



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 12, 1981

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 81-69

Mr. Bob Lott
Ottawa County Appraiser
307 North Concord
Minneapolis, Kansas 67467

Re: Taxation--County Boards of Equalization--Powers and Responsibilities

Synopsis: Pursuant to K.S.A. 79-1602, each county board of equalization possesses the authority, and, in fact, is required, to make such changes in the assessment of property as is necessary in order to secure the uniform and equal assessment of all property. In making such changes, however, the provisions of K.S.A. 79-1426 make it abundantly clear that the duty of all assessing officers, including county boards of equalization, is to assess and equalize the values of all property at thirty percent (30%) of fair market value in money. Cited herein: K.S.A. 79-1426, 79-1439, 79-1602.

* * *

Dear Mr. Lott:

You seek our opinion concerning the powers and responsibilities of county boards of equalization to equalize the assessed valuation of property located in each county. Specifically, you inquire whether the provisions of K.S.A. 79-1602 authorize a county board of equalization to raise or lower the assessed valuation of a class of property, real or personal, to make the assessed valuation of said class of property comparable to the assessed valuation of other property in the county. In addition, you inquire, if the

Mr. Bob Lott
Page Two
March 12, 1981

county boards of equalization are authorized to so equalize the assessed valuation of the various classes of property, are there any limitations on the manner by which such equalization of assessed values is to be achieved.

To explain your second inquiry, you indicate a belief that certain classes of property in Ottawa County are being assessed at thirty percent (30%) of such property's fair market value in money, while other classes of property are being assessed at a much lower percentage of the property's fair market value in money. The county board of equalization wants to equalize the assessed valuation of these different classes of property, but does not know whether to reduce the assessed valuation of the class being assessed at thirty percent (30%) of fair market value, or to increase the assessed valuation of the other class of property, or whether it may equalize by employing either of these alternatives.

The answer to your first inquiry is provided by the provisions of K.S.A. 79-1602. Said statute expressly provides:

"Such board [the county board of equalization] shall on the first business day in April of each year meet for the purpose of inquiring into the valuation of real property and shall, on the fifteenth day in May or the next following business day if such date shall fall on a day other than a regular business day, meet for the purpose of inquiring into the valuation of tangible personal property in the county, and shall review the assessment rolls of the county as to accuracy, completeness and uniformity of assessment, and shall make such changes in the assessment of property as shall be necessary in order to secure uniform and equal assessment of all property." (Emphasis added.)

In addition, subsequent provisions of said statute require that notice be mailed to the owner of any individual item of property, the assessed valuation of which is proposed to be increased by the county board of equalization. However, the statute specifically provides that such notice need not be mailed "where the assessment of a class or classes of property in any area or areas of the county is raised by a general order applicable to all property in such class or classes for the purpose of equalization." (Emphasis added.)

Mr. Bob Lott
Page Three
March 12, 1981

In our judgment, these statutory provisions leave no doubt that a county board of equalization may, and, in fact, is required to, "make such changes in the assessment of property as shall be necessary in order to secure uniform and equal assessment of all property." K.S.A. 79-1602.

Turning to your second inquiry, we note that K.S.A. 79-1602 does not specify the manner in which a uniform and equal rate of assessment for all property in the county is to be achieved. However, we believe the provisions of K.S.A. 79-1426, 79-1439, and numerous other property tax statutes, as well as the provisions of our constitution, require the county board of equalization in each county to insure, to the fullest extent possible, that all property in each county subject to general property taxation is assessed and equalized at thirty percent (30%) of its fair market value in money.

K.S.A. 79-1439, in relevant part, provides:

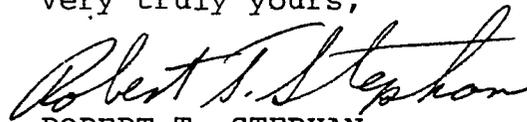
"[A]ll real and tangible personal property which is subject to general property taxes shall be appraised uniformly and equally at its fair market value in money, as defined in K.S.A. 79-503, and assessed at thirty percent (30%) thereof."

K.S.A. 79-1426, in relevant part, provides:

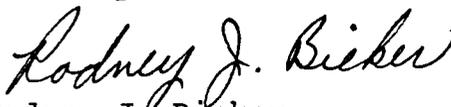
"[A]ny assessing officer who shall willfully or knowingly fail to appraise, assess or to equalize the values of any real estate or tangible personal property, which is subject to general property taxes, as required in K.S.A. 79-1439, shall be deemed guilty of a misdemeanor" (Emphasis added.)

The provisions of K.S.A. 79-1426 make it abundantly clear that the duty of all assessing officers, including county boards of equalization, is to assess and equalize the values of all property at thirty percent (30%) of fair market value in money, as required by K.S.A. 79-1439.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm