

**Senate Assessment and Taxation Committee**

*Testimony of Roger Hamm: Senate Bill 295*

*Division of Property Valuation*

February 6, 2020

The Division of Property Valuation of the Kansas Department of Revenue takes a neutral position on Senate Bill 295 but would like to offer a brief overview of the Kansas uniformity clause which relates to this bill.

Article 11, § 1 of the Kansas Constitution provides for the uniformity clause for the Kansas ad valorem tax system. It states:

“[T]he legislature shall provide for a uniform and equal basis of valuation and rate of taxation of all property subject to taxation.”

It is fair market value that provides the uniform and equal standard for valuation and the constitutional subclass assessment rates that provides the uniform and equal rate.

K.S.A. 79-1455 provides in part: “Each year all taxable and exempt real and tangible personal property shall be appraised by the county appraiser at its fair market value as of January 1, in accordance with K.S.A. 79-503a unless otherwise specified by law.”

Most taxable property is valued based upon its fair market value on January 1 for property tax purposes. K.S.A. 79-501; K.S.A. 79-1455. There are these exceptions, land devoted to agriculture, commercial and industrial machinery and equipment, some motor vehicles and recreational vehicles.

*“Fair market value’ means the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion. For purposes of this definition it will be assumed that consummation of a sale occurs as of January 1.” K.S.A. 79-503a.*

In a recent and related challenge to the 2014 amendments to K.S.A. 79-1460, the Kansas Supreme Court concluded subsection (a)(2) and (c) were unconstitutional as violating article 11 § 1 of the Kansas Constitution which provides that the legislature shall provide for a “uniform and equal basis of valuation and rate of taxation of all property subject to taxation.” [*Board of County Comm’rs of Johnson County, Kansas, et al., v. Jordan*, \_\_\_ Kan. \_\_\_ (No. 114,827, Feb. 24, 2016)] Subsection (a)(2) was the “two-year roll” of a value reduced in an appeal unless there were documented substantial and compelling reasons to increase the value, and subsection (c) was the new definition of what constituted substantial and compelling reasons. In part, the Court found:

“We hold K.S.A. 2014 Supp. 79-1460 is unconstitutional to the extent it prevents appraisers from valuing taxable real property at its fair market value in any tax year. We further hold that subsections (a)(2) and (c) of K.S.A. 2014 Supp. 79-1460, which are the constitutionally offending provisions, are severable from the remainder of the statute. The writ of mandamus is issued and relief ordered to preclude respondents from further efforts to implement the stricken statutory provisions.”

It is worth noting that the definition of “substantial addition or improvement to the property” in subsection (c)(2) of the stricken statutory provisions in K.S.A. 2014 Supp. 79-1460 for not increasing value after an appeal excluded “any maintenance or repair” or “reconstruction or replacement of existing equipment or components.” That similar language is now being added by Senate Bill 295 as reasons not to “solely” increase values.

The importance of allowing the county appraiser to determine the fair market value on all Kansas property with no restrictions cannot be overstated. Amendments that add clarity to achieving fair market value should be embraced by both policy makers and county appraisers.