

A Guide to the Property Valuation Appeal Process—Equalization Appeals*

LAND AND BUILDINGS USED FOR RESIDENTIAL AND COMMERCIAL PURPOSES

(*In counties without Hearing Officer/Panels)

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In Kansas you have two opportunities to appeal the value of your property. If you appeal the Valuation Notice that you receive in the spring, it is called an equalization appeal. This guide is designed to assist most taxpayers prepare for that process. It was not designed for appeals concerning land devoted to agricultural use or commercial and industrial machinery and equipment because such property is not valued based upon its fair market value. For more information about the other opportunity to appeal, by paying taxes under protest, see the publication A Guide to the Property Valuation Appeal Process – Payment Under Protest Appeals. For more information about the appeals process in general, please contact your county appraiser.

1. Why do county appraisers appraise property?

Each year the cost of local services is spread across the value of taxable property. County appraisers are responsible for uniformly and accurately valuing all property each year. That way, all citizens fairly share in supporting the cost of local services.

(Local budgets ÷ assessed value of taxable property = mill levy.)

Local services include police and fire protection, roads, parks, public health services, and schools. The statewide school mill levy is 20 mills (\$20 for every \$1000 assessed value).

2. How is property valued for tax purposes?

All property is valued annually as of January 1. Most property is valued based on its fair market value. Exceptions are land devoted to agricultural use, which is valued based on its income or productivity, and some commercial and industrial machinery and equipment, which is valued based on a formula set forth in Kansas laws. For more information, contact your local county appraiser or the Kansas Division of Property Valuation at (785) 296-2365.

3. What is fair market value and how is it determined?

Fair market value is the amount an informed buyer is willing to pay, and an informed seller is willing to accept, for property in an open market without undue influences.

The county appraiser considers three approaches to value: cost, sales, and income.

Cost Approach

In the cost approach, the appraiser determines replacement cost new of the property less depreciation. This approach is particularly helpful when property is new or unique or if there are few sales in the area.

Sales Approach

The appraiser reviews similar properties that have sold, compares them to your property, and makes adjustments for differing characteristics. This approach typically is applied to residential property in areas with a substantial number of sales, but some counties may also apply it to commercial property.

Income Approach

In this approach, the value of the property is estimated based on the rental income the property would be expected to produce in the future. It is used primarily to value commercial property and apartments when sufficient market rent information is available, but a type of income approach might also be used for houses in areas with a substantial number of rental properties.

4. How do I know if the value on my property is correct?

Ask your county appraiser for copies of the property record card and cost report for your property. These documents will show the information the county has about your property. (*For example— the number of rooms, type of construction, condition, square footage, etc.*) Review the information and verify that the county's record is accurate. If your property is a commercial building, also ask for the income valuation report, which will show how the appraiser considered typical rental income and expense rates for similar structures when determining value.

For residential property the county can also provide a comparable sales report which lists the data on your property compared with the data and sale prices of up to five homes the county considers similar to yours. Drive by those homes and make sure that they are similar. If not, take photos of them to your meeting or hearing to show how they differ. Some counties may be able to provide this information for commercial buildings as well.

If you believe that the county's value does not reflect the fair market value of your property as of January 1, you should appeal. The appeals process is an opportunity to review a property in more detail. We all want values to be accurate so we have a fair basis for sharing the cost of local services.

5. What if my value increased?

For the county to increase a property's value, they must have reviewed the record of the property's last physical inspection and have documentation supporting the increase.

Beginning with tax year 2017, if a commercial real property value was reduced due to a final determination in the appeals process for either of the prior two years, the county appraiser is required to review the mass appraisal of the property and if the value exceeds the lowered value by more than 5%

(excluding new construction, change in use or change in classification), the appraiser must either adjust the valuation based on information provided in the previous appeal or order an independent fee simple appraisal of the property to be performed by a Kansas certified real property appraiser.

6. How do I appeal my valuation notice?

Counties mail Valuation Notices from mid-February through early April. Appeal your Valuation Notice by contacting the county appraiser's office within 30 days from the date the notice was mailed. An alternative form of notification may be approved for a year in which no change in appraised valuation occurs. Please contact your county appraiser by March 1 for more information.

IMPORTANT NOTICE: After starting the appeal process, if you abandon your appeal you can NOT pay taxes under protest or appeal again later for the same property and tax year.

Informal Meeting

The appeal process begins with an informal meeting with the county appraiser or their designee. At the informal meeting, the county must initiate the production of evidence to substantiate the property's valuation. The informal meeting is also your opportunity to explain why you believe the county's value is incorrect. If the appeal includes leased commercial and industrial property, the county's value is presumed correct unless you furnish the county a complete income and expense statement for the property for the 3 prior years; you have up to 30 days following the informal meeting to do so. The county will mail you written results of the meeting.

Board of Tax Appeals (BOTA) Small Claims and Expedited Hearings Division

If you are not satisfied with the informal meeting results, you may appeal the decision to the BOTA Small Claims Division if the property a) is a single-family residence or b) has a value below \$3 million and is not agricultural land. If your property is a single family residential property, you **MUST** appeal to the Small Claims Division before proceeding to the full BOTA. Small Claims appeals are heard by one hearing officer.

To appeal, file the proper form with BOTA within 30 days from the date the informal meeting results were mailed. Usually the BOTA appeal form is part of the notice of results; if not, you may obtain one from the County Clerk. **Filing fees may apply.**

The county must initiate the production of evidence to substantiate their valuation, and there is no presumption of correctness with regard to the county's value. If the property is leased commercial and industrial property, the burden of proof is on the taxpayer unless you furnished a complete income and expense statement for the property for the 3 prior years within 30 days following the informal meeting. However, if you submit a private appraisal on the property with an effective date of January 1 of the year appealed, the burden of proof returns to the county. Contact BOTA for more detailed information.

Board of Tax Appeals (BOTA)

You may appeal a Small Claims decision or, if your property is not a single family residence, you may also appeal the county appraiser's informal meeting decision to BOTA. If your property is a single family residential property, you **MUST** appeal to the Small Claims Division before proceeding to BOTA. The BOTA is comprised of three board members.

To appeal, file the proper form with BOTA within 30 days from the mailing date of the Small Claims Division or county appraiser's informal meeting decision. The appeal form should be part of the notice of results that you receive. **Filing fees may apply.** You must also file a copy of the appeal form with the county clerk and county appraiser.

The county must initiate the production of evidence to substantiate the validity and correctness of the property's valuation, except in the case of leased commercial and industrial property, when the burden of proof shifts to the taxpayer unless you have furnished a complete income and expense statement for the property for the 3 prior years.

BOTA must accept into evidence a single property appraisal presented by a taxpayer with an effective date of January 1 of the year appealed which has been conducted by a certified general real property appraiser which determines the subject property's valuation to be less than that determined by a mass real estate appraisal conducted by the county.

Generally, BOTA will issue a written summary decision within 14 days after conclusion of the hearing unless the parties agree to an extension. After receiving the summary decision, any aggrieved party may, within 14 days, request a full and complete opinion, which must be served within 90 days. Any aggrieved party may file a petition for review of the BOTA full and complete opinion to the court of appeals within 30 days. Or an aggrieved party may first file a petition for reconsideration within 15 days. A taxpayer may appeal to the district court from a summary decision or full and complete opinion within 30 days.

The appeal rights of the parties after a BOTA order are complex, and more detailed information can be found at the end of the BOTA decision.

New Option beginning with Tax Year 2017:

Alternatively, if you do not appeal the notice of informal meeting result to BOTA, you are allowed to file a third-party fee simple appraisal performed by a Kansas certified general real property appraiser that reflects the value of the property as of January 1 of the same year being appealed with the county appraiser within 60 days from the mailing date of the notice of informal meeting result.

The county appraiser has 15 days after the timely receipt of the appraisal to review and consider the appraisal in the determination of the valuation or classification of the property and mail a supplemental notice of final determination. If you are not satisfied by the final determination, you may file an appeal to BOTA within 30 days. Please contact your county appraiser or PVD for more information.

7. What should I bring to the hearing?

Even though the burden of proof may be on the county, be prepared to show why your value is more accurate. You will want to provide information that supports your request for a lower value.

Some examples to consider are:

- Recent sales information about property similar in condition, quality, style, age and location. The appraiser's office can provide you with comparable sales reports for your property or similar properties upon request. Be sure to allow time for processing and mailing.
- A sales contract for your property if it was purchased within the last 2 or 3 years.
- Photos and contract/engineering estimates of the cost to repair any structural damage the county did not fully consider.
- A recent appraisal report for your property prepared by a fee appraiser.
- A complete income and expense statement for the property for the 3 prior years, in the case of leased commercial and industrial property.
- Although effective July 1, 2016 the county appraiser may not request that you provide certain appraisals or lease agreements, you may voluntarily provide such documents if you wish to do so.

8. Can another person attend hearings on my behalf?

Someone else may attend the informal meeting with the county appraiser, however if the person representing you is not an attorney, you should first complete a Declaration of Representative form provided by the county appraiser.

At a BOTA Small Claims Division hearing, a taxpayer may appear personally or may be represented by an attorney, a certified public accountant, a certified general appraiser, a tax representative or agent, a member of the taxpayer's immediate family or an authorized employee. If a representative appears without the taxpayer, the representative should have a completed Declaration of Representative form. Contact BOTA for more detailed information.

At a full BOTA hearing a taxpayer may appear in person or by one of the representatives listed above, however a Declaration of Representative form must be completed and, if the representative is not an attorney, they will not be allowed to question witnesses. Please contact BOTA for more detailed information.

9. If I bought this property last year, shouldn't the value be the same as what I paid for it?

Your property will not necessarily be valued at its recent purchase price. One sale by itself does not determine market value, although it is generally given a great deal of weight. The county appraiser must first determine whether the sale price reflects the market. That is, whether the sale price is the result of an arm's length transaction between a knowledgeable, willing seller and buyer. The sale is then considered along with sales of similar properties. Market conditions sometimes change between the time a property is purchased and its appraisal date (January 1).

10. How do I get more information on BOTA rules and procedures?

Contact BOTA by calling (785) 296-2388 or visiting their website at www.kansas.gov/bota.