

Preston Smith

375 NW Weschester Dr.

Blue Springs, MO 64014

July 22, 2019

Christopher R. Smith, Esq.
Krigel & Krigel, P.C.
4520 Main Street, Suite 700
Kansas City, MO 64111

Re: Correcting the Errors Made in the 2019 Jackson County Tax Assessment

Dear Chairman Smith:

I am writing in response to your letter of July 19. At the outset, I want to be clear that I know that we are all in a difficult position. Conducting property tax assessments is thankless work in the best of situations and the County's long history of inaccurate assessments has made Ms. McCann Beatty's situation a very difficult one.

I also want to thank you and the other members of the Board for your serious consideration of my proposal. I know that there is daunting pressure on you from all sides.

We need to face the fact, however, that very serious mistakes were made in the 2019 assessment and we have the power and the responsibility to fix them. The community demands that from us and it is a reasonable expectation. Going into the appeal process, the Board is faced with the fact that by law, there is no presumption that the Assessor's valuations are correct (RSMo, 138.060). Moreover, there are very explicit requirements for the performance of assessments, including the requirement for physical inspections of residential parcels with greater than 15% increases (RSMo 137.115(10)), and the requirement to use generally accepted appraisal methods that reference three comparable properties, with relevant sales dates, and to use properties with similar characteristics, each within 1 mile of the subject property, and within 500 square feet in size (RSMo 137.115(1)). The Assessor's office has admitted both that it used "mass appraisal" techniques and that it did not perform the required inspections. Based on my review of the assessment data and public information, it is clear that many assessments do not meet the legal requirements set forth at RSMO Chapter 137. The law says that the burden of proof for any computer assisted "mass appraisal" is on the Assessor's office by "clear, convincing and cogent evidence" (RSMo, 137.115(1)). I have to ask the Board, what do we plan to do with this record, when the thousands of pending appeals come before us and the Assessor can't meet its burden of proof that the assessment work was properly performed?

I also want to correct one statement at the start of your letter: I have made no appeal to the State Tax Commission. I made a proposal before the Board of Equalization, which the Board passed a motion to table. That proposal remains pending and I want to work with you to have that proposal resolved and the very serious errors that have occurred in the 2019 assessment process corrected as soon as possible.

Below you will find my answers to your questions, but before providing specific responses, I want to be clear about the extent of the problem that we are trying to resolve.

First, Missouri law prohibits the Assessor from imposing increase of more than 15% on any residential property without conducting a physical inspection of the property (excluding increases due to new construction or improvements). R.S.MO Section 137.115(10). The County appears to have violated this rule in many thousands of cases. There is no question that this is a requirement of law, and I have attached a letter from the State Tax Commission that explicitly states this fact (Attachment 1).

The failure to conduct the required physical inspections has led to assessments that appear to be wildly inconsistent: properties that are remarkably similar have been valued at grossly dissimilar amounts; home sales prices appear to have been ignored; and, properties with houses on them have been valued as vacant lots. In many cases, wealthy home owners have seen the assessments of their homes inexplicably decrease or increase at a much lower rate than county-wide, while urban core homeowners have seen the value of their properties double and triple. We have not been told the method that was used to reach these assessments, so there is no way for us to know whether the problems are in the method or in its application.

I would note that the prohibition against assessment increases greater than 15% is not conditioned on meeting any ratios. It is absolute. It reads, in pertinent part: “Before the assessor may increase the assessed valuation of any parcel of [residential] property by more than fifteen percent... the assessor **shall** conduct a physical inspection of such property.”

Even worse than the violation of the 15% cap, is the decision by the County to implement a blanket 14.9% increase on 28% of all residential properties. It appears that none of these values listed on the tax rolls had anything to do with market values; they were just selected to be in a 14.9% increase pool. This result could not have occurred without violating the requirements for computer assisted “mass appraisals” set forth at RSMO 137.115(1). Even more shocking is that large portions of the urban core of Kansas City were excluded from this pool with increases limited to 14.9%. In the urban core it is apparent that a completely different modeling approach was broadly used, with dramatic increases in land valuations, and decreases in “improvement values.” Again, I believe that these outcomes could not have been reached if the assessments were performed in accordance with the requirements of law (RSMO 137.115(1) and (10)). The use of a different approach in the urban core (described as the “residual approach” by Ms. McCann Beatty) has led to a lack of uniformity throughout the county. The result is that urban core residents were twice as likely to have assessment increases of over 50% than residents of neighborhoods that were included in the 14.9% pool. So, the assessment, if implemented will have a disparate impact on urban core neighborhoods—neighborhoods where homeowners, particularly elderly homeowners are much more vulnerable than their suburban counter-parts and much more at risk of losing their homes if they have to pay higher taxes.

Amazingly, the County has been completely silent as to how or why this happened. There has been no explanation of how more than 74,000 residential properties ended with the exact same percentage increase of 14.9%, in areas outside the urban core. There has been no explanation of why some homeowners’ properties increased by hundreds or thousands of

percent, and what the basis and evidence is for increases in land values of similar percentages. Instead, the County argues that thousands of Jackson County residents who believe their assessments are inaccurate must each individually bring appeals to this Board of Equalization. Again, I must ask what this Board will do when confronted at hearings with the evidence that assessments were performed in violation of state law and the Assessor cannot meet its burden of proof for a proposed assessment. In such situations, the Board will be forced into either accepting the homeowner's proposed valuation, or assigning a value based on the county's average increase (See RSMO 138.050(2) and 138.100(2), which state the Board shall "reduce the valuation of such tracts or parcels of land or any tangible personal property which, in their opinion, has been returned above its true value as compared with the average valuation of all the real and tangible personal property of the county.")

I have made my proposal, because I am seriously concerned that the 2019 assessment did not yield accurate valuations of residential properties and because, if implemented it will do major damage to urban core homeowners and the neighborhoods in which they live.

Our Board has the authority to fix the issue and it is our responsibility to do so. I would note that I am open to amending my proposal, once it is before the BOE again, to have it apply solely to residential properties for which there has been no physical inspection and there has not been new construction or improvements. Physical inspection means that someone involved in the assessment process went to the property, viewed it and used that viewing as part of the analysis to determine the property's value in the assessment.

Now, in answer to your specific questions:

1. A detailed description of the methodology you used to articulate the assessed values ranges and percentages of increase.

I assume that you are referring to the presentation I made at the BOE hearing on Thursday. The 14/13/12 percentage increases above the 2017 market values on the tax rolls appeared to be where the averages in the 2019 Assessor data fell. Countywide, the increases were about 14.7 percent.

I have a spreadsheet providing the address and 2017 assessed value of all residential properties in Jackson County. I have a comparable spreadsheet showing the same information for the 2019 assessment. I used data analysis to compare the two spreadsheets and calculate the percentage change for each property from the 2017 assessment to the 2019 assessment. I have also been able to map these results using GIS mapping tools. I am happy to discuss this analysis with you individually or collectively.

2. A statement of the impact your proposal, should it be approved and implemented. Specifically, we ask you to tell us what you believe:

The overall impact would be on the 2019 assessment.

If my proposal were adopted for only residential parcels, the impact would be as follows, based on my list of parcels that I received from the county in 2017 and in 2019:

	Market Value	Market Value	Proposed Market Value	
	2017	2019	2019	Proposed vs 2017
Residential	\$29,076,157,938	\$34,797,795,729	\$31,845,699,575	9.5%
Commercial	\$18,743,397,591	\$25,197,834,797		
Agricultural	\$355,775,002	\$604,496,862		
	\$48,175,330,531	\$60,600,127,388		

In this proposal, I have dropped the 14/13/12 percentages for commercial and agricultural properties. Without additional analysis, and with such limited sales data, these two classifications are going to need more research than I have devoted to them at this point. I also believe it would be necessary for the county to purchase additional sales data that captures more of the real commercial sales since the current MLS data shows only 108 commercial sales during the last two years. Another reason those two categories are a secondary importance is because many businesses already avail themselves of professional representation before the Board of Equalization, which few homeowners do. Again, the immediate need is to solve the residential problem.

I agree with Mr. Covinsky’s statement that The Board of Equalization’s job “is to equalize the valuation and assessments so that all the property shall be entered on the tax book at its value.” I also believe that the BOE has the responsibility to assure that the County complies with the law in conducting its assessments.

The County appears to have violated state law by assessing properties at a rate more than 15% higher than the most recent prior assessed amount without conducting any physical inspection of the properties. The proposal that I have made would have the Board of Equalization revise the assessments to value property, not at some random or arbitrary amount, but at the highest amount at which the County is allowed to assess the property without violating state law.

I was surprised by your reference at Thursday’s hearing to compliance with ratios in deciding whether to implement my proposal. The Board of Equalization, to my knowledge, has *never* before considered compliance with ratios when conducting its business of determining market value. Our job, as you said at the hearing on Thursday, is to do what is fair, what is right and what is legal. That is exactly what I am asking the Board to do. It is certainly clear that both the Assessor and Board’s primary duty is to make sure assessments are based on market value, and not be based on the goal of meeting the recommendations of a “ratio study.”

Will the Board go back, after it has decided thousands of appeals at the end of this term and determine the impact of those appeals on the state ratios? Will you amend your decisions if the resulting numbers are not in compliance with the ratios?

I also do not have the means to conduct a full and complete analysis of the impact that my proposal would have on the ratios resulting from the 2019 assessment on agricultural and

commercial properties. I would note that the county has declined to produce its data showing the impact that the 2019 assessment numbers would have on the State ratios. I would ask that the County make that information available immediately.

But I believe that I can provide some market analysis for the residential classification. I have been in contact with a firm in Boston that would be happy to do the analysis of my proposal. The firm is Caliper Corp., You can reach them at 617-527-4700. They have estimated that they could conduct the analysis in two business days at a cost of approximately \$4,000. This analysis would be only for residential parcels, and would include all residential sales for the last two years. The resulting end-product of this work would be to give us an accurate baseline price for all residences in the county based on actual sales. The County legislature has the power, under Section 9140, to “contract with one or more qualified experts to advise the Board of Equalization.” I will be asking the that the County provide the \$4,000 that would allow the Board of Equalization to do this research. I would also ask that the legislature, using the same law, contract with independent legal counsel to advise the Board on the many legal issues that have arisen in regard to the 2019 assessment.

The impact on pending requests for informal review.

If the Board of Equalization adopts the pending proposal, property owners who have filed informal reviews would have the option of going forward with the informal review, filing for a formal appeal or dismissing their request for an informal review. I believe, but do not know, that the vast majority of homeowners who have filed for informal review would accept the relief provided by the proposal and dismiss their request.

The impact on informal reviews that have been resolved.

I am not a lawyer and do not know whether the acceptance of the County’s settlement offer would legally preclude a property owner from receiving the benefits that are provided by the proposal. If a property owner who has entered into an agreement is legally allowed to obtain the benefit of the proposal, we should allow them to do so.

The impact on pending formal appeals.

Passage of the proposal would not have any impact on formal appeals, except that appellants would be given the opportunity to accept the benefit of the proposal and, if they decided to do so (as I believe most appealing homeowners would), dismiss their appeals.

The impact on formal appeals that were resolved on July 18, 2019.

Appellants in those cases still have the right to appeal their decisions to the State Tax Commission and have not voluntarily waived any rights. Accordingly, I think they should be able either to accept the benefits of the proposal or continue their appeal.

The impact on the letter from the State Tax Commission to the Assessor, dated April 9, 2019, regarding the ratio study and 2018-2019 Assessment Maintenance Plan and the impact of the BOE and its staff

Creation and compliance with the 2018-2019 Assessment Maintenance Plan is the obligation of the Assessor. If the Assessor had conducted a fair and accurate assessment; had not violated RSMO Section 137.115(10); and had not randomly assigned 14.9% increases to more than 74,000 suburban homes, we would not be in the unfortunate position that we are in.

The BOE's responsibility is to value properties as accurately as we can and in compliance with the law. We cannot impose assessments more than 15% on residential properties, where there has been no physical inspection by the Assessment team and we are not empowered or able to conduct our own new assessment of all Jackson County residential properties. We have to do the best that we can with the situation that we find ourselves in.

With that said, we do have the power to keep thousands of urban core property owners from having to pay improperly high taxes that would result from assessment that appear to have clearly been conducted in violation of Missouri State Law (when the Assessor has given us no assurance to the contrary).

If we take no action many of these people are at serious risk of losing their homes—and that will be on us.

We need to do the right thing and consider and pass the proposal.

Sincerely,

Preston Smith