APPRAISING THE PLAINS of Kansas

A Publication of the Kansas County Appraisers Association

If you build it, we will come

Volume 13, Issue 3 JULY 2009

IAAO President-Elect Bill Carroll (r) and retired county appraiser Terry Brown (l).

Retired and soon-to-be-retired county appraisers were recognized for their service and professionalism at this year's Annual Business Conference, held last month in Wichita. It was great to see old friends and say farewell to those who will be moving on.

See all of the conference highlights beginning on page 14.

Also in this Issue. . .

Ramblings of an "Elder"

Elysa K. Lovelady
KCAA President

Well, summer is upon us. I am sure you are all relieved informal hearings are done and you have values certified to the county clerk. Many indicated their parcel count for hearings was up this year. Our hearings in Butler were up significantly, but much of the increase was due to full, undeveloped subdivisions being appealed (approx 25% of the hearing counts were these subdivisions). Sedgwick County offers a developer's discount, and many of my developers were in to ask for the same consideration.

It was good to see so many of you at Conference the first of June. We had 97 full registrations and another 8 one-day educational registrations. It was great to see some of our fellow retirees at the luncheon and also to congratulate our new retirees. While we are envious of them, we also need to realize how many years of knowledge they take with them. Let's make every effort to stay in contact with these folks and continue to draw upon their experiences when we have the opportunity.

I thoroughly enjoyed planning the conference and hope that you all felt it was worth your time. I would like to thank all those who took time to speak and also those who helped with the conference. A big thank you to Cindy for always seeing that things go as planned. I was also encouraged that we had three very qualified candidates put their name in the hat to run for office. Congratulations to Kathy Wagner, RMA, who was voted as the incoming KCAA Vice-President. John Reeder and Bruce Wright, RMA also ran for office, and I encourage them to stay active in the organization and put their name back in next year. This organization only runs when people are willing to step up and serve. Incoming President Mark Hixon, CKA, RMA, will be making his committee assignments later this year for 2010, so please contact Mark and let him know where you are interesting in serving.

Congratulations to Mike Montgomery, RMA for winning the free IAAO 2009 Conference registration. This is the 75th IAAO Conference, so I encourage all who can to attend this special conference.

Take time to enjoy your summer and keep in mind that you are part of an Association that rallies around each other; so if you are facing a challenge or just need someone to talk to who understands, please call one of your neighboring appraisers. Chances are someone has already gone through the same thing and you can lean on them for answers. Also, please welcome in our new appointees as they go about settling into their new job.

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

Commercial Group Forms

By Kevin "Brad" Bradshaw, CAE, RMA

Greetings Fellow Appraisers! I have been having discussions recently with several commercial appraisers here in eastern Kansas about forming a commercial real property working group and maybe some sort of data exchange. As you know, a lot of counties are already cooperating to share residential transactions from which to product models. So, I got to thinking why not for commercial real property as well?

I have spoken with Toni Viens of Johnson County, and she noted that there was considerable interest by the commercial appraisers as shown by the positive meetings and comments at the KCAA conference in Wichita.

Right now I am bouncing around several ideas as to how to move forward with such a group and exactly what, if anything, we would exchange. We are also trying to put together a list of the types of data from which we would all mutually benefit if there is an exchange.

With this article I am asking if anyone else would be interested in this kind of thing. Once we know who is interested, we would either have a "working lunch" meeting to set it up or continue the discussion "online," so to speak. Some initial ideas include:

1. Exchange Income & Expense (IE) or sales data between counties.
2. Meet to have periodic sessions about how other counties are appraising unique properties, i.e. nursing homes, gas stations or special use properties.
3. Development of an inter-county contact list so participants can call for information or data as the need for it comes up, such as a unique COTA case.

If we can get together to compare ideas and information, I think the sky is the limit. Please let me know by email if you are interested in joining us and whether you want to meet in person or by email.

Kevin "Brad" Bradshaw, CAE, RMA,
Commercial Real Estate Supervisor,
Wyandotte County Appraiser
Phone (913)-573-8407, Fax (913)-334-0418 Email: kbradshaw@wycokck.org

The 2009 NCRAAO Conference

Musicians Jared Hall and Tony Bohnenkamp of PIANOPALOOZA entertained the crowd with their dueling pianos.

Opening NCRAAO Session: Coach Ed Thomas

By Della Rowley, RMA

The opening session at the 2009 NCRAAO Conference had an outstanding speaker, Ed Thomas. Coach Thomas had been the Aplington-Parkersburg High School coach for 34 years and the 2005 NFL High School Football Coach of the Year.

He was an arousing and inspiring speaker who talked to us about his students, his family and the tornado that went through Parkersburg in May of 2008. Six people died, and he spoke of rebuilding the community with the aid of his then-current football team and the hard work his guys did, from cleaning up debris to digging the graves for the victims of the storm.

It was evident that Coach Thomas had a strong faith in God, a love for his family, and a desire to teach his students that what kind of men they grew up to be mattered more than winning or losing the game. It was evident he was a man with great morals and great pride in his community and school.

One week to the day after he addressed NCRAAO in Coralville, Iowa, Coach Thomas was fatally shot by one of his former students. You can read about this tragedy by going to links below. The articles tell of his 30-year-old son who thanked everyone for their prayers but also asked for prayers for the family of the individual who is accused of shooting his Dad just a short time after the tragedy. In my mind, this is one of the testimonies to what a great man Coach Thomas must have been.

Coach Thomas was fatally shot one week after the conference. Our condolences to his family and community.

Links:
http://tinyurl.com/mbkxx4
(http://www.bigtennetwork.com/sports/football/story.asp?list_id=4&story_id=3301462)

http://tinyurl.com/nujbqc
(www.msnbc.msn.com/id/31525308/from/ET/)

http://tinyurl.com/l8akya
(www.foxnews.com/story/0,2933,528925,00.html)

NCRAAO Entertainment

By Della Rowley, RMA

Tuesday night of the NCRAAO conference had entertainment by PIANOPALOOZA, a dueling piano act. This was a different approach to having live music with only two instruments. What a result!

Pianists Jared Hall and Tony Bohnenkamp (see photo above) played requests, interacted with the audience, and even sang some great songs. They have a great time sharing songs and a refreshing drink between songs. *(HUH OOOOOOOOOO OOOOOOOOOOOOOOOOOOOOO OOOOO…DRINK!!)* These masters of the keyboards take requests and add their own flavor of humor and comedy that made the evening an enjoyable time. The music ranged from Elvis to the Beatles through the Eagles and so much more! Even a dance step or two was enjoyed by participants and spectators alike.

2009 NCRAAO Conference Sessions:

Geothermal Energy for Residential Properties

By Bruce Wright, RMA

Greetings, fellow appraisers. I have just returned for the NCRAAO meeting in Iowa. As in past years, a great time was had by all, and many educational opportunities, particularly for small districts, were offered. I was asked to relay information about one of the sessions and decided on the geothermal energy program.

Geothermal energy is basically using the constant temperature of the earth at about 16 feet below ground to both heat and cool the house and provide hot water. The savings to the home owner amount to 70% on heating and 30%-50% on cooling compared to typical methods.

The way the energy is captured is through one-inch pipe filled with bio-liquid antifreeze. The pipe can be placed several ways: horizontally, vertically or in a pond or lake. It takes about 700 feet of pipe to equal one ton of HVAC. Most commonly, the pipe is placed during new construction due to the large excavation necessary. The pipe is in the shape of a slinky, and the hole is 40 feet by 100 feet for a 2,000-square-foot home; the looping decreases the size of hole. Due to the large size of the hole, retrofitting a home is a big mess. If a lake or pond are available within 200 feet, the pipe can be sunk to the bottom and the heat transfer can occur without the mess of a large excavation. The other parts of the system are a circulating pump and a geothermal heat pump.

Now for the cost of such a unit and the payback time: For a 1,500-square-foot home the cost is about $14,000–$18,000, which is about $7,000 more than a typical system. The payback time, which is variable due to energy prices, is about seven years.

I found this class very informative and would consider this method if I were to build a new home. If it becomes more prevalent, the market difference between similar home with geo or non-geo HVAC will be interesting to see.

Appraisal in a Downturn

By Dean P. Denning CKA, RMA, Ellis County Appraiser

One of the sessions I attended at NCRAAO convention in Iowa was about appraisal challenges in the current economic environment. Attendance at the convention was down and cited as an example of cost-cutting by regions counties. Some jurisdictions are cutting back on education, which is tempting but short-sighted. Some states are saving labor by doing less on-site inspections or using aerial photography instead of driving out to the property.

A slow economy may mean less new construction—use that slack time to identify and correct choke points in the office and make things flow smoother.

Nationwide commercial sales are down, and investors in that market are demanding a corresponding adjustment in cap rates to reflect more risk rate; higher delinquency and foreclosures add to that pressure.

From the tax aspect, investors are more aggressive about reductions as survival techniques. Also tenants with triple-net leases are pressing the owners to appeal for lower values and therefore lower taxes—this is especially true of Mall tenants.

We were cautioned to not let the focus of tax reps and owners to stress sales of vacant buildings as the only indicator of value; also appraisals done for a specific purpose should only be used for that purpose. The purpose can bias the results. For example, ask for and examine the loan to value ratio on refinance appraisals.

Another good point was that commercial leases are typically 5, 10 or 15 years and are triple net, so tax values that don't change much from year to year are probably logical.

IAAO Member News

Thanks to all for your participation in IAAO.

40-year member:
Terry Brown, Elk County
60-year member:
Dean Butrick, Doniphan County
25-year member:
James Ruhnke, RMA, Geary County
20-year member:
Cindy Magill, Marion County
15-year members:
Jeff Holsapple, CAE, RES, Johnson County; Teresa Hattemer, RES, RMA, Jefferson County; Leroy Burk, Montgomery County
10-year members:
Gary Stapp, Anderson County; Kathryn Myers, Johnson County; Rhonda Wright, Lincoln Count; Leon Reimer, RMA, Meade County; Robert Weber, RMA, Leavenworth County
5-year members:
Daniel Cubbage, Wyandotte County; Antonia Viens, MAI, SRA, Johnson County; Kevin Bradshaw, CAE, RMA, Wyandotte County

IAAO Scholarship Funds

Want to go to the 75th IAAO Annual Conference in Louisville but a little short on funds? Check out the information about scholarship funds on the IAAO webpage: http://tinyurl.com/m4o63u (http://www.iaao.org/sitePages.cfm?Page=118)

Attention Appraisers

By Rick Stuart, CAE

I recently taught IAAO 101 in Wichita and was disheartened that only two of the county staff in the class knew about the math tutorial available. This is just a reminder that the tutorial has proven to be beneficial to a student's success when they can work with the tutorial in advance.



2009 Kansas Night!!

Tuesday, September 15th 2009

Howl at the Moon – Louisville, KY

The World's Greatest
Rock N' Roll
Dueling Piano Show!

6:15 – 6:30 pm immediately following Silent Auction

It's that time of year again! Join the gang for a fun night of friends, music and food. Favorite sports team is the theme this year, so dust off your favorite team shirt or cheerleading uniform and join us. Howl at the Moon can be found just a few blocks from the Galt Hotel in the 4th Street Live Area. Please complete the bottom of this form and mail with your check for **$50** per attendee to:

Rick Stuart
3533 SW Randolph Ave.
Topeka, KS 66611

Deadline: September 7th 2009

Name(s): ____ email: ________________________

Number attending: ________

Please contact Rick @ rstuart17@cox.net or Kim @ cmapprais@pixius.net
with any questions

Welcome New County Appraisers

Melinda Vahle, RMA
Jewell & Osborne Counties

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

Why? Well, I can't answer that…I am still wondering myself. How? I had returned from my honeymoon and found an ad in the paper for a position in the county appraiser's office. To be honest with you, I had no clue there was a county appraiser's office (I led a very sheltered life growing up). When I got hired I thought to myself, ok, this will work until something better comes along. 14 ½ years later, here I am…apparently nothing better came along.

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

When I was younger I wanted to be a veterinarian, but since I haven't grown up yet, I guess I still have time to decide.

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

I would change how people look at appraisers. We aren't bad people, most of the time.

What person(s) has had the most effect upon your personal and professional life?

My dad has been a great influence in my life. He taught me the importance of a dollar, the importance of a good work ethic and how to overcome anything; and also my past boss, Alan Hale. He is a great mentor, friend and the best boss anyone could ever ask for. If it wasn't for him, I think I would have given up years ago.

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

With two very active boys, I spend most of my time chasing them. I love to play volleyball and spend time with the family out at the farm just "hanging out".

Philip A. Dudley, RES & RMA
Franklin County

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

Why? I wanted a profession/job that kept me closer to home. In the corporate world, I traveled all over the country and never knew when I would be home. Working in local and state government has afforded me an opportunity to stay closer to home so I could be there for my children growing up and doing the normal dad stuff.

How? This is a long story, but if you want to find out, I will let you buy me lunch and we can discuss it.

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

A county appraiser, of course!! Seriously, I wanted to own and operate a small business like my father.

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

The entire profession needs to be modernized; in order to do this, adequate funding needs to be allocated to purchase new technology.

What person(s) has had the most effect upon your personal and professional life?

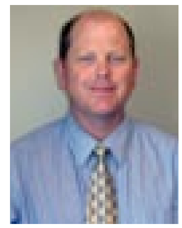
Personal: Former Senator Nancy Landon Kassebaum.

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

Personal goals: Run for State Senate after retirement or perhaps a Cabinet appointment from the Governor. Professional Goals: Obtain CAE and MPA in the next 5 years.

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

Hobbies: Local and state politics, improving my community, playing golf, playing golf, reading, mountain climbing, playing jazz and blues. Did I mention that I play golf?



Robert Weber, RMA, Leavenworth County

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

When I graduated from college in May of 1988, I had six month's military training for the National Guard that did not start until November of that year. My dad, who owned Landmark Appraisal at the time, talked me into coming to Kansas and working on reappraisal for that five-month time frame. I must have liked it, since I am still doing it 21 years later.

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

The only thing I can remember wanting to be is a pilot. Most people agree it is better that I became an appraiser.

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

I would change the current agricultural use statute. I would word it so ag-use would only apply to legitimate farming and ranching operations.

What person(s) has had the most effect upon your personal and professional life?

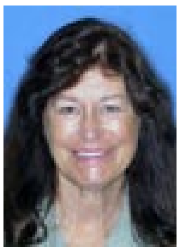
This is a hard question for me as I have worked with many different people. Probably my dad (Phil Weber), Ann Papay and Tom Fuhrmann, as these are the people I worked with at the beginning of my career and they taught me a lot and helped shape my attitudes about appraisal and assessment administration.

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

Earn an RES designation from IAAO.

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

I spend most of my spare time at my three children's sporting events (baseball, football, basketball, and soccer).



Shirley Ehrlich, RMA
Geary County

Shirley Ehrlich will mark her 10th year as an employee of Geary County in November. She started her career at the Appraiser's Office and will now head that office, replacing Jim Ruhnke who retires July 1.

Her work experience ranges from clerical to administrative, accounting to farming. When she applied for the position of personal property appraiser, that varied experience seemed to pay off.

In addition to a variety of work experience, Ehrlich has also had a variety of residences. Originally from Missouri, she has also lived in Idaho and Alaska. She has two grown children: a son in Junction City and a daughter in Oregon.

Her interests include remodeling, horses, cattle and gardening.

When asked what she likes most about the appraisal business, Ehrlich replied, "You get to meet and work with a lot of nice people."

Jim Ruhnke was honored during a retirement reception June 26 in the county office building (see page 8).

Steven Miles, RMA
Douglas County

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

I was selling real estate and farming in the late 1980s when the ag economy was in a similar situation as now. Wanting a steady paycheck and to use my real estate training, I answered an ad for a real estate appraiser with Douglas County, Kansas. I never really dreamed that it would become a career at the time. I have grown to like the profession over the past 18 years and was able to gain experience in various tasks involved in appraisal.

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

I always thought I would become a horse trainer/rancher. Away from the office, that's what I am.

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

Having the public agree completely with the values our office comes up with! I know that won't happen and that is what keeps us striving to do a good job, but, hey, a guy can dream.

What person(s) has had the most effect upon your personal and professional life?

In my personal life I would have to say my dad and mom and then my wife. I am also very proud and inspired by my son. Professionally, I have to say that Marion Johnson has had a tremendous effect on me. He encouraged, challenged and supported me as I gained more experience in the appraisal field.

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

My personal goals are also my professional goals. They are to continue to learn new things and skills, to be honest and act with integrity in whatever I do, and to do the best I possibly can at whatever I am doing.

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

I have many hobbies, but I guess you could say most of them revolve around my love of horses. I raise, train, show and use horses most evenings after work. I also judge horse shows and conduct horsemanship clinics in various locations nationwide. This gives me something to focus on outside of work and takes my mind off the stress involved. I also like to fish and hunt when the opportunity arises.

Lori Reedy, RMA
Reno County

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

I started as an office assistant at Sedgwick County during Reappraisal in 1986. Eventually, worked my way up: Appraiser I, Appraiser II, Appraiser III, Commercial Field Supervisor, Commercial RE Project Leader. I left Sedgwick County in 2006 to become the deputy appraiser in Reno County. When Marvin Clements retired as county appraiser, I finished his term and was then reappointed in June for the four-year term.

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

I liked animals, so I thought about being a vet. I also like writing and considered journalism at one point.

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

Probably to help people understand it better and see why value-based tax is the fairest tax there is.

What person(s) has had the most effect upon your personal and professional life?

Jerry Frantz. No doubt about it. He was a complete character and true visionary. He made me want to be a better appraiser, better manager and better person. He not only thought, but worked outside of the box.

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

continued on next page

New Appraisers, cont. from p. 7

Of course, I'd like to get my CAE. I just have to finish the residential narrative and take the comprehensive exam. I'd also like to be more involved in legislative issues…or something where I feel like I could make a difference.

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

We have a spot on the Chikaskia River where we like to spend our time camping. I also love to bowl and recently got my first over-200 score!!! I'm also an avid reader and spend way too much time playing Freecell.

Angela Eichman, RMA was appointed as the Seward County appraiser, but no information was provided.

Interim Appraisers

As of the date of completing this newsletter, the following have been appointed as interim appraisers:

Property Valuation Division – Jackson and Butler Counties

Geary Co. Appraiser Jim Ruhnke Retires

This picture is a mix of past and current department employees (l-r). Steve (Mac) McAnally, RMA, Clay County Appraiser, used to work here; Jim Ruhnke; Jack Collins was also an appraiser; Brian Clark was our cartographer for 18 years; and Ossie McCarter (still here) has been one of our appraisers for 19 years.

Realtors and Appraisers

Submitted by Gary Post, CKA

To: All REALTORS®
From: Charles McMillan, 2009 NAR President
Re: Appraisals

Dear Fellow REALTOR®,

During the past two months, we have heard from many of you regarding problems with appraisals that are causing deals to be delayed or canceled altogether. I assure you that we on the NAR Leadership Team are experiencing the same problems in our businesses.

"[W]e on the NAR Leadership Team are experiencing the same problems in our businesses."

In fact, VP & Liaison to Committees Steve Brown recently shared his experiences in Ohio on the Voices of Real Estate blog. http://narblog1.realtors.org/mvtype/president/2009/06/all_is_not_quiet_on_the_midwes.html

Let me update you on what NAR is doing to resolve these problems quickly.

On Monday, June 29th, I will be in New York to meet with the Deputy Attorney General and his staff who worked directly on the Home Valuation Code of Conduct. I plan to share our concerns, as well as your stories, and ask for their assistance in resolving any problems related to the HVCC.

On Tuesday, June 30th, I will travel to Washington, D.C., to meet with the Director of the Federal Housing Finance Agency to discuss ways we can work with Fannie Mae, Freddie Mac and lenders to ensure that appraisals are accurate.

We will keep you posted on the outcome of these meetings. In the meantime, I encourage you to check out the following resources on Realtor.org for more information on the HVCC and how appraisal problems are impacting the real estate market:

- **Economists Podcast http://tinyurl.com/lodky2** (http://www.realtor.org/research/research/research_podcast062309?LID=RONav0021)
- **HVCC http://tinyurl.com/krssfg**(http://www.realtor.org/government_affairs/gapublic/gses_hvcc_announced)
- **Appraisal Blog http://tinyurl.com/klgj6k** (http://narblog1.realtors.org/mvtype/appraisalinsight/)

On behalf of the entire Leadership Team and staff, I thank all of you who have shared your experiences and concerns with us. With your continued participation, I believe we will overcome this challenge in much the same way as we have conquered others – "United Toward Tomorrow."

COTA and Other Decisions

By Rick Stuart, CAE

A very large amount of data was sent to me for this issue, and I greatly appreciate it. I have included the one submitted by Gary Post, CKA, Lyon County appraiser, as it was written up and not just a copy of the board order. This was a case on subsidized housing. Gary's article begins on page 10.

Several cases on subsidized housing have been awaiting decision by the Tax and Equalization Review Commission (TERC) in Nebraska for over a year. A couple of paragraphs of interest from the Schuyler appeal are shown below:

> (1) The county assessor shall perform an income-approach calculation for all rent restricted housing projects constructed to allow an allocation of low-income housing tax credits under section 42 of the Internal Revenue Code and approved by the Nebraska Investment Finance Authority when considering the assessed valuation to place on the property for each assessment year. The income-approach calculation shall be consistent with any rules and regulations adopted and promulgated by the Property Tax Administrator and shall comply with professionally accepted mass appraisal techniques. Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation but may be considered in determining the capitalization rate to be used when capitalizing the income stream. The county assessor, in determining the actual value of any specific property, may consider other methods of determining value that are consistent with professionally accepted mass appraisal methods described in section 77-112.
>
> Section 77-1333 of Nebraska Statutes requires exclusion of LIHTC credits from income if the income approach is used to develop an estimate of actual value. The statute clearly prohibits addition of the annual credit amount to the rents and other income of a parcel. The Statute does not, however, prohibit consideration of the value that might be attributable to the LIHTC credits in any other context or other valuation approaches. Section 77-1333 recognizes, for example, that the existence of LIHTC credits could be a factor in the development of a capitalization rate. Determining the contribution to value represented by the benefit of the LIHTC credits does not violate the terms of the statute. The rationale described by the Town Square Court for inclusion of value of LIHTC credits in the valuation of real property is persuasive and consistent with Nebraska law.

Also on the webpage is a very interesting case from Wyandotte County, Docket No. 2006-9078-PR, where the property owner decided to opt out of the last year of an abatement program as he believed the market value had dropped so much that his taxes would be less by using the current market value versus and in lieu of value. Another interesting aspect of this case was the court's discussion of the taxpayer's premise that the income approach must be used. They concluded that the county supported their position that cost was more supportable in this case because of a demonstrated lack of quality data for the income approach. The two from Nebraska and the Wyandotte County case can be found on the KCAA website (http://www.accesskansas.org/kcaa/) under "Reports."

Also under Reports on the web page are four interesting decisions from Butler County:

1. The county changed the classification of a lake from vacant to other as a lease was discovered to use the lake for recreation purposes. The property owner wanted the classification to be agricultural as the lake was also used to water cattle, but the county classification was upheld.

2. The county placed a classification of other on a polo field that charged a membership fee. The property owner wanted waste land value as it floods, but the county was upheld.

3. A 39-acre tract used to train, raise and house polo ponies was changed by the county from agricultural to other, but COTA stated it should be agricultural.

4. A 26-acre tract also used to train, raise and house polo ponies plus being used as a polo field was also changed by the county from agricultural to other. The property owner also wanted agricultural on this parcel as it was partially hay ground. COTA ruled that the brome grass was agricultural but the polo field was other.

The Lyon County Section 42 Case

By Gary Post, Lyon County Appraiser

Why is it called Section 42 Housing?

The Tax Credit Reform Act of 1986 created the Low Income Housing Tax Credit Program (LIHTC). The program regulations are under Section 42 of the Internal Revenue Code. The tax credit encourages developers to build affordable housing to meet the needs of the community. As a condition for receiving Housing Tax Credits, owners must keep the units affordable for a specified number of years. Affordable rents are defined and calculated based on Median Household Income figures published annually by the U.S. Department of Housing and Urban Development (HUD).

Sounds simple doesn't it? So what's it to be valued at on the tax roll? Lyon County's Wyndam Housing is now valued for 2007, according to COTA Docket No. 2007-7780-EQ, at $1,465,000, or $34,880 per unit or $33.58 sqft. The three-story apartment building built in 2005 consists of 14 one-bedroom and 28 two-bedroom units on a tract of land on Emporia's northeast side containing 3.30 acres.

For 2007, the county originally valued the property at $2,212,510 based on the county's cost approach to value. In light of the Miami County Paola-Sundance Apartments Case ruling, Board of Tax Appeals (nka Court of Tax Appeals) Docket Nos. 2004-8772-EQ, 2005-9276-EQ and 2005-9277-EQ final Order on Reconsideration certified in August 2007, the Board concluded:

"[T]he valuation of real property developed pursuant to I.R.C. Section 42 poses a complex valuation problem for appraisers. The valuation problem becomes more complex when the appraisal is for ad valorem taxation because the appraiser must be cognizant of the law of the specific jurisdiction at issue in order to properly define the interest to be appraised. The Board is not persuaded that Ottawa Housing, as applied to the present matter is properly interpreted to order the use of the income approach wit actual income and expense since the result is a "leased fee interest" appraisal. Ottawa Housing was a case of first impression that did not address the underlying concepts of "fee simple interest" valuation of real property at its 'highest and best use.'"

Lyon County's Wyndam Housing is now valued for 2007, at $1,465,000, or $34,880 per unit or $33.58 sqft.

In October 2007, Lyon County Appraiser Gary Post chose, with the blessing of the County Commissioners, to hire Ray Toso, local General Certified fee appraiser to prepare and submit an appraisal for Wyndam Place Apartments at fair market value of the fee simple interest as of January 1, 2007. This was the first time in thirty years that Post had hired an outside appraisal for ad valorem values. Mr. Toso's appraised value was $2,000,000.

The property owner's agent Savage and Browning's original value estimate at the March 2007 informal meeting was $1,116,187 based on PVD's (Division of Property Valuation) model to estimate external depreciation in subsidized housing projects. The agent also submitted an opinion of value based on the actual income and expenses of $1,280,663. The property was "no change" at the informal level and again at the Small Claims level. The owners' attorney, Carol Bonebrake, appealed to BOTA. In May 14, 2008, Gerald Maier of Midland Valuation Services submitted an "opinion of market value for the subject property in fee simple estate" as of January 1, 2007 of $1,525,000, less $60,000 attributable to personal property for a total of $1,465,000."

Below [seepage 11] is a side by side comparison of the different opinions. Post rejected a verbal "48 hours only" offer to settle the case in December 2008 for $1,700,000 from Tom Savage. His reason: To obtain an additional COTA case precedent on Section 42 properties for guidance to other counties. The 2007 case was heard in Topeka on January 8, 2009. The county recommended Toso's value of $2,000,000 which relied heavily on rents from another new Senior Emporia complex, Ashley Estates. Because they were single level one and two bedroom duplex type condominiums with attached garages, COTA was not convinced they were the most comparable to the subject. The court found that Maier's approach was more appropriate than the county's heavy reliance on Ashley Estates in this case. The court concluded "… that the County did not provide sufficient evidence to support its recommended value and that the Taxpayer's appraisal best estimates the fair market value of the subject property as of January 1, 2007."

The order was signed by Judges Crotty and Kubik. Chief Judge Larkin dissented, however, but issued no written opinion.

Lyon County had just over $10,000 wrapped up in this case to that point. Post recommended to the County Commissioners that the County accept the value. The Midland Appraisal was lower that the county's, but it was still based on market value fee simple and not on the PVD formula.

The Future?

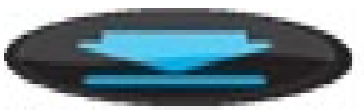
- **House Bill 2302**: House Bill by Taxation. Property tax exemption for

continued on page 12

A side by side comparison of Wyndam appraisals

Economic obsolescence worksheet

Submitted by Savage & Browning
for 2007 Informal meeting



Data

Building size (square feet)		32,900
Actual Income Received from Project	$	249,016
Replacement Cost New Les Phsy/Func Depr	$	2,228,970
Land Value	$	124,240
Total RCNLD & Land Value	$	2,353,210
Total Operating Expenses	**$**	**132,600**

Market Financing

Term of Loan (Amortization period in yrs)	20
Loan Rate (enter as whole number)	8.00%
Loan Ratio (enter as whole number)	80%
Equity Ratio	20%
Equity Rate	12%
Loan Constant	0.100373

Analysis

Total RCNLD & Land Value (Line 5)	$	2,353,210
Loan Ratio (Line 9)		80%
Loan Constant (Line 12)		0.100373
Income Required to Satisfy Debt (Line 13 x Line 14 x Line 15	$	188,959
Total RCNLD & Land Value (Line 5)	$	2,353,210
Equity Ratio (Line 10)		20%
Equity Rate (Line 11)		12%
Income Required to Satisfy Equity (Line 17 x Line 18 x Line 19	$	56,477
Operating Expenses (Line 6)	$	132,600
Minimum Income Required		

Approaches	**Mainland 07 Appraisal**	**Toso 07 Appraisal**
COST		
Land	$ 220,000	$ 146,500
Lot Sqft	$ 143,748	$ 146,360
Per sqft	$ 1.53	$ 1.00
Cost New	$ 3,074,597	$ 2,534,487
Building Sqft	43,632	42,804
Per sqft	$ 70.47	$ 59.21
Per Unit	$ 73,205	$ 60,345
Depreciation	$ 148,523	$ 50,690
External Obsolescence	$ 1,620,000	$ -
RCNLD	$ 1,306,074	$ 2,483,797
Per sqft	$ 29.93	$ 58.03
Per Unit	$ 31,097	$ 59,138
Cost L&B	$ 1,526,074	$ 2,630,297
Rt To	$ 1,530,000	$ 2,650,000
Per sqft	$ 35.07	$ 61.91
Per Unit	$ 36,429	$ 63,095
SALES		
#Comps	9	6
Sale Date Range	Dec/03 to Nov/06	May/04 to Mar/06
Sale Unit Range	8 to 121	4 to 36
Mean Unit	$ 22,194	$ 26,219.00
Med Unit	$ 20,583	$ 23,375.00
Mean Age	1956	1954
Med Age	1963	1963
Mean Gross Adj	76%	
Med Gross Adj	76%	
Mean Net	58%	48%
Med Net	57%	48%
Sales Unit Ind	$36,000	$52,000
Market Value	$ 1,510,000	$ 2,184,000
Per sqft	$ 34.61	$ 51.02
Per Unit	$ 35,952	$ 52,000
INCOME		
1Bd Rents	$ 345 to $625	$ 475 to $775
1 Bd Sqft	$ 0.64 to $1.04	$0.75 to $0.87
2 Bd Rent	$ 425 to $635	$ 575 to $895
2 Bd Sqft	$ 0.55 to $0.95	$0.69 to $0.96
Inc 1Bd used	$ 500	$ 575
inc 2 bd used	$ 600	$ 635
Pot Gross Inc	$ 300,900	$ 315,960
Vacancy	$ 24,072	$ 15,798
Vacancy	8%	5%
Effective Gross	$ 276,828	$ 300,192
Expenses		
Real Estate Taxes	$ 25,380	$ 36,200
Insurance	$ 12,600	$ 5,900
Maintenance	$ 21,000	$ 15,000
Management	$ 13,841	$ 24,010
Utilities	$ 10,500	$ 13,875
Payroll	$ 31,500	
Other	$ 12,600	
Reserves	$ 10,500	

continued on next page

Wyndam, continued

(Line 16 + Line 20 + Line 21)	$ 378,036
Actual Income Received (Line 2)	$ 249,016
Income Difference (Line 22 - Line 23)	$ 129,019
Loan Ratio (Line 9)	80%
Loan Constant (Line 12)	0.100373
Weighted Debt Requirement (Line 25 x Line 26)	8.03%
Equity Ratio (Line 10)	20%
Equity Rate (Line 11)	12.00%
Weighted Equity Requirement (Line 28 x Line 29)	2.40%
Overall Cap Rate (Line 27 + Line 30)	10.43%
External Depreciation (Line 24/Line 31/Line 3)	55.50%
Economic Factor to be used	**44.50%**
RCNLD Before Econ Factor (Line 3)	$ 2,228,970
Economic Factor (Line 33)	**44.50%**
RCNLD After Econ Factor (Line 3 x Line 33)	$ 991,947
Land Value (Line 4)	$ 124,240
Total Value =	**$ 1,116,187**

Approaches	**Mainland 07**	**Toso 07**
Total Exp	$ 137,921	$ 94,985
Net Operating Income	$ 138,907	$ 205,207
Cap rate	9.00%	10.50%
Effective tax rate	above	above
Total Capitalization	9.00%	10.50%
Income value	$ 1,543,411	$ 1,954,352
Garages	above	above
Rt Total Income value	**1540000**	**1954000**
Per sqft	$ 35.30	$ 45.65
Per Unit	$ 36,667	$ 46,524
Gross Income Multiplier Range	4.8 to 7	
GIM used		6.50
	Gross income used	$ 315,960
GIM Value	**$ 1,955,850**	**$ 2,054,000**
Reconcile		
Cost	$ 1,530,000	$ 2,650,000
Market	$ 1,510,000	$ 2,184,000
Income	$ 1,540,000	$ 1,954,000
less Personal property	$ (60,000)	
Final Value	**$ 1,465,000**	**$ 2,000,000**

certain housing for elderly persons added Section 42 housing to the exempts. 2/09/2009 Referred to House Taxation.

- **House Substitute for Senate Bill 98:** Amends K.S.A. 2008 Supp. 79-503a to require that county appraisers in arriving at fair market value of Section 42 housing, take into consideration restrictions imposed by the state or federal government and local governing bodies, the rental values restricted by the state or federal government or local governing bodies and the restrictions or requirements imposed upon the use of real estate by the state or federal government. Effective July 1, 2009, and will apply for the 2010 valuation year. H Sub for SB 98 Section 3.

It would appear that the new legislation does not solve the valuation problem with Section 42 Housing. It is hard to tell if this is progress or not. But just remember what St. Francis of Assisi is quoted as saying on the fairpropertytaxforall.org webpage: "Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible."

Editor's Note: Now that you have read this nicely written article by Gary, ignore it. Just as we prepare to publish, comes along a district court decision on *Paola Sundance Apartments vs. Miami County* that overturns the previous BOTA decision and remands it back to COTA to recognize that you cannot use fee-simple for the highest and best use and thus for the valuation process. You can see this decision on the KCAA website(www.accesskansas.org/kcaa/) under "Reports."

It's a Bird. It's a Plane. It's a Home?

Photos submitted by Mark Hixon, CKA, RMA and Gayle Godfrey, RMA

Q&A with COTA

Judge Rebecca Crotty & Board Attorney Amelia Kovar-Donohue at the KCAA Annual Business Meeting

By Lisa Ree, RMA

Q1: Why would a COTA hearing be set when neither the school district filing an exemption application nor the county request the hearing?

A1: COTA heard around 4,000 exemption hearings in 2008, with approximately 40 of those set for a COTA hearing. Setting a COTA hearing may depend upon the county's comments included with the exemption application. COTA may have a question with the application or the county and/or applicant specifically asked for a hearing.

Q2: Why would COTA set a status conference on a $200,000 residential class parcel?

A2: Possibilities presented were: There might have been something jurisdictionally wrong with the parcel. A discovery issue might need clarification. An untimely appeal may have been filed. Judge Crotty stated that COTA does utilize a parcel's land use code to determine what type of hearing to set.

Q3: All market value appraisals are as of an appraisal date. Why then does COTA allow information that occurred after the appraisal date, or information that was not shared with either the original filing or subsequent county level hearing, to be introduced and used as the primary basis for the appeal?

A3: Every issue that is brought forward to COTA is tried. COTA must look at the evidence presented to them. They must also, by law, follow directives of the Court of Appeals and the Supreme Court. The Court of Appeals case of *Helmerich & Payne, Inc. vs. Seward County* and the Supreme Court case of *Ness County vs. Bankoff Oil Company* were cited as examples.

Q4: When would COTA consider the implementation of a filing fee for a residential/agricultural appeal?

A4: 74-2438a authorizes COTA to administer a filing fee up to $35 for appeals, but no filing fee can be imposed on residential property appeals at the small claims or expedited hearing division. A new COTA filing fee structure is set to be implemented on September 1st.

Board Attorney Amelia Kovar-Donohue indicated that the new Case Management System utilized by COTA has been in place since September 2008. All files are now retained electronically and are easily available to COTA staff and counties when requested. COTA's goal is to have docket information available to counties online. The intention is for counties to be able to search online for a particular case or topic. Currently, COTA's 60-day Hearing Calendar, Status Conference Calendar, and Small Claims Calendar are available online. The calendars are updated weekly. The intent is to have the calendars updated instantaneously.

Editor's note: See page 14 for more highlights from this year's KCAA Annual Business Conference.

Public  Relations

"I don't make jokes. I just watch the government and report the facts."
Will Rogers.

Public relations is important for government. Why?

- the direct and powerful impact the work has on large numbers of people,
- the diverse and multiple levels of accountability that extend all the way to the general public and often involve a civil service commission or similar agency,
- the fish bowl environment in which government employees work, and
- the fiscal constraints placed on government spending.

Using Plain Language in Public Relations

Using plain language to communicate with journalists is not considered bland but effective. Whether your public relations campaign targets community or business publications, it is unlikely that reporters reviewing your press kit will be familiar with specific industry jargon. Providing them with information in plain language is the surest way to get your point across, significantly improving your chances for media coverage.

"Unless it's a particular trade magazine, press releases full of technical jargon and business acronyms are more likely to be passed over by editors," says communications consultant Danna Yuhas. "Your purpose is not to impress them with big words but to clarify why your message is important, and has news value." Source: http://www.ereleases.com/prfuel/using-plain-language-in-public-relations/

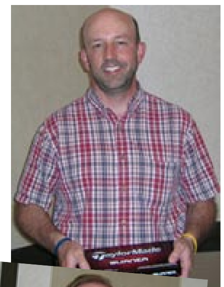
Submit your PR ideas or suggestions, to Dianna Carter, KCAA Public Relations Committee Chair, at dcarter@mcphersoncountyks.us

Highlights from the 2009 KCAA Annual Business Conference

KCAA hosted its Annual Business Conference in Wichita last month. Participation was great, with nearly 100 full-conference registrations plus extra registrants for our outstanding educational seminars. Our thanks to all who attended.

Barry Porter and Mark Hixon

Chuck Latham and Jim Harrison



Top right: Tom Scott

Gene Bryan

Golfing at KCAA

By Mark Low, RMA

The morning of June 8 started as a beautiful morning, and all the golfers showed up on time and ready to go. As the morning progressed, the weather seemed to be turning. The wind started to blow (only in Kansas) and the temp started dropping. Everyone showed up in warm-weather apparel as they started, and as the morning wore on that changed to gloves, ear muffs, and sweat pants. I don't think some of this wardrobe had been out of the golf bag in years.

We also had a first for county appraiser golfers: the beer cart driver had more request for coffee than beer. Then the sun came out, the wind stopped, and it was a great day, just in time to finish.

The team of Chuck Latham, Sean Robertson, and Bob and Jim from TY Picket came though the weather and unseated the defending champs of Barry and Anna Porter, Mark Hixon and Bob Lott by one stroke. After the round, we all had a great lunch provided by R & S Digital. I would like to thank all the sponsors, and a special thanks to Melinda Vahle for beer cart duty. I know you planned on a tan, but it didn't happen.

Annual Bowling Tourney Results

(l-r) Dennis & Kathy Hansen and Bruce Wright

Thirty-four bowlers turned up to bowl at the KCAA annual bowling event. Thanks goes out to TY Pickett for their help in sponsoring this year's bowling tournament and to all the bowlers who participated!

Sandra Drake

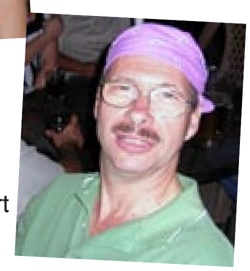
• Hi-Ten Women's award went to Sandra Drake with a 429 series.

• Hi-Ten Men's award went to Shawn Katzenmeier with a 724 series.

• Hi Team award went to the team of Kathy Hansen, Dennis Hansen, Lori Reedy, Calvin Reedy and Bruce Wright.

Tom Brown and Elysa Lovelady

Above: Kathy Wagner



Right: Rick Stuart

A Note of Thanks

I would like to take this opportunity to thank the association for inviting some of us old retirees to the luncheon at the business conference. (Used to be called the symposium). I enjoyed congregating in the halls and reminiscing with some of my old buddies.

I am very appreciative of the watch that was given to me by the Association. I will wear it with pride. I also was very humbled by the presentation of the pen and pencil set by the national president of IAAO. I have seen many many changes in my 40-plus years in the business, and we will see many more in the future. Through the educational efforts of IAAO and the appraisers association, we will be prepared.

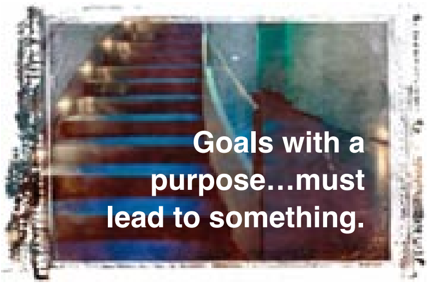
Again, I thank you for the invitation

—Terry V. Brown, retired

2009 KCAA Annual Conference:

The Power to Succeed

By Lisa Ree, RMA



Speaker Dan Hurst shared with KCAA Conferences attendees his viewpoint concerning success and how it is applied in the workforce.

Hurst stated that by increasing individual productivity or success, the overall productivity of the group will increase. He believes that success is not defined by how much money you make or what kind of car you drive, but that success is the result of accomplishing the goals and potential for one's life. Also, success is not just about you, but also about the people you surround yourself with.

Five Principles of Success were stated as:

- Success is about meeting needs, not satisfying wants.
- Success is the result of having the right priorities.
- Success is always identified by one's accomplishments, not the person.
- Success is never an accident.
- Success is a pattern of goals.

Success cannot be accomplished without having goals. Goals are active and on-going and are described as accomplishing the intended result of a specific focus, strategy and effort. Goals can be characterized as:

- Identifying a need
- Solving problems, in that a failure is the beginning of a success
- Completed goals have value, they account for something
- Goals must be accomplished in order
- Motivated by a purpose

Hurst illustrated these characteristics using the example of building a house. Identifying a need can be as simple as needing a new or different house. Solving a problem can entail deciding on a design. Completing the goal of building a house shows the accomplishment. Completing goals in order was illustrated by the roof of the house. which cannot be completed until the walls are erected. Goals with a purpose were illustrated by the example of a staircase, which must lead to something.

Motivation is the backbone of achieving goals. Motivation was defined as the desire, drive and design to reach your potential. Hurst stated that you will never be motivated to reach your potential if you don't know and believe in your potential. You need to be aware of what you are capable of. To discover your potential, you need compassion, commitment and character. You are not born with compassion, you must develop it. Most of us learn compassion by being influenced by someone at a time of need. Commitment is dependent upon where you are at a given time. What drives your commitment is what you are focused on. Hurst says we should never lose sight of commitment or of what or who we are. Character is again something you are not born with, but is born out of the circumstances of your life. Potential is the possibility to become all you are designed to be because of your compassion, commitment and character.

Hurst closed with the following powerful statement: "Circumstances Develop Character — Character Defines Choices — Choices Determine Consequences. The right consequences can always overcome the circumstances."

A Fond Farewell

Elysa with Marion Johnson

Marvin Clements

Jim Ruhnke

Steve Brown

Above: KCAA President Elysa Lovelady congratulates recently retired appraisers at the Annual Conference. Photos from top: Marion Johnson, Marvin Clements, Jim Ruhnke and Steve Brown. We caught up with Marion, Steve and Donna Graf (not pictured) to find out about their future plans. See Happy Trails (below).

Happy Trails!

Below are just a few thoughts from a few county appraisers as they take that next step into retirement.

■ **Marion Johnson, Douglas Co.**

How long in the business?
28 years

What plans do you have that could possibly surpass the fun and excitement you are used to?

continued on next page

Happy Trails!, continued

I plan to spend some time instructing and time with my grandkids.

Is there anything you will miss?

I will miss all the good people in the KCAA the most.

■ **Donna Graf, Leavenworth Co.**

How long in the business?

I worked in the Leavenworth County Appraisers Office for 24 + years and as county appraiser for 16+ years.

What plans do you have that could possibly surpass the fun and excitment you are used to?

I plan on spending time with my family and friends plus getting my home in order and also getting a job working at something that is totally different from the appraisal field.

Is there anything you will miss?

I will miss all of you and our times together over the years. You are a really great group of people. I am sorry we did not have more time to get to know each other. If I can ever do anything for any of you or the association, please let me know. Again, thank you for your gift of friendship!

■ **Steve Brown, Franklin Co.**

How long in the business?

32 years, plus I worked as a personal property assessor (door-to-door) before that in the early 1970s.

What plans do you have that could possibly surpass the fun and excitement you are used to?

I just can't imagine that I might possibly do anything that will be less fun! Less exciting perhaps, but certainly not less fun!

Is there anything you will miss?

Yes. I will miss all of it, but not in a bad way for the most part.

Notes on Prop K

By Rick Stuart, CAE

**Prop K:
Appraisals so easy a caveman can do it.**

Notes: I am embarrassed as I am not sure where all of this came from. I know some of it is my work but failed to note where some of other the data came from. Of course, some is from the Prop K group itself.

Perhaps the best thing to come out of the Prop K presentation at the KCAA Conference was the following quote from a County appraiser: "Prop K: appraisals so easy a caveman can do it."

On the KCAA website under "Reports" you can see the KCAA Response to Prop K.

1. **Based on the premise that real property tax increases are appraisal driven.** Not true. Property taxes are based on government spending—not appraised values. (This fact is mentioned on page 3.) However, it is perceived that tax increases are appraisal-driven because local government tends to tie budget changes to value changes. This may have held true in times of appreciating real property values, but will not endure depreciating market values if services and government spending are not reduced.

There are no local units of government that have appraisal-driven property tax increases. Ironically, the state is the only government entity that actually has an appraisal-driven property tax. The state has two mill levies that are fixed and therefore rely upon increasing values to raise more taxes. One is the 1.5 mill levy for educational and institutional buildings and the other is the 20.0 mill levy for education.

2. **How Prop K Works.** With the exception of the 2% increase provision, this is essentially the system that was in place prior to the reappraisal of 1985. That system created unacceptable inequities in the property tax system because of the fact that properties do not appreciate in value at the same rate. That was not fair and equitable and did not result in taxpayers being any more pleased with the old system than they are the current one.

The way of handling new construction introduces a high degree of ambiguity—the very thing the author claims is the cause for taxpayer contempt.

3. **No more runaway appraisals.** The term "runaway appraisals" implies that appraised values in Kansas are out of control. The facts do not support that. The fact is that a comparison of appraised values with sale prices demonstrates conclusively that appraised values in Kansas are very much in line with market values. To imply that they are "runaway" does nothing to reduce the credibility of appraised values to the informed reader. However, it does lead this reader to question the motives and credibility of the author. The use of this inflammatory assertion appears to be intended to persuade the reader through the creation of a hysterical or emotional reaction rather than to be instructive or helpful.

4. **Violates the principals of capitalism and free market system.** Such a heavy-handed approach to a futile

attempt to limit property tax increases is contrary to the free market system in which buyers and sellers in the open market determine the value of property.

5. **Violates Article 11 Section 1 of the Kansas Constitution.** The limitation on appraised value changes would result in inequities. Therefore, the requirement for uniform and equal taxation would require a constitutional amendment.

6. **Very regressive.** Eventually, as property values appreciate/depreciate over time, more valuable properties will bear a disproportionately lower share of the tax burden while less valuable properties will bear a disproportionately greater tax burden. These inequities would grow over time.

Example: House A is located in an older area of town and is 50 years old when Prop K is implemented. House B is five years old and located in a newer subdivision of the same town. Both houses have the same baseline value as of the inception year for Prop K. Twenty years later, both houses would have the same value, which is now 40% higher than the base year due to the 2% per year automatic increase in value. (This would be true regardless of what happened to the real estate market.)

However, it is entirely possible that House A has fallen into disrepair and/or is located in a less desirable market area and is not worth its annually adjusted baseline value. And it is equally possible that House B is in a very desirable area and would sell in the open market for two to three times more than House A. Under the proposed rules of Prop K, the owner of House A could appeal the appraised value and have it reduced from its then-current annually adjusted baseline value if they could prove that its current market value is lower.

If the baseline value of House A was adjusted down to its then current market value, then it would follow there would always be a sub-class of properties that were at or near fair market value and another sub-class of properties that were appraised for significantly less than market value and that the resulting inequities would continue to grow over time.

7. **Property tax has evolved into a real estate tax.** Continual exemption of personal property by the Legislature has caused this to happen over the years. This has resulted in a tax shift from personal property to real property. And to exacerbate the problem, the state has allowed a gradual tax shift from state-appraised agricultural and utility property to locally appraised residential and commercial property. See the chart at http://www.ksrevenue.org/pdf/PVDHistoricApprais.pdf. This chart shows how locally appraised values (which are known to be in line with market value) have increased since 1992, while agricultural land values, utility, railroad, and other state-appraised values have flat-lined over the same timeframe. This has resulted in a multibillion-dollar tax shift as the statewide proportion of the tax burden shifted from state-appraised property to locally appraised property.

As the gap widens between locally appraised property and state-appraised property, the risk to those who have benefited from the preferential treatment grows ever more menacing. Although this inequity was brought to the attention of the Secretary of Revenue several years ago, nothing has been done about it. And it is not likely that anything will unless there is legislation to force the issue. But because lobbyists dominate state government, and because the railroads, utilities, pipeline owners (Dr. Hall once worked for one of them) and the like have the means to deploy an army of well-paid lobbyists to prevent them from losing their sweet deal, it is highly unlikely that any such legislation will ever see the light of day. So, rather than fix the known inequities by adjusting state-appraised utility and agricultural values to where they should be, Dr. Hall proposes that the Legislature and taxpayers of Kansas vote into law a proposition that will lock in the existing inequities and create many more. Stranger things have happened.

Proposition K: One Perspective

By Lori Reedy, RMA

I was recently contacted by Dave Trabert, president of the Flint Hills Center for Public Policy, and invited to participate in a work group. The goal of the work group was to address questions raised by the Legislature when HB 2150 was first proposed. The work group consisted of several professionals including commercial property owners, commercial realtors, investors and brokers, a residential realtor, an attorney, a couple of commissioners from Sedgwick County, a couple of state representatives and a commercial fee appraiser. Mark Clark was also present on behalf of the Sedgwick County Appraiser's Office. Initially, I accepted the invitation mostly because I was curious, and I thought it might be a benefit to all the appraisers to have someone on the inside, a mole so to speak.

My role in the work group discussions was threefold. First, I was there as a technical resource and answered questions about the appraisal process, statutes and things of that nature; second, as an advocate for local county government; and third, as a property owner and taxpayer. My presence there was well received, and on many occasions, individuals in the group expressed appreciation for my explanations and admitted that my input caused them to think about things they hadn't previously considered.

Even though I believe it was a benefit to KCAA for me to be involved in this process, I expressed my own opinions

continued on next page

Proposition K, continued

and at no time indicated that I was there as a representative of KCAA or any other organization. I do, however, believe that it is my obligation to share my experience with others in the ad valorem appraisal industry in Kansas. There were seven basic issues that were discussed over the course of three meetings: Effective Date, Appeals Process, Valuation Method, Basis for Percentage Increases and Limitations, What Percentage Should Be Used if Fixed, Revalue on Sale and New Construction Rules. I will attempt to summarize the discussions and my responses to the questions.

EFFECTIVE DATE

Options included January 1 of the year in which the legislation is passed, retroactive back to the first of the year; January 1 of the year following the year in which legislation is passed; or some other date.

The group appeared to be split between the current year and the following year. There was apparently some concern that if it were implemented the following year that somehow the property owner would be negatively impacted in some way. It would be possible for the county to unethically raise their values in an effort to offset the possible loss of future taxes.

I assured them this would not be the case, that we are bound by law to value property fairly and equally at market value. My suggestion was that I would prefer the following year for implementation of ANY legislative change. This would allow time to establish a plan, develop any new software applications and/or business practices, and provide training to pertinent staff. I believe this option would also provide a fair playing field for the property owner. I think some dissention could arise if taxpayers perceive they are being cheated out of an appeal process. If legislation were enacted retroactive for the current year and a property owner had already appealed in the Equalization process, they would be denied the option of a Payment-Under-Protest appeal that may take place after the effective date of the law change.

APPEALS PROCESS

Options were to either leave the existing appeals process intact; or modify the process so that instead of an appeal before the appraiser, the appeal would be heard by an appointed panel of government and non-government real estate experts. They also wanted to determine if the final level appeal at the state level should include a “loser pays” clause.

Again, the group appeared to be split on this issue. Some felt that the existing process was fair and worked well, while some felt that it could be improved, especially for commercial real estate. I was not surprised by this reaction, considering the number of participants that are directly involved in the commercial industry, either as business owners or real estate brokers, realtors or property managers.

My recommendation would be to leave the existing appeals process intact. The vast majority of value-related issues are resolved at the informal level to the satisfaction of both parties. If the taxpayer is unsatisfied with the outcome of that level, the second level of appeal is generally convenient for the property owner. COTA Small Claims hearings are scheduled locally either in the county the property is located in or an adjacent county. This process involves an unbiased hearing officer appointed by the COTA. Hearing officers are typically appraisal industry retirees or COTA attorneys well versed in the appraisal process.

I was plagued by questions and concerns when contemplating the alternative. Where would the hearings take place? How would the panel be selected? Who would appoint them? Would the county be responsible to pay them? Would the panel members be willing to travel, and if so, who would pay the expenses?

Introduction of an additional hearing option would definitely create additional costs for the county. It would be expensive to implement and difficult to administer. The “loser pays” option could very easily become a convoluted mess. At upper hearing levels, many of us have experienced how the outcome can be bounced back and forth between the county and the taxpayer. The COTA may decide in favor of the taxpayer; Court of Appeals may decide in favor of the county or may remand it back to COTA. How would we decide when to actually issue the “loser pays” fee? Would the county and the taxpayer both be writing checks to each other? There is a statute already in place that requires the county to pay interest on any return of funds that is ordered by COTA.

VALUATION METHOD

There were four options presented:

1. Option 1: Leave the current appraisal process intact.

2. Option 2: Original Prop K concept, baseline values increased by a fixed percentage each year; no limit on mill increases. Government revenue would increase by the fixed percentage plus any amount attributed to new construction and any mill rate increases

3. Option 3: Appraiser sets values annually, but mill rate declines at the same percentage that total values increase. Revenue-neutral, but individual tax bills could still rise based on values. Government could increase tax revenue by a vote of the public.

4. Option 4: Appraiser sets values annually, but cap placed on the amount tax bills could increase; would allow values to rise or fall but limit the amount of each taxpayer’s tax liability. Government revenue would increase up to the percentage limit on individual tax bills plus any amount attributed to new construction. Government could increase tax revenue by a vote of the public.

Group participants’ opinions were all over the place on this one; however, they were receptive to my input, and it appeared that they were in agreement with me that if you want to address tax reform, you should really concentrate on the taxes and not the valuation process.

Of course, I chose option 1 and responded that the current process meets the requirements of the Kansas Constitution. Ad valorem is the fairest tax and is already transparent. There are stringent compliance requirements established and monitored by the Property Valuation Division of the Department of Revenue. Independent sales ratio studies conducted by PVD ensure that property values are within 10% of their most likely selling price. It also measures the deviation from the median sale price, which controls the dispersion of value differences allowed. There are well-established valuation methods for arriving at fair market value. USPAP, developed by the Appraisal Standards Board of The Appraisal Foundation, is the generally accepted and recognized standards of appraisal practices in the United States. These standards establish requirements for professional and ethical practices. Kansas county appraisers are bound to these requirements by the State of Kansas.

The original decision by the state of Kansas to implement Reappraisal statewide was because there was inequity in the valuations on property, and therefore the tax burden was not fairly distributed. By placing a cap on property values, you are reintroducing inequity back into the system. Sometime down the road (probably a very short road), we will find ourselves back in the same predicament that prompted Reappraisal. Some property owners will be paying more than their fair share while other will be paying less than their fair share. Property values do not increase at the same rate and neither should taxes that are based on values.

Tying the counties' hands with the "revenue neutral" option does not appear to be financially feasible. Even without increasing public services or taking on additional projects, the price of government increases just like the costs of good and services increase in virtually every sector of the free world. Controls such as this would be devastating to local governments, especially those experiencing slow or no growth.

Placing a limit on individual tax bills would be detrimental to the functionality of local government. Because of tax erosion caused by exemption statutes, the taxable value in most counties is actually decreasing. Many counties are experiencing reductions in property values due to the mortgage/lending crisis. If property values were to decrease by 5% and the county was limited to increase individual tax bills by 2%, the maximum the county could collect would be 3% less than the previous year (unless of course, they experience enormous growth).

Again, because values are market based and Kansas is a market-based state, to maintain equity in taxation, taxes must also be allowed to fluctuate with the market. If any kind of limit were to be placed on tax increases, it would make more sense to apply it at the government revenue level. It would be much simpler to understand and administer if the amount of revenue collected by local government was limited by restricting mill levies to a certain percentage, and then if additional monies are needed, voters could determine if an increase in the mill levy is warranted.

BASIS FOR PERCENTAGE INCREASES AND LIMITATIONS (if formulas are used to increase appraised values or limit the amount that individual tax bills can increase)

Options presented are either a fixed percentage rate or a rate equal to the change in the Consumer Price Index. The discussion on this issue was limited, with very few participants expressing strong feelings either way. I didn't have a great answer for this question other than I think economic experts should be consulted to ensure a methodical and systematic approach. The decision should be scientifically based and statistically sound.

If a fixed percentage increase is used to increase appaised values or cap the amount that individual tax bills can increase, what percentage should be used?

Five options were presented:

1. Option 1: 0%
2. Option 2: 1%
3. Option 3: 2%
4. Option 4: 3%
5. Option 5: some other rate

We were asked to respond to this question in relation to the Appraised Value Baseline Option and the Cap on Tax Increase Option.

I really struggled with this one. It would be very difficult for me to even consider recommending a specific rate when I strongly disagree with the concept being addressed.

In my opinion, capping appraised values is a huge mistake. It is in direct opposition to the provision in the Kansas constitution that states "the legislature shall provide for a uniform and equal basis of valuation and rate of taxation." I'm sure this concept could be well debated by intelligent and informed attorneys as to whether it is legal or not. Dave Trabert argues that it is legal. It may be uniform to increase values by a set percent per year, but it is NOT fair. Capping values would be difficult to implement, monitor and evaluate.

When addressing tax reform, I think it makes more sense to apply controls to the actual tax dollars collected. I think capping individual tax bills would be inefficient and would also contribute to an unfair distribution of tax. It would also be extremely difficult to implement and administer. Special applications would have to be developed (costly), and there would have to more than one process in place: one to deal with those that calculate above the high limit, one to deal with those that fall within the limit range and also one to address the complex issues involved in dealing with new construction.

Capping collectable revenue increases is more logical, but it is also not without issues. It would be easier to implement and manage a cap on mill levies. Either way, it would not be the preferred solution because it could cause undue hardships to local governments, especially the smaller and rural communities that already struggle to provide basic needs such as fire and police protection and emergency

continued on next page

Proposition K, continued

During the meetings, I attempted to steer the focus to addressing the big picture of property tax reform…. By focusing only on the real property tax base and ignoring the implications of exemptions that have caused erosion of the tax base, this proposal will only compound the problem.

medical services.

REVALUE ON SALE

Options presented:

1. Option 1: Revalue on sale to actual price

2. Option 2: Revalue on sale but value is assigned by the appraiser

3. Option 3: No revaluation on sale; if Value Option 2 (original Prop K), the new owner inherits then-current baseline value; if Value Option 4 (caps on individual tax bills), the taxes paid by the previous owner will be the basis for which the new owner's tax limit shall apply.

In my opinion, none of these options are viable. Valid sale prices are already taken into consideration by the appraiser when each property is reviewed annually. By statue, appraisers value property at fair market value as of January 1 of every year. This ensures that values are current and reflective of current market activity or, at the very least, recent market activity. "Value at Sale" would cause complete inequity in the valuation process and would ultimately lead us to another Reappraisal sometime down the road. It is NOT a fair way to address uniform and equitable valuation and taxation.

NEW CONSTRUCTION RULES

This issue is way too complex and convoluted to address in a straightforward and efficient manner that would result in something successful. Even the options are difficult to understand. I will try to be as brief and succinct as possible.

1. Option 1: County appraiser values new construction and improvements under the rules currently in existence (OH WAIT!!! I understand this one!!).

2. Option 2: New construction will be valued at cost; specified to include "hard" costs (materials, labor, etc.), but to exclude certain "soft costs" (leasing fees, brokerage, fees, interest, appraisal costs, legal, etc.).

3. Option 3: Value new construction and improvements at a percentage of cost based on a formula that would adjust cost downward to allow for the difference between the annual rate of baseline increase and the inflationary growth of construction costs. (Wow, I don't even know if I could say that in one breath!)

4. Option 4: Value new construction and improvements by the average-square-foot (ASF) method proposed in HB2150.

Oh, wait, if you choose Option 2, you must also address which costs should be included and which costs should be excluded.

If you choose Option 3, you must also specify the method for calculating the adjustment rate, which costs should and should not be included, and whether there should be a dollar or percentage limit so repairs and upkeep don't increase the tax basis of a property and, if so, how should this exclusion be determined.

If you choose Option 4, you must also specify the radius to be used in and outside of the city limits; how ASF should be calculated (interior or exterior measurements); and what, if any, allowances should be made for any number of sundry items such as finished/unfinished basements, ranch style or multi-story properties, outbuildings, garages, swimming pools, decks and patios; and can you think of anything else?

Seriously??? Guess what I picked.

During the meetings, I attempted to steer the focus to addressing the big picture of property tax reform. I provided actual data from Reno County indicating the loss in assessed value caused primarily by the business equipment and machinery and the low-producing oil well exemptions. I explained it would negatively affect our tax base and most likely cause mill levy increases resulting in higher individual tax bills. By focusing only on the real property tax base and ignoring the implications of exemptions that have caused erosion of the tax base, this proposal will only compound the problem. Many participants in the work group were receptive to this perspective; however, Dave Trabert, acting as mediator, was obviously only interested in answering the questions posed by the Legislature relative to the Proposition K proposal.

Dave's plan at this point is to solicit answers to these questions from all the work group participants and compile them. He will then develop a survey that will be given to a number of people both in the public and private sectors. I and others in the group expressed concerns that a survey could not be written in such a way that the average person would be able to comprehend the implications of their answers. Trigger words like "value" and "taxes" may influence them to answer based on emotion rather than common sense or logic.

I plan to contact my local state representatives (I think you should too!) and make them aware of the negative effects that would result if HB 1250 were passed into law. Not only is it unconstitutional, but it would also be costly to implement, difficult to administer and cause additional inequity in the property tax burden on individual property owners.

Texas AG Accuses Property Tax Consultancy of Deception

By Nancy Sarnoff
Reprinted from the Houston Chronicle, June 1, 2009

Texas Attorney General Greg Abbott has sued Houston-based O'Connor & Associates and a judge has ordered a temporary restraining order against the property tax consulting firm based on allegations it violated the Texas Deceptive Trade Practices Act and the Texas Property Tax Code.

O'Connor, which purports to be the state's largest property tax firm, filed thousands of tax protests without taxpayers' consent, failed to appear at hearings and submitted fraudulent documents, among other violations, according to a lawsuit filed Friday by the state in Harris County.

"Put simply, O'Connor & Associates took action it was never authorized to take, but failed to do the work it was actually hired to perform," Abbott said in a statement released Monday, which also happened to be the deadline for most homeowners to file a property tax appeal with county appraisal districts.

O'Connor characterized the lawsuit as "ludicrous," and claims the attorney general's office is reacting to an attempt by the Harris County Appraisal District, or HCAD, to discredit the firm and undermine its business.

"We are aggressive advocates for our clients," said Janice Phillips, managing director of the company's property tax division. "By doing so we've made some powerful enemies. But we stand behind what we do."

O'Connor represents Texas homeowners in attempts to reduce the amount of property taxes they pay. The company said it saved customers more than $65 million in taxes last year. And with that sort of volume, human mistakes do occur, said Phillips.

"We do our very best to service our clients. Pat O'Connor would be first to say we're not perfect," she said, referring to the company's president, who was out of the country Monday. "We make mistakes but when we are made aware of them we do our best to clean them up."

Court documents submitted by the AG's office allege that O'Connor filed tax protests without taxpayers' knowledge or consent. Under Texas law, an appointment of agent form must be on file with the appraisal district before the date of the property tax protest hearing. However, HCAD records indicate that O'Connor failed to submit the legally required forms in more than 11,000 cases.

Phillips said the company would never protest anyone's taxes if it didn't think it had the authorization.

Bernardo Garcia, deputy general counsel for HCAD, said the district believes that O'Connor has engaged in similar practices throughout the state. In complaints, according to the state, taxpayers said O'Connor filed protests on their behalf even after they specifically declined to hire the firm. In cases where the unauthorized protest involved taxpayers who received refunds, O'Connor sent invoices and filed lawsuits against taxpayers who refused to pay for the service.

Court documents also allege that O'Connor failed to take action in more than 9,000 cases in Harris County last year where the company was hired to represent taxpayers. As a result, taxpayers were not notified about hearing dates and did not have the opportunity to appeal adverse rulings by appraisal review boards.

Phillips said the company would only file an initial protest if a client had led it to believe it wanted representation. If the client didn't authorize the firm to go forward with the hearing, it would not do so.

State alleges fraud

The state also said certain O'Connor documents that purported to memorialize verbal appointment of agent authorizations were fraudulent because they were both signed and notarized by the same employee. Texas law prohibits notaries public from notarizing their own signatures. The temporary restraining order prevents the company and law firm McKenney & Associates, which files judicial appeals for O'Connor clients and whose principal is Pat O'Connor's brother-in-law, from engaging in certain acts in which the company has been accused. It does not, however, preclude O'Connor from filing appeals.

The state is seeking civil penalties of up to $20,000 per violation of the Texas Deceptive Trade Practices Act and up to $250,000 for each time the company financially harmed a consumer 65 or older.

—nancy.sarnoff@chron.com

The weird keep on coming!

Submitted by Kevin Bradshaw, CAE, RMA, Wyandotte County

Crooked House

Container City—London

Assessors Voice Concerns in West Virginia

Reprinted from The Fayette Tribune, Oak Hill, WV, June 23, 2009

Submitted by Sackey Kweku, Jackson County, Mo. Assessor's Office & IAAO Board Member

The Association of West Virginia Assessors (AWVA) has publicly voiced several concerns over a $2 to $4 million state-funded private appraisal study, already under way in 19 northern counties, and set to be performed throughout every county in the state over a three-year period. A status report was presented to the Assessors Association at its annual meeting recently held in Huntington last month.

The stated purpose of the plan is to analyze assessed values throughout the state and the methods that county assessors utilize in establishing those values. The AWVA is a membership association comprised of the 55 elected county assessors in the state and allows the assessors to speak as one voice regarding property tax issues in West Virginia.

According to Fayette County's assessor Eddie Young, current president of the AWVA, the Assessors Association began expressing concerns over the plan to Governor Manchin, his legislative aides, the state tax commissioner, and the legislative leadership in early 2008 outlining the Association's concerns over the private study. The assessors cited several areas of concern, the first being their belief that the private study merely duplicates the monitoring and oversight authority already granted to the Property Valuation Training and Procedures Commission (PVTPC) under § 11-1C of the West Virginia Code. The PVTPC was enacted in 1990 when county assessors were instructed to implement the state-wide property re-appraisal in recurring three-year cycles.

Young, speaking on behalf of the assessors said, "The Property Valuation Commission establishes the methods we use to establish values and monitors every assessor's compliance with property tax regulations annually. It also has the authority to provide guidance in correcting any deficiencies in each county that may exist, and to penalize assessors if they fail to perform the duties specified in Sections 7 and 8 of Article 1C.

"Every assessor in the state annually welcomes the state monitors to our offices and works in a cooperative manner in identifying and correcting deficiencies. We are not opposed to any constructive criticism or valid guidance," he said.

"However, we believe it's a valid question to ask why is the Legislature is spending $2 to $4 million more of taxpayers' money during a time of economic crisis hiring private firms to perform activities that are already being done by taxpayer-funded state agencies such as the PVTPC, the State Tax Department, and its employees."

A second issue raised by the assessors cites apparent conflicts of interests in the selection of the private contractors to perform the study and whether it truly is independent.

Young indicated that the project manager who is being paid to oversee the study is in fact the recently retired director of the Property Tax Division of the State Tax Department, and past chairman of the Property Valuation Commission.

"A conflict of interest would seem to arise when the person hired with government funds as a private contractor to manage the project is now being paid again to perform the same activities that he should have been performing and implementing as a paid employee of the state over the past number of years," Young said.

The Assessors Association also believes that mostly out-of-state firms will be doing the study, and in fact, the five private appraisal firms under contract currently working in the 19 northern counties are all from outside the state. This could well lead state property owners to have reasons to be leery of any conclusions drawn, he pointed out.

"Long-time residents of the state will remember when state-wide property reappraisal was first attempted in the late 1980s and outside firms were hired to do the work. Millions of dollars were paid to these firms and the results were never implemented due to the unacceptable number of errors and misinformation contained in the conclusions."

The assessors believe that such firms will have limited knowledge of the unique property characteristics that exist not only throughout different regions in the state, but within individual counties themselves. The AWVA also stated that having these firms contact individual home owners will also cause confusion since each assessor's office annually contacts home owners regarding sales and property characteristic information.

"Home owners can be reluctant to give information out about their property that they consider to be their own private business," Young said. "But at least in each individual county, many residents know the employees of the assessor's office and have dealt with them over different issues over the years. But having strangers from Ohio, Maryland, or Pennsylvania asking for such information can be unsettling."

The AWVA stated that "so-called independent property tax studies have been performed countless times throughout our state's recent history and will be done again in the future. But whatever conclusions have or will be drawn by those doing the studies, the fact remains that it is the assessors who are on the front lines 365 days a year and who must address their frustrated constituents concerns daily."

A third issue the assessors noted in their discussions with the Governor and various legislators is that it believes that the $2 to $4 million cost of the appraisal study is an inefficient allocation of limited state resources that could be better utilized by providing assessors the latest technology, technical tools, and continuing education that is advanced through such organizations as the International Association of Assessing Officers. The organization also cautions that such property tax studies are many times used as a veiled attempt at mandating further property tax increases on the individual property owner.

"Every county assessor in the state takes very seriously his or her oath of office to uphold the laws of the State of West Virginia and to abide by and accurately implement the property tax rules and regulations as they currently exist," Young said on behalf of the group. "But we also feel an obligation to protect the rights of the property owner. It simply appears that this study is another attempt by the legislative and executive bodies to pass the buck for future property tax increases on the desks of the local assessors. We, therefore, believe it is important as an Association to inform the property taxpaying public of what may lie in store."

The group noted that legislators many times do not fully understand local property tax issues and that "the Association and its individual assessors' input and concerns should not be taken for granted…that it is ironic that at a time when assessors are being monitored and criticized to be more vigilant in assessing property at the constitutionally mandated levels to ensure that local school boards and counties receive their fair share of local property tax revenue, an increasing number of exemptions and preferential tax treatments for large corporations and special interests are being adopted by the Legislature and signed into law by the Governor that significantly erode the local tax base. While additional property tax revenue may benefit these entities in the short term, the long-term impact will be far more negative, as an increasing number of school bond and excess levies are defeated by taxpayers angered by increasing property taxes."

The Assessors Association recommended that individual property owners with questions and concerns regarding activities being conducted by the private appraisal firms or to voice displeasure over the funds being spent should contact the Property Tax Division of the West Virginia State Tax Department at 304-558-3940.

Waxman-Markey on Manufactured Homes

Legislation provides for replacement of older mobile homes.

By Roger Valdez

Mobile homes, or manufactured homes, are likely one of the last housing types we might think of when we think of energy efficiency. But in fact, there still are a lot of manufactured homes out there and many of them are quite old and not very snug. (Trailers account for more than 7 percent of housing units in the US—that's about 8 million homes. And mobile home owners or renters usually don't have the resources to weatherize or upgrade to newer, more efficient models.)

The Waxman Markey bill has a provision to provide rebates to manufactured homeowners that own homes built before 1976. In June of that year Congress passed comprehensive legislation to create a more demanding and uniform set of standards for manufactured housing. It's hard to say how many of these homes are still around.

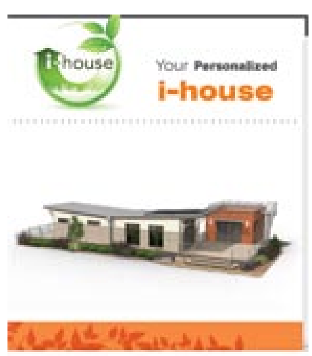
The bill would distribute money through state programs for lower income owners to replace their home with an Energy Star mobile home. The old home would have to be dismantled and couldn't be used again.

While manufactured housing sales have fallen since their peak in 1973—from 579,960 to about 95,000 in 2007—they are still very affordable, averaging about $65,000 per home. The median income of a person living in a manufactured home is about $35,000 (substantially lower than the annual median income in the US of $50,000) and their average age is about 49 years. Because the manufactured market is so small, there isn't a lot of data about the sector's impacts on energy use or greenhouse gas emissions attributable to manufactured housing. And the bill is really only targeting really old homes that presumably were built to standards not as rigorous as those established in 1976.

But there are some companies that are now designing manufactured housing that is more efficient than the Energy Star rating. These are thoroughly green manufactured homes. Clayton Homes, for example, is set to sell their "i-House" sometime this year. Now this is a home I would live in. And its price— $75-$100,000 —is fairly reasonable.

Locally, Unico Properties has created a prototype for green pre-fabricated housing called Inhabit. Their prototype is another example of great-looking design that defies the worst stereotypes about mobile homes.

Who knows? Manufactured housing might be an important part of both affordability and sustainability in our region's future. Until then Waxman-Markey, if it passes with these provisions, will go a long way toward improving the existing stock of manufactured housing and helping cut energy costs (and use) for a slew of families.



To learn more about the Clayton Homes i-house, including a video tour, visit their website at http://www.claytonihouse.com/index.cfm

Real Estate Notes of Interest

■ Michael Phillips & Ruth Simon, *The Wall Street Journal*, March 5, 2009. The federal plan to help with the home mortgage bailout is projected to help one in nine homeowners. Information from the U.S. Treasury below shows those that will and will not qualify for assistance:

Loan Modification:

Qualify: (1) Have payments of more than 31% of pretax monthly income and can prove hardship, (2) Occupy a single-family home, (3) Can prove the home is the primary residence, (4) Have an unpaid principal balance of $729,750 or less, (5) Have a mortgage originated on or before Jan.1, 2009, (6) Make all modified payments over a trial period of three months or more.

Don't Qualify: (1) Aren't about to default, (2) Are an investor with a home that isn't owner-occupied, (3) Have a home that is vacant or condemned, (4) Have an unpaid principal balance of more than $729,750, (5) Have a mortgage packaged into securities, whose rules explicitly forbid modification, (6) Have loan servicers who can't be reached or are unwilling to consider modification.

Loan Refinancing:

Qualify: (1) Have loans owned or guaranteed by Fannie Mae or Freddie Mac, (2) Are current on mortgage payments, (3) Can prove the ability to afford the new mortgage debt, (4)Mortgage balance of no more than 105% of current established home value.

Don't Qualify: (1) Have loans owned or guaranteed by a company other than Fannie Mae or Freddie Mac, (2) Have been more than 30 days late on a payment in the last 12 months, (3) Can't afford the new mortgage debt, (4) Home price has fallen so that the loan is more than 105% of the market price.

■ James Hagerty, *The Wall Street Journal*, March 6, 2009. The Mortgage Brokers Association latest survey indicates that about 11% of mortgages on one to four family homes were at least a month overdue or in the foreclosure process at the end of 2008.

■ Christina SN Lewis, *The Wall Street Journal*, March 6, 2009. **Editor's Note:** When reviewing the financial reports of KCAA, always shown in this newsletter, it appears the association is financially healthy. I would like to propose a very good use of those funds for its members and, of course, your newsletter editor. There is an apartment for sale on the cruise-liner known as the World. It is a 165 unit cruise-liner that allows you to stay in your apartment and cruise the world. The best one is for sale again for $17.5 million. Think how much fun that would be for vacation.

Now, I realize KCAA is not *that* financially healthy, but I am thinking a one-time special assessment to each county of $200,000 would buy the apartment and pay for all the maintenance cost for a year. So, go forth, county appraisers, and hit your commissioners up for the money. Let me know which week I can have.

■ Roger Yu, *USA Today*, March 6, 2009. Hotel occupancy and revenue are expected to plummet this year. About 36% of full-service U.S. hotels will lack the cash flow needed to pay their monthly mortgages in 2009 vs. 21% in 2008, says Mark Woodworth of PKF Hospitality Research.

Though it's rare for hotels in foreclosure to shut down completely, since debtors still want operating incomes, they are increasingly cutting back on services to save money. That means fewer restaurants will remain open and room-service hours will be cut. There will be longer wait times at the front desk and fewer bellhops working in the lobby.

■ National Real Estate Investor, July 1, 2008. The information below is older but is kind of interesting. The article shows the top 25 owners of office space, shopping centers, apartments and industrials.

Offices - worldwide		**Shopping Centers - US**	
RREEF	93.6 million sq. ft.	Simon Property Group	242.1 million sq. ft.
Brookfield Properties Corp.	59.5 million sq. ft.	General Growth Properties	180.5 million sq. ft.
The Blackstone Group	57.9 million sq. ft.	Developers Diversified Realty	163 million sq. ft.
Hines	55.4 million sq. ft.	Kimco Realty Corp.	120 million sq. ft.
CB Richard Ellis Investors	49.8 million sq. ft.	Centro Properties Group	106.5 million sq. ft.

Apartments - US		**Industrial - worldwide**	
AIMCO	197,158 units	ProLogis	512.2 million sq. ft.
MMA Financial LLC	188,159 units	ING Clarion Partners	193.9 million sq. ft.
Boston Capital	167,679 units	AMB Property Corp.	147.7 million sq. ft.
Equity Residential	154,152 units	RREEF	125.9 million sq. ft.
SunAmerica Affordable Housing Partners Inc.	143,674 units	LaSalle Investment Management	121 million sq. ft.

■ Haya El Nasser, *USA Today*, March 11, 2009. One of the stages in a neighborhood's life cycle is revitalization. It appears that revitalization has been occurring in more urban areas. In more than half of the 50 most populous metropolitan areas, the urban core has been capturing more of the region's residential new-building permits since 2002.

■ *Associated Press*, March 17, 2009. The Commerce Department reported Tuesday that construction of new homes and apartments jumped 22.2% in February compared with January.

■ Wendy Koch, *USA Today*, March 18, 2009. New homes, after doubling in size since 1960, are shrinking. Last year, for the first time in at least 10 years, the average square footage of single-family homes under construction fell dramatically, from 2,629 in the second quarter to 2,343 in the fourth quarter.

■ Michael Corkery & Dawn Wotapka, *The Wall Street Journal*, March 11, 2009. Sale of foreclosed homes is not only creating competition for individuals trying to sell their homes but also for home builders. Home builders are often finding a large number of foreclosed homes for sale at drastically reduced prices competing with their new homes in subdivisions that the builder developed. The builders see some hope if the government's intervention plan works to reduce the number of foreclosures.

■ Ruth Simon, *The Wall Street Journal*, March 12, 2009. Mortgage investors that purchased bundled home mortgages are asking for changes to the housing rescue plan. Large shares of the investments are delinquent loans, and roughly half of them have second mortgages. Investors continue to complain that mortgage servicers are concentrating on the loans they retained and not helping to rewrite loans that they sold to investors.

■ James Hagerty, *The Wall Street Journal*, March 20, 2009. Interest rates on 30-year home loans dropped below 5%. Most experts are predicting that the rate cannot go much lower than currently. Experts are predicting that rates through the year will remain in the 4.5% to 4.75% for those with the best credit ratings and up to 5.5% for other loans.

■ Jim Carlton, *The Wall Street Journal*, March 21, 2009. A ray of hope in some CA markets? In 2008, Mountain House, CA was recognized as one of the most under-water residential communities in the US. At that time, 90% of the home owners owed more than the value of their home. Now home sales are up, and bidding on some homes have driven the price to as much as 30% greater than the asking price. In January, CA homes were on the market an average of 6.7 months as compared to 16.6 months a year ago. Maybe the worst could be over, but the house that sold for 30% more, sold for $390,000 as compared to $781,900 in January 2007.

■ Kris Hudson, *The Wall Street Journal*, March 21, 2009. Bad news for General Growth Properties, the nation's second largest owner of malls, continues as Citigroup announced it and two other lenders filed court papers to foreclose on Oakwood Center mall in New Orleans. The mortgage was for $95 million and is now past due.

■ Kris Hudson, *The Wall Street Journal*, March 23, 2009. In order to avoid several mall foreclosures, General Growth Properties has proposed a quarterly fee of 62.5 cents per $1,000 of bonds in lieu of making any principal and interest payments. The interest would continue to accrue and the bonds are due in 2012 and 2013. The company has total debt of $27 billion.

n Amanda Gengler, *Money Magazine*, April 2009. Forecasters at Moody's Economy are predicting that home prices will bottom out at the end of this year but that median home prices probably will fall another 10% on top of the already drop of 27%—that is, if the government's housing plan works. If not, then the bottom may not be until late in 2011. Prices though are not expected to reach the 2006 levels for another decade. The Midwest is expected to be in the second of three recovery phases as most value reductions have been recognized.

■ National Association of Realtors, March 24, 2009. According to the NAR website, the homebuyer tax credit is one of 10 key provisions of the American Recovery and Reinvestment Act signed by President Obama into law on Feb. 17, 2009. The bill provides for an $8,000 tax credit that would be available to first-time home buyers for the purchase of a principal residence on or after January 1, 2009 and before December 1, 2009. The credit does not require repayment. Most of the mechanics of the credit will be the same as under the 2008 rules: the credit will be claimed on a tax return to reduce the purchaser's income tax liability. If any credit amount remains unused, then the unused amount will be refunded as a check to the purchaser.

■ Walter Molony, National Association of Realtors, March 23, 2009. Home sales increased 5.1% in February from January but are still 4.6% below February 2008. Even though the volume of sales increased, the median sale price of $165,400 is down 15.5% from a year ago.

■ Julie Masis, *The Boston Globe*, March 22, 2009. The town of Shirley, Mass., has stated a sign is a sign and has now started to enforce the requirements that for each for-sale sign on real estate, there is a $25 fee. **Editor's Note:** At the time of this article, I had the city assessor of Shirley in class. She stated the Board of Supervisors was mad at the enforcement officer. Their reasoning: Just because we have a large deficit, why are you starting to enforce an old law?

■ Stephanie Armour, *USA Today*, March 26, 2009. There is good news for the residential markets: with interest rates dropping below 5%, more people are now purchasing homes. Up to 45%

REAL ESTATE NOTES, continued

of existing home sales in February were distressed properties.

■ Robert Frank, *The Wall Street Journal*, March 28, 2009. A recent survey found that those investors with investible assets of $1 to $10 million plan to add to their exposure of residential real estate in the next one to two years
.

■ Lingling Wei, *The Wall Street Journal*, March 26, 2009. Concern continues to rise about the increases in commercial loan delinquencies. Some experts believe it looks like the real estate recession will rival or exceed the one in the early 1990s. Others believe that the economy is gaining slightly and commercial properties may not be hit much harder.

Editor's Note: The real estate news has and continues to be gloomy. I will be making a concentrated effort to report some good news…if and when I find it!

■ Orest Mandzy, *Commercial Real Estate Direct*, March 26, 2009. Another $1.2 billion of securitized commercial mortgages became delinquent last month, pushing the volume of delinquent CMBS loans to $12 billion, according to Realpoint. That's an increase of 246 percent from a year ago, when $3.46 billion of loans were delinquent.

■ Walter Molony, National Association of Realtors, March 27, 2009. NAR's name is being used as part of a rental property scam. The scam claims that on receipt of a deposit, NAR will deliver the keys to the property to the tenant. Prospective tenants are instructed to send money via Western Union to NAR's purported agent in the United Kingdom.

■ Stephanie Armour, *USA Today*, April 1, 2009. Case-Shiller Index of January home prices was not surprising to most experts. Home prices in the 20 largest metropolitan areas were 19% below a year ago, and the areas that had the largest upswings in values were the same areas with the largest downswings: Phoenix, Las Vegas, San Francisco and Miami. The bright spots are the median sale price rose slightly, lower interest rates have since become available, and federal incentives, including an $8,000 tax credit for first-time homebuyers, and an increased number of sales are in the picture.

■ Tim Turner, *The Kokomo Perspective*, April 1, 2009. Indiana State Legislature has been discussing a constitutional lowering of the caps for property tax. One legislator has proposed implementing this year and looking at the results before the constitution's caps are changed this year; it would result in further delays in mailing the tax bills and, more importantly, would lower revenue after budgets and levies have already been set.

■ James Hagerty, T*he Wall Street Journal*, March 31,2009. Since the collapse of the subprime market in 2007, more home loans from people that cannot afford larger down payments are being insured by the FHA. As a result, 7.46% of loans are delinquent by 90 days, which makes them seriously delinquent. That number is up from 6.16% of a year ago.

■ Kris Hudson, *The Wall Street Journal*, March 31, 2009. Too big to fail? I am sure that line sounds familiar, but maybe it is applying to the loans by General Growth Properties, Inc., the second largest owner of mall space. The company continues to miss payment deadlines, but none of the creditors are talking about forcing bankruptcy or taking back the properties. It appears the rents are sufficient to service the interest requirements but not reduce the principal.

■ Paul Ziobro, *The Wall Street Journal*, March 31, 2009. Though not typical under normal market conditions, more and more restaurants are moving into closed structures that previously housed a restaurant. Some of those leading the way are: Buffalo Wild Wings, which has purchased eight Don Pablo's restaurants; Panera Bread, which has been negotiating with landlords of several closed Bennigan's; Burger King, which has leased several former Starbucks and Chili's with some buildings formerly leased to Outback Steakhouse.

■ Michael Corkery and Dawn Wotapka, *The Wall Street Journal*, March 31, 2009. Several of the large new-house builders have been offering terms on new homes with interest rates from 3.625% to 3.99% on a three-year fixed loan and still not receiving much interest. There are some restrictions on the loans, such as maximum amounts that can be borrowed, 10% down and a pretty high credit score.

■ Pui-Wing Tam, *The Wall Street Journal*, April 1, 2009. Say it isn't so! Even the high-end office buildings in the best locations are seeing some additional vacancies. Sand Hill Road, the moneyed center of Silicon Valley, is second only to midtown Manhattan. The vacancy rate has risen in the last year from 4.5% to 6.6%, but do not feel too sorry for the landlords as rent is around $12 per square foot per month—not per year, per month.

■ Lingling Wei, *The Wall Street Journal*, April 1, 2009. This had to hurt! Boston's famous Hancock Tower sold at foreclosure auction for $660.6 million, which is half the purchase price from three years ago.

■ Lingling Wei, *The Wall Street Journal*, April 3, 2009. According to Reis, Inc., nationwide office vacancy rates rose from 14.5% the previous quarter to 15.2%, and it may rise to over 19%. That rate would be worse than in the 1990s and the highest on record. Reis reported that over 25 million square feet of office space was dumped in the first quarter from being rented

■ Be careful about handing your keys to a hotel valet. A recent story in *USA Today* stated that a hotel in Atlanta lost a client's car, which was found damaged four days later. The car was a rare Lamborghini Gallardo Spider with a value of $284,000—just a typical appraiser type of car.

REAL ESTATE NOTES, continued

■ *Builderonline.com*, April 8, 2009. In a major deal that could reshape the housing industry, public builder Pulte said today that it would acquire fellow public builder Centex in a $3.1 billion stock-for-stock agreement with $1.8 billion in net debt. If approved by shareholders, the deal would create the country's largest home builder, with 39,000 combined closings in 2008 and pro forma revenue of more than $11 billion.

■ If you have not seen them already, there are two very good drafts on the IAAO web page (iaao.org) titled IAAO Sales Verification & Foreclosure and Market Value Principles in a Time of Economic Crisis.

■ Joshua Boak, *Chicago Tribune*, April 9, 2009. The number of players in the struggling ethanol business may continue to get smaller. Valero Energy Corp broke into the business last month by purchasing seven plants from bankrupt VeraSun Energy Corp for a 70% markdown. It is believed that ADM and Cargill are waiting in the wings to make similar purchases for just pennies on the dollar. Valero's purchase makes them the third largest producer of ethanol.

■ Martin Crutsinger, *Builderonline.com*, April 16, 2009. The Commerce Department said Thursday that construction of new homes and apartments dropped by 10.8 percent last month to a seasonally adjusted annual rate of 510,000 units. That was the second lowest construction pace in records that go back 50 years.

■ A little tidbit from Fox News: The new Yankee Stadium cost slightly over $4,400 per square foot to construct. Try finding that cost rate in Marshall Swift.

■ Stephanie Armour, *USA Today*, April 15, 2009. Volume and sale price are down on vacation homes. The typical vacation home buyer is 46 years of age, median income of $97,200, three- fourths are married, and over half have no children under 18. Information shown below is from the National Association of Realtors and sales are expressed in millions.

Year	Amount	Year	Amount
2003	$0.85	2004	$0.87
2005	$1.00	2006	$1.10
2007	$0.74	2008	$0.51

■ Stephanie Armour, *USA Today*, April 16, 2009. Realty Trac.com reports that the number of foreclosures surged in March as lending institutions stopped granting temporary foreclosure proceedings. March was 46% above last year and 17% greater than in February.

■ National Association of Realtors, April 16, 2009. Passage of the new American Recovery and Reinvestment Act could be a large benefit to first-time home buyers. In 2008, a tax credit for this same event was passed but required the "tax credit" to be repaid. The bill provides for an $8,000 tax credit that would be available to first-time home buyers for the purchase of a principal residence on or after January 1, 2009, and before December 1, 2009. The credit does not require repayment.

■ Elaine Misonzhnik, *National Real Estate Investor Online*, April 16, 2009. REIT General Growth Properties filed for Chapter 11 bankruptcy. The REIT had been struggling for more than a year to secure extensions or line up refinancing for the more than $27 billion debt the firm had amassed in rising to become the second largest owner of regional malls in the country. Most recently, the failure to win enough bondholders to agree to forbearance seems to have tipped the firm finally into bankruptcy.

■ *HotelNewsNow.com*, April 2, 2009. In year-over-year measurements, the industry's occupancy fell 12.3 percent to end the week at 56.6 percent (64.6 percent in the comparable week in 2008). Average daily rate dropped 8.8 percent to finish the week at US$99.77 (US$109.34 in the comparable week in 2008). Revenue per available room for the week decreased 20 percent to finish at US$56.50 (US$70.61 in the comparable week in 2008).

■ Commercial Real Estate News, April 14, 2009. Rental rates for small retail properties declined by 3.4% in the first quarter, the largest single quarter decline since 2006, and is now down by 9.3% from a year ago, according to Boxwood Means Inc. Small retail is defined as under 50,000 square feet with the average at 13,500.

■ All the following are from the May issue of *Money Magazine*.

Four fast fixes to help you sell your house:

1. Improve your curb appeal by upgrading the mailbox, new house numbers, doorbell and knocker and edge and mulch the flower beds.
2. Update your bathrooms with new faucets and regrout all tiles.
3. Paint the interior and replace boring light fixtures.
4. Revive the kitchen with new hardware and paint dark cabinets white.

Some small items that require small cash outlays to update your property are:

1. Install a heated towel rack. You can find these at Bed Bath and Beyond for around $160.
2. Organize closets to remove all clutter and make more useable.
3. Hang a porch swing.
4. Plant a backyard orchard.
5. Chill wine cheaper than buying an expensive wine fridge. The Cooper Cooler is $100 at stacksandstacks.com and can chill a bottle of wine to drinking temperature in six minutes or a beer in one minute. Now we are talking!

Five things you need to know about buying a foreclosed house:

1. Hanging out at the courthouse for sales is not needed; instead you can go online to realtytrac.com and foreclosurepoint.com.
2. It is best to buy from a bank.
3. Have a contractor estimate the cost of repair. Walking through a foreclosed house in advance of purchas-

REAL ESTATE NOTES, continued

ing is generally only possible when purchasing from a bank.

4. Bid low. If there are a large number of foreclosures in the area, start at 20% below market value.

5. Because of the large number of foreclosures in some areas, the process of purchasing a foreclosed home will not be quick.

A comparison was shown of lending practices three years ago versus today.

	Credit Score	Down Payment	Paperwork	Cash on Hand
3 years ago	620	5% or less	1 or 2 months of pay stubs	2 months of mortgage payments
Today	740	20% or more	Tax return, several stubs and investment statements	At least 6 months of mortgage payments

■ Theresa Howard, *USA Today*, April 20, 2009. Self-store units are showing they are not recession-proof but recession resistant. According the Robert Schoff, president of the Self Storage Association, the year-to-date occupancy is down only about 5 points to 75%. In some areas, the housing downturn and foreclosures has people storing their household items in self store units.

■ Prashant Gopal, Businessweek.com, April 21, 2009. "Even though we know rents will decline in most markets in 2009 and 2010, beyond that there will be a shortage of new supply [of apartments] coming," said Hessam Nadji, managing director of research at Marcus & Millichap, a Palo Alto (Calif.) commercial real estate adviser. "And the rebound in demand, because of an improving economy, could spell healthy growth from 2011 through 2015."

Topping the list was Dallas-Fort Worth, where apartment buildings sell for an average of $30,000 a unit and every $3.76 of investment (in terms of the sales price) produces $1 of rental income. By comparison, investors need to spend about $8.19 on average nationwide for $1 of rental income. Other low-priced markets that ranked high were Cincinnati, Cleveland, Columbus, Detroit, Houston, and Kansas City.

■ Mark Luscombe, *Forbes.com*, April 21, 2009. The Internal Revenue Service has now made it absolutely clear. Taxpayers can't claim the $8,000 refundable tax credit for first-time home buyers until after they close on their homes. A buyer can't claim the credit first, and then use the $8,000 check from the government as a down payment.

■ *Hotelnewsresource.com*, April 21, 2009. Hudson Crossing is a strategic advisory firm devoted to helping business owners raise the financial performance of their travel, tourism and hospitality assets. Some of Hudson Crossing's expectations for Q2 2009 include:

• The decline in business travel will remain in effect for the rest of 2009, and it will not begin to change until the next budget cycle in late Q4 2009.

• Suppliers will take bold action with their loyalty programs and offer aggressively priced packages to lure travelers.

• Online booking fees from online travel agencies such as Orbitz.com and Travelocity are likely gone for good.

■ Janet McConnaughey, *The Associated Press*, April 22, 2009. This is interesting, but some good thinking. Filling abandoned swimming pools with mosquito-eating fish can clear the pools of the insects, which carry West Nile Virus and other diseases. Phoenix officials believe the number of abandoned pools may reach 14,000 this year from 6,000 in 2007. Some cities are pulling old swim pool construction permits and checking the addresses against foreclosure records to get a better handle on the number of abandoned pools.

■ Stephanie Armour, *USA Today*, April 24, 2009. The National Association of Realtors reported that existing home prices rose from February to March, but the median sale price is down 12.4% from a year ago to a median sale price of $175,200. The downward price is reflective of the large number of distressed properties on the market.

■ David Enrich, *The Wall Street Journal*, April 20, 2009. What a mess the TARP money is making! TARP is Troubled Asset Reduction Program. The largest banks that received government bailout money are keeping it to build their reserves and not making additional loans. Now the government has to figure out what to do to get the lending started again.

■ Christina Lewis, *The Wall Street Journal*, April 21, 2009. Do not miss out on this bargain. The estate of Leona Helmsley, the hotel family, has dropped the asking price of the Connecticut mansion from $125 million to $75 million in what is the largest reduction to any residential property ever recorded in the United States. **Editor's Note:** This has two pools, 13 bedrooms on 40 acres. I think one of you retiring appraisers should purchase this and then the rest of us would have somewhere to vacation.

■ Kris Hudson, *The Wall Street Journal*, April 22, 2009. Equity One Inc. is making offers to buy shopping centers. This section of the retail market is showing some real signs of distress, as witnessed by the bankruptcy of General Growth Properties Inc. Equity One has made offers that are considerably below cost of construction, with the hope of buying at a capitalization rate of almost 13% but typically actual purchases around 8.75%. Three-quarters of the company's retail centers are anchored by Publix Super Markets.

■ Kris Hudson, *The Wall Street Journal*, April 22, 2009. The largest owner of malls, Simon Property Group Inc. is allowing an old mall in Palm Beach to go into default. Acquired as part of a purchase of several malls in the 1990s, the renovation was not enough to keep tenants and sits virtually empty.

■ Sudeep Reddy, *The Wall Street Journal*, April 23, 2009. The Mortgage Brokers Association stated that refinance applications rose to almost triple the level from last year. Fixed-rate, 30-year loans were down from 6% a year ago to 4.73%. **Editor's Note:** This could fall into the good news category!

■ Julie Schmit, *USA Today*, April 29, 2009. Maybe some good news in the housing market! For the first time in 16 months the annual value declines didn't set a record for the percent of decline. According to the Standard's & Poor's Case-Shiller index, average home prices nationwide hit 2003 levels.

■ Teresa Burney, *Buildersonline.com*, April 30, 2009. Several financial institutions throughout the country are once again offering jumbo loans as interest rates have declined. These are loans that are above the Fannie Mae and Freddie Mac loan limits. Most institutions will loan from 70% to 75%, but a few use a loan-to-value ratio of 85%.

■ *Commercial Real Estate Direct*, April 29, 2009. Real Capital Analytics reported that the dollar amount of financially distressed property has increased by 136% since the start of the year to over $88 billion. A large share of the recent volume has been a result of General Growth Properties bankruptcy and hotel/casino problems in Las Vegas.

■ National Association of Realtors, May 5, 2009. The Pending Home Sales Index, a forward-looking indicator based on contracts signed in March, increased 3.2 percent to 84.6 from a level of 82.0 in February, and is 1.1 percent higher than March 2008 when it was 83.7. Some of the increase may be the result of the federal governments $8,000 first-time home buyer credit.

■ Michael Corkery, T*he Wall Street Journal*, April 25, 2009. California has a $10,000 state tax credit for buyers of new homes. The program has created more new construction. Some legislators want to remove the $100 million cap on the program, while critics state it is worsening the budget deficit and is creating more inventories in a glutted market of foreclosed homes.

■ Associated Press, April 27, 2009. Massachusetts lawmakers are considering a large number of possible tax increases to close the budget deficit, including taxing real estate owned by charities.

■ Stu Woo, *The Wall Street Journal*, April 28, 2009. The housing market in California is showing signs of improving. Sales in March were 64% higher than a year ago, and the median home selling price rose in a month-to-month comparison for the first time since August 2007.

■ Conor Dougherty, *The Wall Street Journa*l, April 28, 2009. National homeownership fell in the first quarter to the lowest level since 2000, with the largest drop among younger buyers.

■ Sudeep Reddy, *The Wall Street Journal*, April 29, 2009. The Standard & Poor's Case-Shiller Index indicates that home prices fell sharply in February; but for the first time in 16 months, the annual pace of decline was less.

■ Ruth Simon, *The Wall Street Journal*, April 29, 2009. The federal government has now included in the loan modification plan how to handle second mortgages or home-equity loans on properties in default or in distress. "Under the revised plan, mortgage-servicing companies that participate in the loan-modification program for second liens must automatically modify the second mortgage when the first mortgage is reworked."

■ Tamara Audi, *The Wall Street Journal*, May 1, 2009. More bad news for the hotel companies. Starwood Hotels & Resorts, with brands such as Westin and Sheraton, showed a decline in profit of 82% for the first quarter. Revenue per available room fell by 32% as compared to last year.

■ Kevin Collison and Joyce Smith, *The Kansas City Star*, May 3, 2009. A very good article showing the declining occupancy in the strip-centers and malls in the Kansas City metro area. The overall metro area showed a vacancy increase from 9.1% in 2006 to 14.7% currently.

■ Lingling Wei, *The Wall Street Journal*, May 5, 2009. There is starting to be some concern for all banks on commercial real estate loans. The percent of delinquency for existing properties has not changed much, but the delinquency rate on new construction has. From 2005 to current, that rate has changed from around 2% to 13%. In the very bad market of 1992, the rate was around 16%.

■ Nick Timiraos, *The Wall Street Journal*, May 5, 2009. The coverage of loan defaults and foreclosures has primarily been on single-family residential properties. Some coverage is now occurring in commercial properties, but the mortgage mess is also affecting the rural and farm communities. According to *Moody's Economy.com*, home prices in the urban areas have dropped 23% since the peak prices and 13% in the rural areas. Rural areas and farm properties took advantage of the cheap money and borrowed more than can be repaid. This is probably a pre-cursor to some farm foreclosures.

■ Michael Corkery, *The Wall Street Journal*, May 5, 2009. An Austin, Texas, bank decided to demo 16 partially complete homes in a California subdivision that they had repossessed. The bank indicated the cost to complete and fines for creating an unsafe environment due to vandalism and squatters were greater than the value of the homes upon completion.

■ Real Capital Analytics, May 6, 2009. The average capitalization rates for apartments and offices actually declined from February to March. Apartment buildings fell from 6.90% to 6.76% and offices from 7.53% to 6.86%.

Editor's Note: As mass appraisers, we have to realize that is not the same cap rate that we would use. The rates above would be after debt-service and maybe after an allowance for

REAL ESTATE NOTES, continued
property tax.

■ Jon Hilsenrath, *The Wall Street Journal*, May 6, 2009. Remember that promise about good news? Well, this certainly fits! Federal Reserve Chairman Ben Bernanke stated that most banks can raise needed capital without government intervention and that the housing market is beginning to stabilize. Let's hope he is right.

■ Ruth Simon and James Hagerty, *The Wall Street Journal*, May 6, 2009. Oops! So much for the good news above. Falling home prices and the government tax credit for first-time home buyers is helping improve the real estate market. However, that does not help the estimated 30% of homeowners who are underwater (owe more on the home than the value).

■ Sarah Max, *Money Magazine*, June 2009. "Good landscaping adds about 10% to a home's value, according to a Michigan State report." **Editor's Note**: There is no discussion about data or how this study was conducted. We all realize landscaping does add value, but this seems a bit high. Has anyone ever seen or conducted a study on this?

■ *www.hibhotels.com*, May 11, 2009. Officials of Hotel Brokers International (HBI), the nation's largest brokerage organization, said hotel transaction dollar volume in 2008 plunged 55 percent to $9.9 billion from $21.9 billion in 2007. According to HBI recorded data, sales of upscale and luxury hotels were off 57 percent, while sales of economy and mid-market properties, which account for the lion's share of HBI transactions, remained relatively stable, down 11.2 percent.

■ *USA Today*, May 13, 2009 Okay, here is the bad news. RealtyTrac stated the number of households facing foreclosure jumped 32% in April as compared to last year. The same states of Nevada, Florida and California are the ones most affected.

■ Julie Schmit, *USA Today*, May 11, 2009. Okay, here is the GOOD news. Sales of existing homes increased in 17 states for the first quarter of this year as compared to 2008.

■ *www.zillow.com*, May 14, 2009. In a first-quarter survey on homeowner confidence, Zillow.com found that 60% of homeowners felt their home values had fallen in the last year, 18% said it had increased, and 22% said the value remained the same.

■ CRE News, May 14, 2009. The CMBS (Commercial Mortgage Backed Securities) delinquency rate breached the 2 percent mark last month, the highest it's been since at least the 2001-2002 recession, when Realpoint started tracking the market. That's up from 1.66 percent in March. A whopping $3.3 billion of loans went delinquent last month, pushing the overall volume of loans that are more than 30-days late to $17.2 billion—the largest volume of CMBS delinquency ever.

■ Miriam Jordan, *The Wall Street Journal*, May 13, 2009. Latest information shows that during the housing boom, the number of minority homeowners increased greatly. A comparison is shown below based upon the race of the head of the household.

	1995	2008
Hispanic	41.9%	48.9%
Black	42.1%	47.5%
Asian	49.1%	59.1%
Caucasian	70.5%	74.9%

■ Ruth Simon, *The Wall Street Journal*, May 15, 2009. The federal government has added short sales to the list of financial assistance for the struggling home market. Mortgage-servicing companies will be paid $1,000 and borrowers up to $1,500 for a successful short sale of deed in lieu of foreclosure. An additional amount up to $1,000 will go to any holders of second mortgages for releasing their leans. The National Association of Realtors stated that from 15%-20% of home sales are now short sales.

■ Brad Heath, *The Wall Street Journal*, May 16, 2009. Do you need a part-time job? Well, it might be more than part-time. The federal government currently has around 50,000 repossessed homes in their inventory to dispose. They are competing directly in the market with all homeowners and financial institutions. Now, 50,000 homes is a very large amount but not really in the entire picture, as RealtyTrac.com says around 1.2 million homes have been repossessed in 2007 and 2008.

■ Anne Flaherty, *The Associated Press*, May 20, 2009. Congress has sent to the President's desk legislation that would encourage lenders to make it easier for distressed homeowners to rewrite their loans. The Helping Families Save Their Homes Act would expand a previous program by $500 billion by reducing the strict eligibility requirements to participate. The previous program only resulted in 50 homeowners refinancing versus the projected 400,000.

■ Julie Schmidt, USA Today, May 20, 2009. Housing starts in April were an all-time low.

■ www.communityinvestor.net, March 2009. The largest volume of manufactured homes shipped in one year was 372,843 in 1998. In 2008 there were only 81,889 shipped.

■ www.communityinvestor.net, March 2009. Beginning October 20, 2008, all manufactured home installers will have to use the new HUD Model Installation Standards. Each new home will have a manual showing the standards for installers and inspectors.

■ www.communityinvestor.net, March 2009. Clayton Homes has developed a model named "i-house" that is touted as being "sustainable green." One the features are a flat, v-shaped roof which slopes from both ends to the center and catches and retains water. The roof also has photovoltaic panels that reduce the average monthly heating cost from $68 to $28. The unit is considered loaded with green features, including the roof, Energy Star appliances, bamboo floor, low-emission paint, compact fluorescent lighting and water-saving features including a tankless water heater, dual-flush toilet and low-flow faucets. Oh, it also has a patio built on top of a bonus room accessible by an outside staircase and is equipped with chairs, table and a BBQ set.

■ Susan Carpenter, *Los Angeles Times*, May 16, 2009. Plastic walls for your yard for only $1,150 each sounds like less than a good deal. Waterwall, an Australian based company, has created plastic walls that look like large waffles that catch and store rain water. One can be connected to the house downspouts, and multiple walls can be connected to each other to store additional water for long periods of time.

■ *The Topeka Capital-Journal*, May 20, 2009. Although foreclosure rates in Topeka and Kansas are higher than last year, both are well below the national average. National average is 6.2% of all homes, with Topeka at 4% and Kansas at 3.3%.

■ Scott Kilman, *The Wall Street Journal*, May 22, 2009. The Federal Reserve Bank of Chicago reported that farmland prices fell 6% in the first quarter of this year, the largest drop in 24 years.

■ Karen Ridder, *tmi weekly*, May 21, 2009. Home prices may be increasing some in the Topeka area as compared to some of its neighbors. Some information provided by area Board of Realtors is shown in the chart above.

City	Average Home Price	Average number of days on the market
Topeka	$120,660 (Up 6.6% from last year)	109 days (Up 30% from last year)
Manhattan	$175,040 (Nearly flat)	123 days (Down 4.7% from last year)
Emporia	$99,802 (Down 5% from last year)	94 days (Up 22% from last year)
Lawrence	$178,544 (Nearly flat)	104 days (Down 9% from last year)

Area Board of Realtors reports home prices rose in Topeka

■ Justin Lahart, *The Wall Street Journal*, May 27, 2009. There is truly mixed information from this article. The Conference Board's consumer-confidence index rose in May to its highest level in eight months; at the same time, the S&P/Case-Shiller national home-price index fell in the first quarter by the steepest decline in the index's 21-year history.

Editor's Note: I guess this means people believe the worst is behind the housing market but have not started participating in the market to date.

■ Stephanie Armour, *USA Today*, May 28, 2009. The mix of who is buying homes has changed somewhat. First-time home buyers declined from 40% of the market to 30% with repeat buyers moving up. Repeat buyers are those who currently own homes and are switching or moving up.

■ Julie Schmit, *USA Today*, May 28, 2009. Condo sales continue to struggle in the market. In April, condo sales were down 9.4% from a year ago as compared to single-family sales, which were down by only 2.8%. Some markets have fallen by 60% from the 2005 -2006 peak, and some areas have over a 40-month inventory currently on the market.

■ *Hotel Industry News*, May 28, 2009. Here is something to look forward to if you are into technology. Cell phones will unlock hotel rooms of the future, experts say. Hotel rooms without phone lines, art that changes in tune with your mood, even beds without mattresses. These are some of the predictions of technology futurists. Take the classic landline phone: Soon to disappear, thanks to the ubiquity of mobile technology. Not only will guests rely on their personal cell phones for calls, they'll use them as electronic "keys" that offer a contactless way into the room. A simple intercom system will allow guests to contact the front desk.

Also in the tea leaves, according to experts at Asia's largest hotel and food service trade show this month, are digital door-viewers (think oversized peepholes with LCD screens), disc-less Wii gaming systems, art that adjusts to your mood, closets that generate their own "green" energy when the door is opened, and six-way charging pods for all your gadgets—including the cell phone you'll need to communicate.

■ Rick Timiraos and Ruth Simon, *The Wall Street Journal*, May 29, 2009. Good news is that the yield for long-term Treasury bonds is up steeply. The bad news is that it drives up the mortgage rates.

■ Theo Francis, *Business Week*, June 2, 2009. A change has been made to the federal government's $8,000 tax credit for first-time home buyers. "The new program lets home buyers apply the tax-credit advance against the FHA's 3.5% down payment requirement only if the loan is handled through a state housing-finance agency; otherwise the tax advance may only be used to cover closing costs, to increase the down payment, or to buy down the mortgage's interest rate. The FHA already allows down payment assistance from family, employers, and governmental agencies but generally bars it from sellers, mortgage writers or others who would benefit financially from the transaction."

■ Alison Rice, *Builderonline.com*, June 3, 2009. The National Association of Realtors has reported April pending home sales were up 6.7% for the month with the annual increase over last year at 3.2%.

■ Kevin McCoy, *USA Today*, June 4, 2009. In probably what could be labeled as no big surprise, the Securities and Exchange Commission has charged former Countrywide Financial CEO Angelo Mozilo and two other former officials of the mortgage giant with fraud in the first government lawsuit against top corporate executives for actions

REAL ESTATE NOTES, continued
related to the financial crisis.

■ Steve Rushmore is the president and founder of HVS, a global hospitality consulting organization with more than 25 offices around the globe. Annually he provides an estimate of anticipated markets for the hotel/motel industry. His current report can be found at the web address below.
http://www.hotelnewsresource.com/pdf8/HVSLodgingIndustry2009.pdf

■ Sandra Block, *USA Today*, June 9, 2009. Another option for some home buyers allows for up to $10,000 to be withdrawn from your IRA, penalty free, for the purchase of a new residence. This will apply to first-time home buyers or a previous owner who has not owned a home for two years.

■ Stephanie Armour, *USA Today*, June 9, 2009. Most of the home foreclosures previously were tied to the resetting of adjustable rate mortgages. Now more and more of the defaults are homes with fixed-rate loans. The economy and higher prime rates appear to be the causes.

■ Mike Spector, *The Wall Street Journal*, June 4, 2009. Lawsuits were filed by some of the smaller creditors against the main mortgage holders on the Extended Stay suite of hotels that were in default. **Editor's Note:** You have a role in this lawsuit, as Bear Stearns Cos. was a lender and was taken over by the Federal Reserve. This hotel chain has around 75,000 rooms.

■ Tom Benning, *The Wall Street Journal*, June 8, 2009. Austin, Texas, has joined San Francisco and Berkeley, Calif., as cities that require an energy audit prior to a home being sold. The audit consists of a review of the home's air-conditioning and heating systems and insulation and air tightness. The cost of the audit is normally in the $200 to $300 range.

■ James Hagerty and Ruth Simon, *The Wall Street Journal*, June 9, 2009. It seems that independent fee appraisers just cannot satisfy the lenders. During the housing boom, the appraisers were under extreme pressure to get the values higher. Now with the depressed market and additional scrutiny the appraisers are under, the lenders are complaining the appraisers are being way too conservative on their values.

■ Nick Timiraos, *The Wall Street Journal*, June 10, 2009. Interest in reverse mortgages has gained strength. A reverse mortgage means the bank makes payments to the homeowner. April saw the highest amount of government-insured reverse mortgages since the program was started in 1990. The users of this product state the following reasons for participating:

1. Depressed housing market makes it more difficult to sell their home.
2. Congress raised the maximum limit, allowing more participants.
3. Using it to supplement their income as pensions and investments has been reduced.

■ James Hagerty, *The Wall Street Journal*, June 10, 2009. Although the supply of homes available for sale remains very high, the number of homes listed for sale in April declined.

■ Lingling Wei and Kris Hudson, *The Wall Street Journal*, June 10, 2009. Near-future loans continue to be a concern within the commercial markets and the Treasury Department. There are approximately $155 billion in CMBS loans due between now and 2012. CMBS are commercial mortgage backed securities. Currently, borrowers cannot approach the holders of the CMBS loans unless the holder is delinquent in taxes. The Treasury Department is considering making a change to allow the borrower and note holders to start loan renegotiation in advance of the due date.

■ Ann Marie Bush, *The Topeka Capital-Journal,* June 11, 2009. Residential building permits finally have started to increase in Topeka. The information shown below was provided by the City of Topeka.

Month	2008	2009
January	8	2
February	12	4
March	8	9
April	18	7
May	4	17

■ Prashant Gopal, *businessweek.com*, June 16, 2009. Single-family home starts jumped 7.5% in May, the third consecutive monthly rise, indicating that new home construction might be at—or close to—a bottom. Some of the activity is a result of the first-time home buyer tax credit. However, starts remain near record lows.

■ *Commercialrealestatedirect.com*, June 11, 2009. PKF Hospitality Research has revised downward its projection for hotel revenue per available room to a 17.5 percent decline this year, which would make 2009 the weakest year in history. Net operating income will fall by 37.8 percent. The last time hotel profits fell by more than 30 percent was in 1937.

■ Ed Watkins, nreionline.com, June 16, 2009. The bankruptcy filing by The Lightstone Group was not a surprise in the hotel industry. This group purchased the Extended Stay Hotels in 2007 for $8 billion with no experience in the industry. The bankruptcy was a result of this inexperience and the economy.

■ Les Christie, *cnnmoney.com*, June 12, 2009. Time is running out for California residents wanting to take advantage of a $10,000 tax credit. The state set aside $100 million to help home buyers purchasing newly built homes, hoping to jump start the moribund residential-construction market. But only about 20% of the pot is left after only four months.

■ Bill Blankenship, T*he Topeka Capital-Journal*, June 14, 2009. Some interesting information about foreclosures in this article from www.realtytrac.com.

Foreclosure filings for May are as follows:

U.S. 1 in 398	Kansas 1 in 1,356	Shawnee County. 1 in 1,018
Sedgwick County 1 in 920	Johnson County. 1 in 606	Wyandotte County. 1 in 377

■ Lingling Wei and Kris Hudson, *The Wall Street Journal*, June 16, 2009. The collapse of the Extended Stay Hotels chain into bankruptcy is getting interesting. Well, maybe out of control is better. Lightstone Group purchased the chain in 2007 for $8 billion. Current value is estimated at $3.3 billion with a debt of $4.1 billion. With the federal government bailout of Bear Stearns, we now have almost $900 million in outstanding debt to the hotel chain.

■ Nick Timiraos, *The Wall Street Journal*, June 18, 2009. Well, this just had to happen. With all the condo foreclosures in Florida, the condo boards are trying to get the monthly dues from the lending institution. In Florida, it requires a judge to turn over ownership to the lending institution upon foreclosure, and this can take 18 months or longer. Some condo boards are filing liens against the units and forcing the unit to be foreclosed on and sold, at which point they collect the delinquent fees and turn the balance of the sale over to the lending institution.

■ Stephanie Armour, *USA Today*, June 22, 2009. Federal legislation has been proposed to extend the $8,000 first-time home buyer credit to June 2010 from the current fall expiration. Other legislation would allow for the credit to be increased to $15,000 and for the $8,000 to be available to all purchasers.

■ Alan Zibel, *Businessweek.com*, May 23, 2009. The National Association of Realtors said Tuesday that home sales rose 2.4 percent last month; however, about one out of every three homes sold was a foreclosure or distressed sale. That helped drag down the median price to $173,000—16.8 percent below a year ago.

■ Teresa Burney, *builderonline.com*, June 19, 2009. The current economic situation has triggered a shift in people's values from an era of indulgence to one of responsibility, trend tracker J. Walker Smith of Yankelovich said Thursday morning. That translates to the home-buying consumer as a desire for homes that fit but don't exceed space needs, are greener, and that are part of a community. It doesn't mean that buyers are dour, though, he said. Instead, it means the opposite, because the more anxious we get about the economy, the more we look for the bright side of things, according to Smith

Christopher Leinberger, a land strategist, developer, and author of "The Option of Urbanism: Investing in a New American Dream," said he thinks there's pent-up demand for walk-able, urban product, but concedes the industry hasn't solved the difficult equation of building them. The infrastructure is costly, he acknowledged, but the final product does command higher prices.

Malee Tobias of Newland Communities says, "Buyers are shopping even smarter than they ever did before." She also pointed to a new trend called "hiving," which means people are spending more time socializing within their community, with neighbors, and hosting events at home rather than driving distances for entertainment. "Entertaining at home is one thing they are not cutting back on."

■ *HNN Newswire*, June 22, 2009. In year-over-year measurements, the industry's occupancy fell 11.8 percent to end the month at 55.7 percent. Average daily rate dropped 9.8 percent to finish the month at US$97.03. Revenue per available room for the month decreased 20.4 percent to finish at US$54.05

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■ *Commercial Real Estate News*, June 22, 2009.In a sign that sellers are capitulating to buyers' demands, commercial property pricing dropped 8.6 percent in April, according to the Moody's/Real Commercial Property Price Indices, or CPPI. The April drop is the largest recorded this investment cycle by the all-property component of CPPI, a collaboration of Moody's Investors Service and Real Estate Analytics that tracks repeat sales of properties.

The index stood at 135.31 in April and is 29.5 percent below the peak reached in October 2007, before sales activity began feeling the brunt of the credit-markets dislocation that started in late-summer 2007. April's drop "suggests that sellers are beginning to capitulate to the realities of commercial real estate markets," which include demands for lower prices, Moody's said in its analysis of the CCPI. The index's second steepest monthly drop this cycle was by 5.5 percent in January.

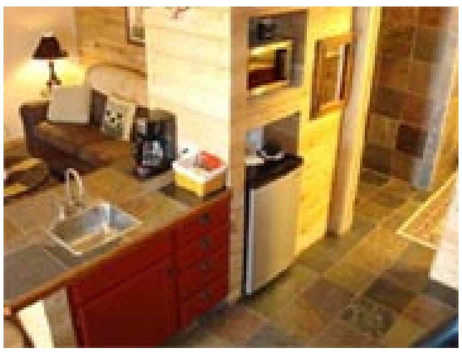
■ *Commercial Real Estate News*, June 22, 2009. Weakening fundamentals for the downtown Phoenix office market have forced landlords to offer up to 15 months of free rent to tenants that sign 10-year leases. The market's 13 percent vacancy rate for class-A space has nearly doubled in the last few years and will increase further as a result of two projects that are nearing their completion—One Central Park East and CityScape.

CORRECTION

Butler County had approximately 1,000 new parcels in 2008, which is a 3% increase in parcel count, not as previously stated in the April newsletter.

Need a perfect place for the mother-in-law (or father-in-law)? Check out this little pad!

Living Room/Kitchen



Bedroom

Entry

Bathroom

This place seems very modern, but here's the INNOVATIVE part…This 1-bedroom loft was built inside a GRAIN BIN.

It was renovated into this upscale unit after it was purchased and relocated to the grounds of an Old Homestead in Saskatchewan in 2007. If that's not creative craftmanship, then I don't know what is!

I wanted to share this because it's so cool! (It might be a *little* bit noisy during a good ol' Western Kansas hailstorm, though!) And I'll bet the county appraiser had fun converting this from total bushels to square feet of living space!