



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 89- 118

Rodger D. Buskirk
Neosho County Appraiser
Courthouse
Erie, Kansas 66733

Re: Laws, Journals and Public Information -- Records
 Open to Public -- Certificates of Value

 Personal and Real Property -- Conveyances of Land
 -- Certificates of Value; Disclosure to the Public

Synopsis: Certificates of value are public records which may
 be disclosed only as authorized by K.S.A. 58-2223b,
 as amended by L. 1989, ch. 164, § 1. Property
 owners appealing a valuation pursuant to K.S.A.
 79-1448 may obtain certificates of value from any
 county concerning the same class of property as
 that which is the subject of the appeal. Such
 certificates are available to property owners only
 during the appeal period. Cited herein: K.S.A.
 45-215; 45-216; 45-217; K.S.A. 1988 Supp. 45-221,
 as amended by L. 1989, ch. 154, § 1; K.S.A.
 58-2223a; K.S.A. 58-2223b, as amended by L. 1989,
 ch. 164, § 1.

* * *

Dear Mr. Buskirk:

As county appraiser for Neosho County you ask several
questions regarding whether certificates of value are open to
the public:

"1. If I as County Appraiser send a letter to a taxpayer asking him to verify the information on a Certificate of Value and clarify some other information, does this information become public information? Does it become public information once it is entered in the computer after being verified?

2. If I appeal my new valuation to a Hearing Board, does that give me access on that class of property to records not only in my County, but anywhere in the state?

3. If I enter an appeal on my property does this give me access to the information on like properties only during the appeal time period or the whole year?"

The Kansas open records act (KORA), K.S.A. 45-215 et seq., provides that records of public agencies must "be open for inspection by any person. . . ." K.S.A. 45-216(a). County offices are public agencies. K.S.A. 45-217(e)(1). A "public record" is "any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is the possession of any public agency." K.S.A. 45-217(f)(1). Thus, the records in question are public records. Not all public records, however, are required to be open for public inspection. K.S.A. 1988 Supp. 45-221(a)(1), as amended by L. 1989, ch. 154, § 1, provides that records, the disclosure of which is prohibited or restricted by law, are not subject to disclosure under the KORA.

Under K.S.A. 58-2223a, no transfer of title to real estate is to be recorded by the register of deeds unless the deed or instrument of conveyance is "accompanied by a certificate of value by the grantor, grantee, or his or her agent concerning the property transferred." K.S.A. 58-2223b limits the persons which may have access to certificates of value. This statute was amended by the 1989 legislature in House Bill No. 2530 to read, in pertinent part, as follows:

"Such certificate [of value] shall not be filed of record but shall be retained for a period of two ~~(2)~~ years at which time they shall be destroyed. The contents of ~~said~~ the certificate

shall be made available ~~not only~~ to the county clerk for the purpose of preparing the report to the director of property valuation ~~but the information in such certificates shall be made available, any property owner who has appealed the valuation of property pursuant to K.S.A. 79-1448, and amendments thereto, and only to the extent of the contents of those certificates concerning the same class of property being appealed, to the county assessor appraiser and appraisers employed by the county for appraisal of property located within the county, if any, and to the board of county commissioners, but such contents shall not be otherwise disclosed by any party having access to them to anyone other than the director of property valuation, the county appraiser or the appraiser's designee, hearing officers or panels appointed pursuant to K.S.A. 79-1602, and amendments thereto, or to the board of tax appeals or county board of equalization in the event of proceedings before that board such boards." L. 1989, ch. 164, § 1.~~

Language added by the 1989 amendment is reflected by the underlined portions of the above excerpt. Before the amendment, only the county clerk, county assessor, county appraisers, board of county commissioners, and board of tax appeals could obtain access to certificates of value. Upon the effective date of the amended statute, April 20, 1989, property owners involved with appeals of the valuation of their property were granted access to this information.

Your first question is whether a verified certificate of value is a public record. This document is a "public record" as that term is defined in the KORA. However, certificates of value are not subject to disclosure upon the request of any person because K.S.A. 58-2223b, as amended, provides which persons may have access. K.S.A. 1988 Supp. 45-221(a)(1), as amended.

Secondly, you ask whether property owners appealing their property valuations have access to certificates of value in

other counties concerning the same class of property as the property being appealed. The amended statute granting property owners access does not limit that access to certificates located in the county in which the property in question is located. The purpose of state-wide reappraisal is to provide a uniform valuation of property in this state. For these reasons it is our opinion that a property owner appealing a valuation pursuant to K.S.A. 79-1448 may obtain certificates of value from other counties concerning the same class of property as that being appealed.

You ask in your third question whether a property owner taking an appeal has access to the certificates only during the appeal time period or whether these records are accessible all year. The statute, as amended, provides that the certificates of value are available to property owners who appeal a valuation pursuant to K.S.A. 79-1448. Therefore, we conclude that certificates of value may be disclosed to property owners only during the appeal period.

In summary, certificates of value are public records which may be disclosed only to those persons listed in K.S.A. 58-2223b, as amended by L. 1989, ch. 164, § 1. Property owners appealing a valuation pursuant to K.S.A. 79-1448 may obtain certificates of value from counties other than the one in which the property is located concerning the same class of property as that being appealed. Such certificates are available to property owners only during the appeal period.

Very truly yours,


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS


Rita L. Noll
Assistant Attorney General

RTS:JLM:RLN:bas