



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider,
Attorney General

June 30, 1976

ATTORNEY GENERAL OPINION NO. 76- 202

Mr. Larry D. Ehrlich
County Attorney
County Courthouse
Russell, Kansas 67665

RE: Taxation--Valuation--Powers of the Board of County Commissioners, Reconvening County Board of Equalization. K.S.A. 79-1426, 79-1439, 79-1703, 79-1413a, and 79-1404(16). K.S.A. 1975 Supp. 79-1602.

Synopsis: An orderly and timely system of assessment is imperative to the successful operation of government. There is an unyielding mandate of the Kansas Legislature to assess property at 30% of fair market value. Where a discrimination of assessment is found to exist, and the time for action by the County Board of Equalization has passed, there still exists relief from the Director of Property Valuation.

Dear County Attorney Ehrlich:

You state that on June 14, 1976 the Russell Board of County Commissioners, sitting as the Russell County Board of Equalization, ordered an increase of 30% in the assessment of all real estate in Russell County. You say that this action was based on evidence that there currently exists a discrimination between the assessments of personal property, which is assessed at 30% of fair market value, and real estate assessment which is so low that a 30% increase in real estate assessment is necessary to equalize.

Your question is whether the Board of Equalization can make its equalization order the date it did, and, if not, what the Board can do to correct this inequality.

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It is our opinion that on May 15, or, if a Sunday, on May 16, the County Board of Equalization must adjourn sine die as to any change of assessments of real estate, for individuals or by class. This is required by K.S.A. 1975 Supp. 79-1602, and it is a part of a time schedule set up by the legislature. An orderly and timely system of assessment of taxes is imperative to the successful operation of government. Northern Natural Gas Co. v. Bender, 208 Kan. 135, Syl. #3, 490 P.2d 399, cert. den. and appeal dism. 406 U.S. 967, 92 S. Ct. 2408, 32 L.Ed.2d 665. (1972).

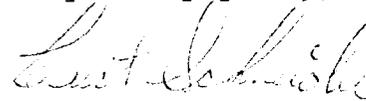
You were correct in your advice to the Board that it has the duty and responsibility to bring all assessment of property, real or personal, to 30% of fair market value. This is an unyielding mandate of the Kansas Legislature. K.S.A. 79-1439. Grave penalties may be imposed on any official disregarding this mandate. K.S.A. 79-1427, 79-1703.

Where the County Board of Equalization has adjourned sine die, and the statutory time for action has passed, K.S.A. 79-1404(16) authorizes the Director of Property Valuation "to reconvene" that Board to raise or lower the valuation of property, real or personal. The Director may order that Board to do and perform any act which may seem just and necessary "to the end that all property shall be valued and assessed in the same manner and to the same extent as any and all other property, real or personal, required to be listed for taxation." The Director must do this prior to November 1, and in such a way as not to disrupt the orderly scheme of taxation established by the Legislature. Mobil Oil Co. v. Metcalf, 207 Kan. 100, 483 P.2d 1111 (1971).

We suggest, to remove any question about your Board's order, that you immediately appeal to the Director of Property Valuation to "reconvene" your Board for the specific purpose of correcting an existing inequality of assessment as between real and personal property in Russell County. If that authority is granted, your Board can reaffirm the order it desires to make.

The Kansas Supreme Court recently recognized that strict enforcement of the 30% assessment law must call for "bold action" by reviewing authorities such as County Boards of Equalization. Gordon v. Hiett, 214 Kan. 690, 696, 522 P.2d 942 (1974).

Very truly yours,


CURT T. SCHNEIDER
Attorney General

CTS/CJM/cgm