



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 29, 1978

ATTORNEY GENERAL OPINION NO. 78- 131 .

Honorable Robert C. Henry
Representative - 47th District
House of Representatives
Statehouse - Room 278W
Topeka, Kansas 66612

RE: Taxation - Reappraisals - Powers and Jurisdiction of Board of County Commissioners.
K.S.A. 79-1602, 79-1607, 79-1413a.

SYNOPSIS: Boards of County Commissioners, sitting as County Boards of Equalization, have broad power annually to review and make changes in the assessment rolls of real and tangible personal property, by specific tract or item, or by classes of property, as to accuracy, completeness and uniformity of assessment. To assist them in their equalization duties, such boards may in their discretion contract for reappraisal of all or any part of the properties within their county and to pay for the same out of the county general fund, or by issuance of no fund warrants without approval of the Board of Tax Appeals. The schedule and procedures for reappraisals, set out in Board of Tax Appeals statutes, are not binding on County Commissioners, but in the use of their discretion such commissioners may follow them.

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Dear Representative Henry:

You state that the Atchison County Board of Equalization contracted with an appraisal company to reappraise

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land values in Atchison County for the 1978 tax year. In the last few weeks that company has sent out statements of the new appraised values and currently hearings before the appraisal company are being held, to be followed by the right of appeal to the Commissioners sitting as the County Board of Equalization.

You ask if the requirements of K.S.A. 79-1413a, that all reappraisals, including hearings, must be completed by November 1 of the year preceding the year of use of the reappraisal for tax purposes, applies to reappraisals contracted by Boards of County Commissioners.

In our opinion K.S.A. 79-1413a applies mandatorily only to the State Board of Tax Appeals. It was so enacted in 1959, Chapter 375, Section 1. The title to this act read: "An ACT relating to the state board of tax appeals, authorizing said board to order reappraisals of taxable real estate and tangible personal property, except state assessed properties, in certain counties and under certain conditions, and providing for the payment of the cost thereof;" K.S.A. 79-1413a is a tax grievance law, granting opportunity to complain directly to the state board of equalization that the tax assessment in any county is not in substantial compliance with law. After a hearing, the state board can order a reappraisal in such county of all or any part of the taxable property, appoint or approve the reappraisers, and tax the cost to the county.

Experience soon proved that there had to be a time schedule adequate to allow a review of such reappraisal both by the County and State Boards of Equalization before the reappraisal was spread upon the tax rolls for the current tax year. In 1961, by Chapter 439, Section 1, the last paragraph of K.S.A. 79-1413a was added, which required that all reappraisals, including hearings, be completed by November 1 of the year preceding the tax year of use. Again, the title language of the first act was used: "An Act relating to the state board of tax appeals, authorizing said board to order reappraisals ... in certain counties and under certain conditions..."

In our opinion, the statute K.S.A. 79-1413a and its amendment were both enacted by the legislature to apply only to those instances where, upon a grievance being filed and heard, the State Board of Tax Appeals ordered reappraisals in "certain" counties.

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We have checked with the Board of Tax Appeals and find that the reappraisal of Atchison County for the year 1978 has not been before that Board, and that Board has not used K.S.A. 79-1413a to order the reappraisal of Atchison County.

We further are informed that the Board of County Commissioners of Atchison, in their discretion as the Atchison County Board of Equalization, contracted for such reappraisal. This was clearly within their authority under K.S.A. 79-1602 and 79-1607, which give County Boards of Equalization broad authority to change the tax assessment of all or any part of the real or tangible personal property in the county, by specific tract or item, or by class or classes, and to contract for a reappraisal if they deem it necessary. The whole procedure for such a reappraisal is set forth, including the paying of the cost thereof. Further, the approval of the Board of Tax Appeals is not a condition precedent to the exercise of such authority.

The statutes give ample authority to the County Board of Equalization to deal with any situation involving the assessment of real and tangible personal property. They can accept, reject or modify the reappraisal, if in their judgment that is necessary to produce equal and uniform assessment. They have power to delay use of the reappraisal until the tax year of 1979, if they find that insufficient time exists to complete all appeals to the County Board of Equalization prior to May 15, 1978, when the Board must adjourn sine die under K.S.A. 79-1602 for real estate assessment changes. Or, if the Board can complete its work timely, the reappraisal can be used in 1978.

You express concern for those taxpayers with land in Atchison County which lies in taxing districts overlapping county lines. Where the adjoining county has not had reappraisal, land is under-valued as compared to Atchison County after reappraisal, and the same levy will fall unequally.

There is already a statute on the books to cure this situation. K.S.A. 79-1446. Where substantial inequality exists between counties, the Director of Property Valuation shall order the offending county to raise or lower appraised values to make counties comparable to adjoining areas. But, this statute contemplates

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that each county board of equalization will strive diligently each year to bring all land to the statutory level of appraised value in an equal and uniform manner.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:gw