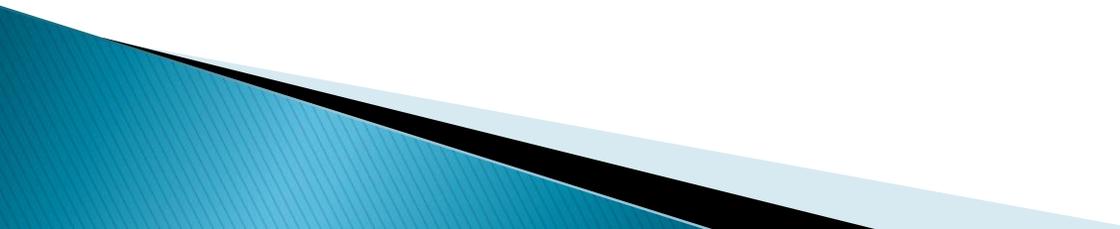


# Challenges in Obtaining Fair Valuations in Assessments

*Property Taxes and Revenue Expenditures Interim  
Study Committee*

*Rick Smith  
Hawley Troxell Ennis & Hawley  
August 21, 2020*

# The Issue

- ▶ Taxpayers and Assessors often battle over common valuation problems
  - ▶ Some issues are the result of a lack of clarity in our property tax laws and rules
  - ▶ Clarifying some valuation issues by legislation could resolve uncertainty, reduce litigation, and promote fairness in assessments
- 

# Past Examples

- ▶ Enactment of Section 63–205B, codifying certain valuation methods to conform to recent Supreme Court decision.
- ▶ Amending section 63–602K (re-enacted as section 63–205C) to set forth a specific valuation procedure for valuation of agricultural land – at its value based on the economic value of crops rather than excess speculative value

# Current Issues: Income Approach values for businesses

- ▶ Current Property Tax Rules require the Assessor to consider three approaches to value: cost, sales comparison and income.
- ▶ Under current practices, some assessors use only the income approach to value going concern businesses in ways that include intangible business value.
- ▶ Storage facilities and assisted living homes are two good examples.
- ▶ The practice is inconsistent – fast food businesses, stores, car dealers, and many others are assessed using traditional cost methods.
- ▶ The value above a replacement cost for the tangible assets should be exempt, since I.C. 63-602L exempts goodwill and other intangibles from taxation.

# Current Issues: Income Approach values for businesses (cont.)

- ▶ Under that statute, centrally assessed taxpayers have the option of requiring a method that does not include intangible value.
- ▶ The most common method selected by these taxpayers is the cost approach – a buyer of property would not spend more for the assets than the cost of purchasing or building a substitute with equal utility.
- ▶ The same option and the same cost factors should be available to other businesses.
- ▶ In the 2020 session, HB 590 was introduced that would have accomplished this objective, but was held in the House Rev. & Tax Committee.
- ▶ Primarily, the bill would have made the cost approach value conclusion the ceiling on value.

# Current Issues: Evidence of Recent Sales

- ▶ A recent sales price for property should be presumptive evidence of market value.
- ▶ In the 2020 session, HB 561 addressed this issue but was vetoed by the Governor.
- ▶ The bill applied only to residential property, included appraisals as well as sales within the past 12 months as conclusive evidence of value.
- ▶ The legislation could be improved to include all property, and to make the recent sales presumptive rather than conclusive evidence of value.
- ▶ If the legislation was extended to commercial property, the statutory exclusion of exempt intangibles as part of the sales price or appraisal would need to be considered.

# Current Issues: Actual and Functional Use

- ▶ Section 63–208 includes rules for determining market value. One provision specifies that “actual and functional use shall be a major consideration when determining market value for assessment purposes.” See also Section 63–1313(2) (“where real property is concerned [market value] shall be the actual and functional use of the real property.”)
- ▶ This directive has not stopped some assessors from valuing existing property based on an alternative use that the owner has no intent to implement.
- ▶ Section 63–208 could be amended to be consistent with Section 63–1313

# Other Issues

- ▶ There are other issues that arise from time to time where there are systemic and persistent disagreements over valuation methods.
  - ▶ For instance, assessors should be valuing a fee simple interest in leased property as vacant, and deduct lease-up expenses. If they do not, they are including the value of the existing leases, which is intangible.
  - ▶ Assessors should also use local data for developing capitalization rates, not national data that often leads to higher values.
- ▶ The Tax Commission could be more active in providing valuation standards. Section 63-208 authorizes rulemaking to establish appraisal standards, but the Commission's rules refer only to nationally recognized guidelines, without specifying what those are.