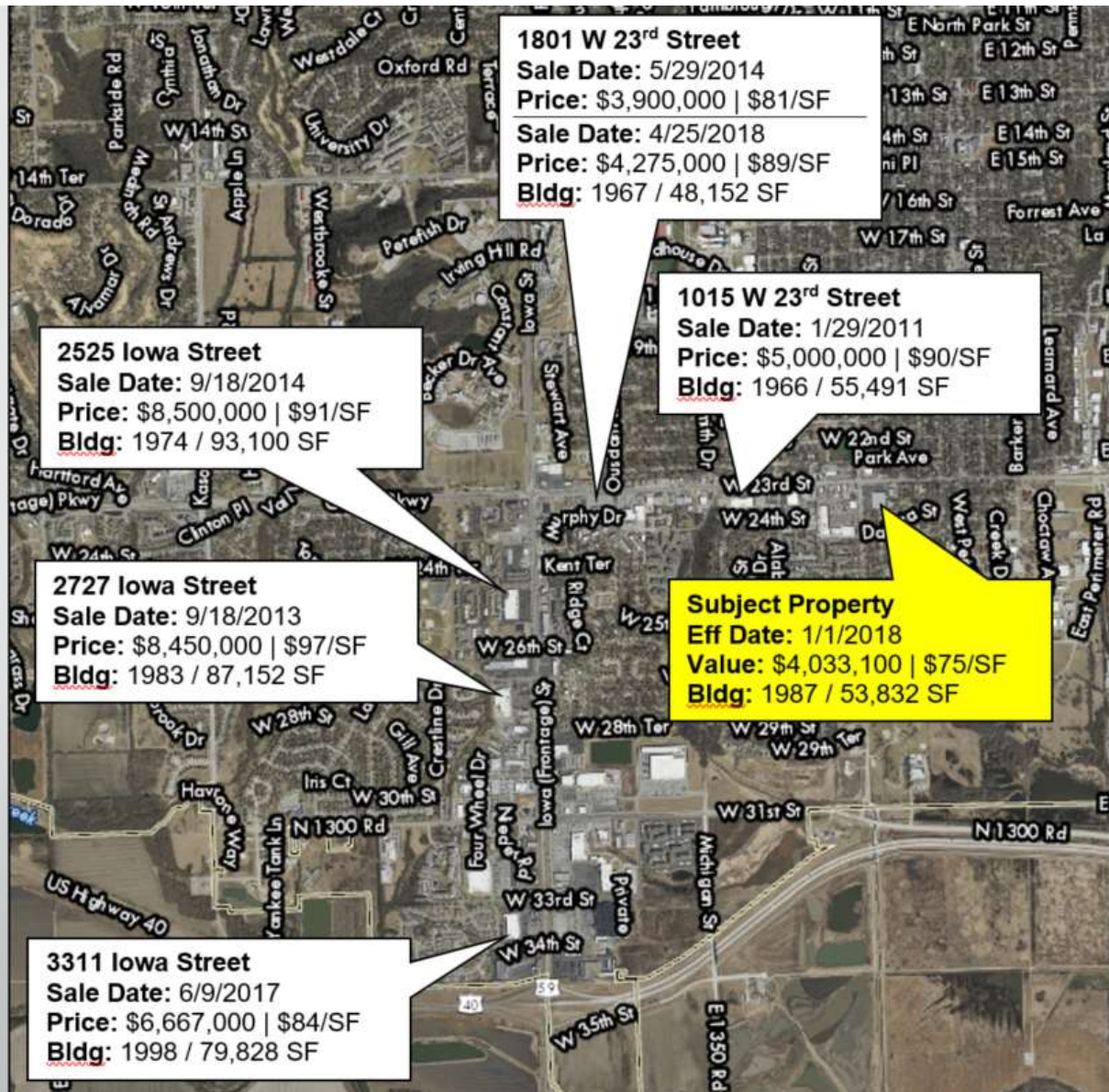
Bring Clarity to the Issues

- Address the following questions in the exhibit:
 - What is the value you are defending?
 - How was the value arrived at?
 - How is the value supported?
 - Why is that the best estimate of value for this property?
 - What decision should the board or hearing officer make in the case?
- Did the county make an adjustment at the informal hearing?
 - Describe the adjustment in Appeal Summary section of the exhibit.
 - Document how the county has addressed the taxpayer's concerns in the value adjustment.



A Picture Is Worth 1,000 Words

- 100 pages discussing the county's valuation is not necessary...but can be helpful if appeal is reviewed at District or Court of Appeals
- Include
 - Photos
 - Charts
 - Graphs
 - Examples from the market



RECENT LARGE RETAIL RENTS FROM LAWRENCE, KS
SUMMARY AND RECONCILIATION WITH COUNTY'S MODEL

Tenant	Inv Class	Year Built Eff Age	SF Leased	Date	Effective \$/SF
Office Depot	C	1980	35,000	8/1/2015	\$7.20
Planet Fitness	C	1980	21,587	6/16/2016	\$7.57
Crunch Fitness	C	1978	32,185	3/27/2019	\$7.56
Subject	B-	1999	68,704	1/1/2019	\$7.25

This Building is
NOT
FOR SALE OR RENT
If you are
NOT
Interested in this building
please call the owner
at




NOTICE

THANK YOU
FOR NOTICING THIS
NEW NOTICE

YOUR NOTICING IT
HAS BEEN NOTED

AND WILL BE REPORTED TO THE AUTHORITIES



Using the Appeal Packet Generator in Orion

Property Asmt Code: 0000072009 TEST56

Forms

Apply

itions

Assessments

Appraisal

Final Value

Transfers

Appeals

Permits

Water Rights

Comp S

DDITION, S32, T13 N, R19 W, BLOCK 66, Lot 29 - 31

Owner CRW ENTERPRISES INC(00417592)

Situs 2420 McDONALD AVE, MISSOULA, MT 59801

Appraisal Card

Property Audit

Comparable

Tracking Report

Sales Report

Ready...

**Access an open appeal to
activate "Modify Appeal"**

Tax

Level

Status

Final Action

Hearing

Case N

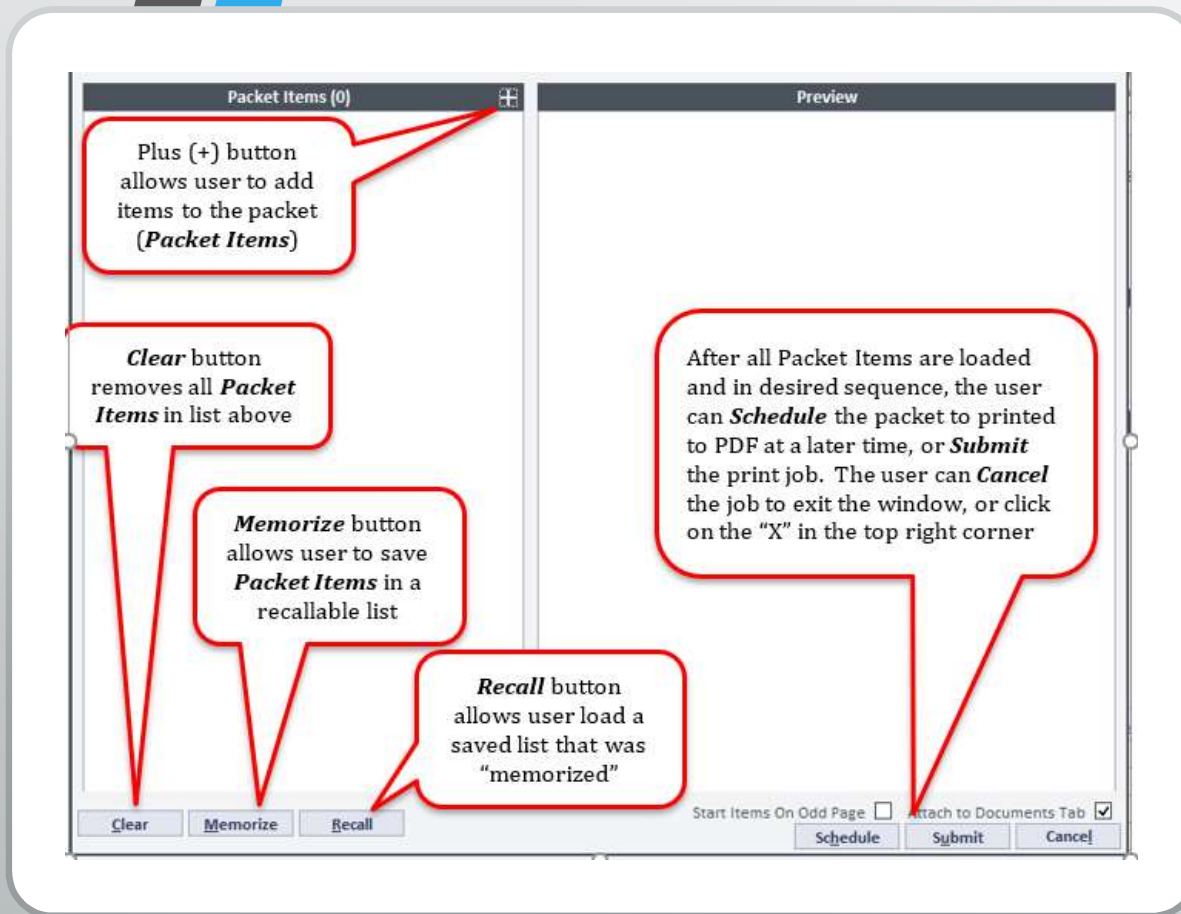
Active - A

AB26-115965

**Under “Modify Appeal”, Click on
“Documents” tab Click on “Appeal Packet”
to activate Appeal Report generator**

The screenshot shows a web application window titled "Modify Appeal". It has a tabbed interface with tabs labeled "General", "Documents", "Values", "Results", "Custom", and "Virt. Fold.". The "Documents" tab is selected and circled in red. A red arrow points from this tab to a button labeled "Appeal Packet" in the top right corner, which is also circled in red. Below the tabs, the window displays information for an appeal: "Appeal for 04-2200-32-3-30-09-0000", "Appeal Level AB26", "Tax Year 2020", "Case Number AB26-115965", "Status Active - A", and "File Date 07/24/2019". There is a section titled "Correspondence and Forms" with a table header containing "Correspondence Type", "Create Date", "Mail Date", and "Mailing Detail / Reason". Below the table, it states "No correspondences exist for this appeal." and "Click the add icon to add a new correspondence."

Correspondence Type	Create Date	Mail Date	Mailing Detail / Reason
No correspondences exist for this appeal.			



The Appeal Packet window will launch and allows the user to design an appeal packet.

The Appeal Packet is a binder where several different documents and document types can be combined.

Add Document

Name

Type

Description

Effective Date

Obsolete Date

n Start Override

Retention Start

Retention End

Notes explainir

Notes explain

Notice of Sub

Notification o

PDF File

Photograph

Sales Cove

Sales Vali

Sales Ver

Sales Ver

Scanned ima

Attach

Scan

By clicking the “+” you can “Add Packet Item”. There are several options from Orion reports that you can use (Income, Cost, PRC, sketch, photo, etc).

“Property Document” can be used to insert an item from the “Documents” tab for the parcel’s Orion record, such as an SVQ, photos, informal hearing notes, etc.

“User Document” can be used to “Upload New File” from outside of Orion

Packet Items (11)

Cover Sheet

Table of Contents

Appeal and Key Factual Info
Summary

Exhibit Summary

GIS Map

Property Photo

Appraisal Card

Property Sketches

Mass Appraisal Market Analysis - (For
Income Use Group Appealed)

Real Estate Appraisal Terminology

Once the item is imported, you can click and drag the item to the placement you want for the order of the items.

- Aerial - Only Perspective
- Aerial - Neighborhood Perspective
- Aerial - Subject Perspective
- Neighborhood Summary
- Property Photo
- Appraisal Card
- Property Sketches
- Fast Food Market Summary
- Income Valuation Report
- Cost Valuation Report
- Land Analysis
- Appraisal Terminology

When you're ready to create the exhibit, click "Submit" to start the report generator.

Clear Memorize Recall

Attach to Documents Tab ☒

Schedule

Submit

Cancel

Word templates can be imported and modified under Manage Forms in Orion.

Click on “Appeal Forms”.

This is where you can keep templates for Cover Page, Intro & Value Summary and Terminology.



- ◆ **Appraisal Home**
- ◆ **Property**
 - Add a Property
 - Find a Property
 - Property History
 - GIS Map
- ◆ **Party**
 - Add a Party
 - Find a Party
 - Related Party Groups
- ◆ **Reporting**
- ◆ **Activities**
 - List Manager
 - Splits & Combos
 - Forms & Documents
- ◆ **Workflow**
 - Queues
- ◆ **Administration**
 - View Job Queue
 - View Job History
 - View Job Schedule
- ◆ **Processes**
 - Assessment Notices
 - Group Appeals
 - Certification
- ◆ **Configuration**
 - System Code Setup

D Maintain Documents

Current Location 

Document Values

- ☐ Show Hidden Documents
- ☐ Show Obsolete Documents
- ☐ Show Document Versions

Sort












Type

[Previous](#)

[Next 15](#)

[Search](#)

Show 15 Matches Per Page

Info	Name	Type	Owner
	Com Appeal Pkt Certificate of Mailing	Residential Appeal Packet For	Barb Goff
	06/04/2015		
	Com Appeal Pkt Cover Sheet	Residential Appeal Packet For	Brad Eldridge
	08/15/2016		
	Com Appeal Pkt Intro & Value Summary	Residential Appeal Packet For	Barb Goff
	06/04/2015		
	Com Appeal Pkt Terminology	Residential Appeal Packet For	Brad Eldridge
	07/14/2015		
	IINT		
	02/26/2007		
	NOIHR		
	04/22/2010		
	NOPHR		
	05/25/2006		
	PCFL		
	05/24/2006		
	PINT	Informal Interview Form	Barb Goff
	05/24/2006		
	PNOR	Informal Notification of Results	Barb Goff
	05/25/2006		
	Res Appeal Pkt Assumptions and Conditions	Residential Appeal Packet For	Toto2 Toto2
	12/10/2013		

You can add a document by clicking the "+"
Copy info in from existing Word document.
Insert tokens (macros) that will pull in property
and value info on property under appeal.



Testimony Tips

Appeal Preparation

- Check for typographical errors.
- Triple check the appraisal's physical facts including the spelling of the property owners name and the property address.
- Check all the math.
- Watch for any internal inconsistencies, conflicts and contradictions in all documents submitted and analyses employed.

Appeal Preparation

- Are conclusions based on verifiable facts and reasonable projections or unwarranted speculation?
- Have a second set of eyes to review the appeal exhibit.
- Prepare your appeal documents well in advance of the hearing date.
- Before the exchange of evidence and documentation, carefully review the materials to see if all of the conclusions can be defended.

Professionalism

- Present a professional image.
- Speak in a professional manner by using appropriate terms and terminology.
- Avoid an “***us*** versus ***them***” attitude.
- Know the appropriate laws and processes that affect the appeal process.



Shine On You Crazy Diamond

- The county has valued the property for decades.
- Demonstrate that knowledge.
- Cite specific examples in the market for the issue in question.
- Discuss and show that the county has more facts and understands the history of the property.
- Have more facts than the taxpayer about their property.



On the Witness Stand

- Be calm, knowledgeable and organized.
- Don't lose your cool.
- Do not panic.
- Testify clearly regarding how the appraisal was performed.
- Answer the opposing counsel's questions succinctly and convincingly.



WWVID?

What Would Vanilla Ice Do?



*Quick to the point,
To the point no fakin'...*



Additional Tips for Testifying

- Prepare, prepare, prepare.
- Present your data in a format that flows smoothly.
- Always tell the truth.
- Credibility is everything.
- Think before speaking.
- When answering a question, always face the hearing officer, judge or jury but not the attorney who asked the question.



Additional Tips for Testifying


- Be sure to answer only the question that was asked.
- Do not add information unless asked a specific follow-up question.
- The best answers to opposing counsel questions are many times “Yes”, “No” and “I don’t know”.
- If asked about an error in the appraisal, admit to making the error.
- If you don’t understand a question, ask for clarification or for a restatement of the question.



Additional Tips for Testifying

- Never speculate, guess or assume.
- Avoid using judgement on the stand. Stick to the facts.
- Have thick skin and do not take questions personally.
- Set up a signal with your attorney to show you need assistance.
- Don't be argumentative





Overview of Recent Decisions

What's Working - Residential

- Have clean data and an accurate PRC.
- Include a narrative that explains the County's thought process in data changes and value reconciliation.
- Address the property owners concerns before they do and state how the county has accounted for them.
- Review comparability numbers on the comp sheet. These comparability scores should be below 100.
- Demonstrate equity in neighborhood with CDUs, Qualities and values.
- Discussing sales ratios.
- Relating county's value to other recent sale prices.

What's Not Working - Residential

Recent decisions resulting in changes:

- Hearing officer adjusted to a purchase price of a recent sale
- Fee appraisal was submitted at hearing
- A second set of eyes reviewed the appraisal and the County offered an alternate opinion of value, the county's alternate value was accepted.
- During the BOTA level appeal the property owner shared information not previously disclosed at the county level appeal resulting in an adjustment to the data and ultimately the value.
- Generally, in these cases an interior inspection was conducted (exterior inspection was completed the year of the appeal). After the BOTA appeal and updated findings, a new value were reported back to the hearing officer for approval.

What's Working - Commercial

- Have clean data and accurate information on subject property.
- Include a narrative that explains the County's thought process in data changes and value reconciliation.
- Address the property owners concerns before they do and state how the county has accounted for them.
- Have personally verified, local data.
- Proper investment classification.
- Thorough market analysis.

What's Not Working - Commercial

Recent decisions resulting in changes:

- Improper investment classification
- Use of “build-to-suit” leases without demonstrating “disentanglement of the BTS
- County hiring a third party review of taxpayer’s appraisal
- County not overcoming the burden of proof by not demonstrating adequate support for county’s value.

5% Rule is Legit



- K.S.A. 79-1460: “reduced due to a final determination made pursuant to the valuation appeals process”
- Increase cannot exceed 5% unless
 - New construction (new structure)
 - County orders fee simple appraisal by CGA
- Recent BOTA decision upheld Dg Co commercial valuation
- Increase was limited to 5% increase from 2017 Small Claims hearing value for 2018 tax year
- 2019 value increase was limited to 5% increase from revised 2018 value.

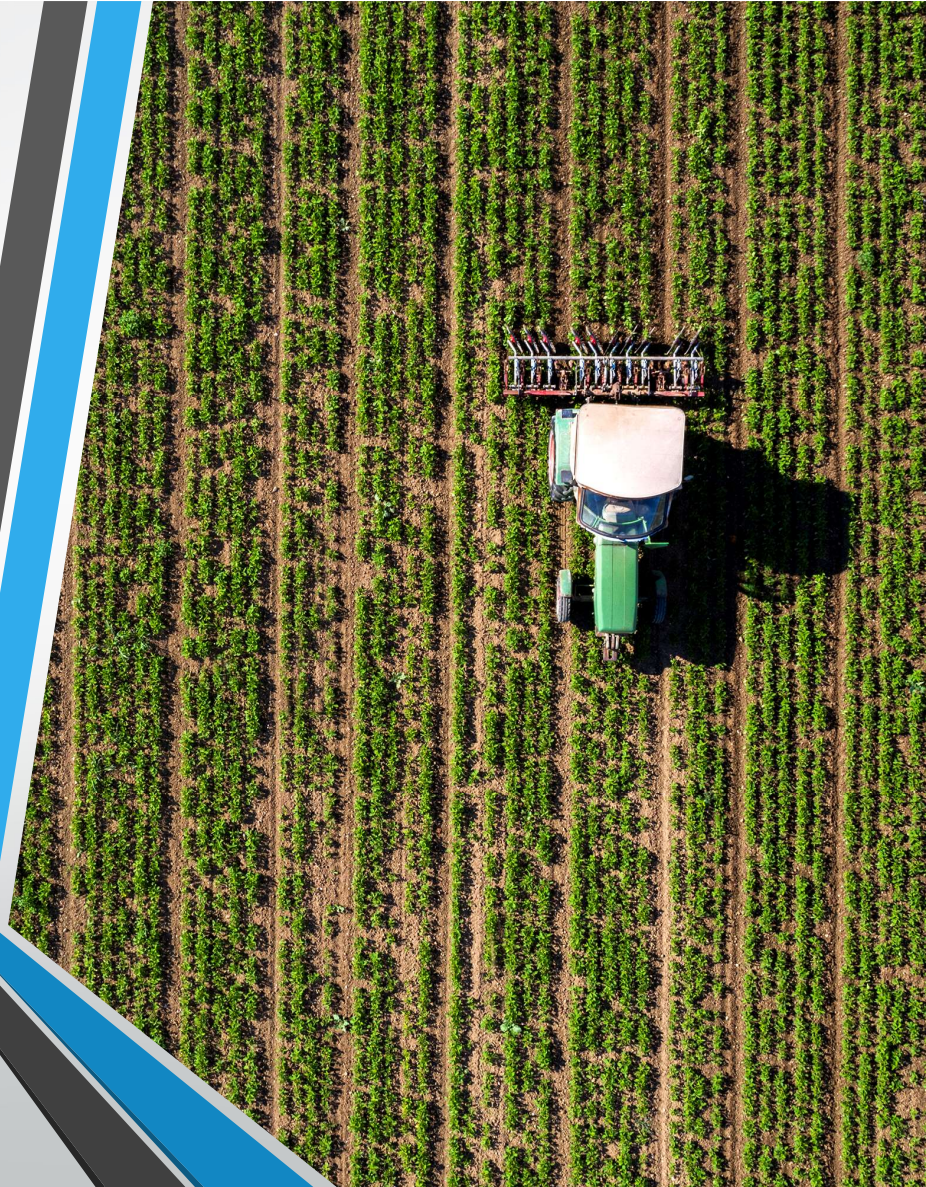


Ag Use Hearings at BOTA

PVD Guidelines

Ag Use Hearings at BOTA

- 1) Contact Zoe Gehr at PVD: zoe.gehr@ks.gov
- 2) PVD will likely file a motion to intervene or join in an ag land valuation appeal, but **PVD does not** represent the county.
 - PVD's role is to defend its determination of ag land values.
- 3) Someone from the county familiar with the parcel needs to appear at the hearing and be prepared to testify to the current aspects of the parcel.
 - This is not optional.
 - A county representative must appear at hearing.
 - The person attending the hearing should also have physically visited the parcel.




Ag Use Hearings at BOTA

Exhibit Contents



- A PRC for the parcel for the tax year at issue
- An aerial map of the parcel – preferably in color with lines and notations delineating the uses and soil map units
- The county Ag Use Values for the tax year at issue
- Anything else that is relevant that was previously obtained from the taxpayer, such as:
 - Waste, flooding or soil concerns
 - Documents provided by taxpayer
 - Photographs
 - Notes from informal meeting
 - Copies of applicable PVD docs
 - Mail/email correspondence



Ag Use Hearings at BOTA Pro Tips

- Do not use the standard pages from Orion Appeal Packet Generator
- Refer to PVD's written instructions
- Contact **Zoe Gehr** at PVD to review appeal exhibit prior to submitting to the taxpayer