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***Outline of Testimony Before  
The Senate Assessment & Taxation Committee  
On Senate Bill 329***

Madam Chair, Members of the Committee, thank you for this opportunity to address SB329, a bill I support. I speak today expressing my own opinions and not necessarily those of any of my clients or organizations of which I am a member.

- I. I have testified before many of you in the past so I will skip rehashing my qualifications but, I attached a short narrative of who I am at the end of the outline. I will endeavor to follow the outline I provided.
- II. The new language is simple: *“At any appeal hearing before the regular division of the state board of tax appeals relating to the determination of valuation of property for taxation purposes, the county appraiser shall submit a single property appraisal report.”* While simple, the impact on the process could be the most significant improvement to the current system in some time.
- III. What is the current process?

I’ll apologize upfront because I know that many of you are experienced with the appeal process at BOTTA and some of the ins and outs of mass appraisal. However, I’ll quickly go over the basics.

I will focus on commercial appeals primarily as those are the cases where the taxpayers are more likely to get an appraisal from a licensed appraiser. Licensure is something that I will circle back to in a minute. Counties occasionally retain a licensed appraiser in a BOTA case. BOTA may estimate how often that occurs but, I would guess it is substantially less than ½ of the commercial cases tried.

The differences between a licensed appraiser's appraisal and mass appraisal are vast yet, sadly they are mostly treated as evidentiary equals by BOTA and courts on review.

Let me describe the two. Mass appraisal or computer assisted mass appraisal is a process where a Universe of properties are valued using the same data set. It is a necessary evil as thousands of parcels need to be valued quickly when the appraisal process is annual.

How does it work? Not every county is the same, but the processes are close regardless of the location of the county.

First, county appraisers compile market rent studies, market expense studies and capitalization rate studies usually by property type. For instance, for commercial properties the categories are typically retail, office, industrial, apartments, etc. Land studies are done. Some counties do this annually, others do every other year, with some counties outsourcing some or all of the studies. A common outsource is the cap rate study. Worse yet, some counties just copy and use the cap rate study performed for some of the larger counties even though there is no evidence it would have any applicability to properties in their county.

These conclusions are divided into classifications based on investment grade. So, there will be Class A, B, C, D properties. All investment Class A properties will get the same rent, expenses and capitalization rate as all other Class A. Sometimes, those investment classes will be broken down further into subclasses by geography or property size. Let me give you an example: A 60,000 square foot national department store retailer will

be a Class A investment grade. The rent under mass appraisal will be the same as all other Class A retail properties like Scooter's Coffee, a bank, drug stores, gas stations, build-to-suit properties, etc. but they are not limited to comparable properties. Same thing for expenses.

Capitalization rates may sometimes have even fewer delineations. Some counties have a county wide cap rate. This is all done even though everyone knows the risk of owning a small building differs from a multi-tenanted retail property or a large single tenant owner/occupied property.

In an appraisal done by a licensed appraiser, that same national department store will have its rent determined by verified current rents for comparable properties. Same for expenses and cap rates. What is comparable? Here's my analogy. If you were looking for a 3 bedroom, 2 bath house under \$400K in the Shawnee Mission School District, the county appraiser would take you to every house in the Shawnee Mission School District regardless of bedrooms or the price. The licensed appraiser would take you to 3 bedroom, 2 bath houses \$400K or less in the Shawnee Mission School District.

Another distinction is the number of approaches to value developed. USPAP requires all three approaches, cost, income and sales comparison approach to be developed. If there is insignificant data to develop one or more the appraiser has to fully disclose that in the appraisal report. What we have with mass appraisal is that almost every parcel has a cost approach and some have an income approach. Almost none have a sales comparison approach for commercial properties even though all of the research and treatises conclude the sales comparison approach to value is the best indicator when the property is owner/occupied. My county, despite having ample sales does not do a sales comparison approach because, as they testify, PVD has not approved a sales comparison approach to value. Not to pick on PVD (well very much anyway) but it

has been about 40 years since Kansas ordered the statewide, annual reappraisal. It would seem that sometime during that period a sales comparison model could have been developed and utilized. Back to my county, the problem is compounded due to the fact that the staff is not qualified to develop and report a single property appraisal. After the approaches are done, USPAP, requires the county to reconcile the mass appraisal approaches into a final opinion of value. Licensed appraisers do that. Counties do not, as a rule. They just pick one of the approaches ... sometimes the higher of the two. That is not a reconciliation.

For residential parcels, land studies are updated, market information is updated usually by neighborhoods ... which aren't like housing subdivisions ... just areas with similar characteristics. Rural areas may be divided into rural homesites and in town properties. The appraiser inputs the neighborhood and physical characteristics, and the property is then valued using the same data set as all others in your neighborhood.

So, what would change under this bill? If the property is appealed to BOTA, the county could no longer submit or rely on its mass appraisal report. They would have to submit a single property appraisal report. This is how it works in Missouri and other states.

Now, I said I would circle back to licensure. What am I talking about? The Kansas Real Estate Appraisal Board licenses residential and general real property appraisers. The first qualifies the appraiser to value homes. The second one qualifies them to appraise commercial properties. The Appraisal Institute also licenses appraisers including the most highly vaunted MAI designation. While there are a few counties with a county appraiser that is licensed, some by KREAB, others, like the Douglas & Sedgwick County Appraisers, have the highest MAI designation, most counties, including Johnson County have no licenses and have the Registered Mass Appraiser (RMA) designation from the

Kansas Property Valuation Division and/or the International Association of Assessing Officers CAE designation. These designations are not governed by the Kansas Real Appraisal Board. The appraisers are not subject to discipline by any licensing agency.

Further what is important to understand is these designations have no relevance or applicability outside of mass appraisal. They cannot leave the employ of the county and open an appraisal company. They cannot do house appraisals for bank loans. Yet, we rely on them to appraise the entire state. I'm sure that later I will be back in front of this committee advocating for raising the qualifications of all county appraisers and staff that perform appraisal functions.

Statistically, a perfect mass appraisal will end up with 1/3 being right, 1/3 high and 1/3 low. The appeal process in place is there to address the 1/3 that are valued too high. So, we go to BOTA and the county presents the same documents that overvalued the properties by using the mass appraisal universes rather than an appraisal of that property.

FYI, I have argued that in no circumstance is a mass appraisal better evidence than a single property appraisal that complies with the Standards in the Uniform Standards of Professional Appraisal Practices and I have been unsuccessful. I jokingly say when I started in this business, the IAAO, the organization of county appraisers, had a motto of "appraise in mass and defend in fee", or if challenged the appraiser must develop and report a single property appraisal. But, over time, we have gone from that to treating them like something written on the tablets.

What are the positives and negatives?

First, counties, even mine, must either get current staff members licensed and capable of developing and reporting a single property appraisal or retain outside experts if they don't want to commit to improving the qualifications of the staff.

The biggest improvement I see addresses an issue that I know this committee is concerned about and that is the backlog of cases at BOTA. I would suggest a large part of the backlog is that the counties have no skin in the game so to speak. They need not do anything further than they did when they mass appraised the property while taxpayers have to get an appraisal in many cases even though they do not have the burden of proof in those cases. Counties would enter into more serious negotiations with taxpayers to resolve differences at the informal level, small claims and the regular division of BOTA if they had to present something beyond their CAMA report to carry their burden of proof. I don't know how many of you have reviewed a CAMA cost approach but I would challenge you to make sense of it. It is usually a 2 page document with no narrative or explanations, codes that aren't explained and only conclusions but not the math on how they got there. That leaves taxpayers baffled.

In conclusion, if BOTA worked their docket within the confines of this legislation, the evidence they receive would be better, the system elevated to meet or exceed other states, taxpayers would have the ability to better understand & respect the process and the caseload would decrease because there would be more stipulations and settlements.