

March 31, 2014

Dear Members of the Senate,

I have witnessed, firsthand, the injustices at the Kansas Court of Tax Appeals (COTA). That Kansas taxpayers and I have suffered a great deal at the hands of the Court of Tax Appeals and I have insight into this matter. Kansans deserve a voice to be heard. This is an agency that has grabbed powers reserved to legislature, the Supreme Court and/or the Attorney General. They make the IRS look good. They have targeted the tax consulting industry and have made pronouncements on public policy (a legislative power); on legal ethics (a Supreme Court power); the unauthorized practice of law (the Supreme Court and the Attorney General) exercised equitable powers they don't have and concluded matters based on their desire to protect the tax base ... not their job.

As a property owner, your first course of action to appeal your valuation is an informal hearing with the County Appraiser's office. The recent actions by the Kansas Court of Tax Appeals have sent a message to the County Appraisers. That message received by the counties is that if the valuation is not addressed at the informal hearing level, the Court of Tax Appeals will find any reason to either reject or dismiss the appeal all together, or sustain the county's original estimate. The Court of Tax Appeals is so anti-taxpayer they have refused to accept stipulations when the county and the taxpayer have agreed on a value reduction. The message received by the taxpayers is the whole process is a waste of time and money.

This makes it especially difficult for small property owners with properties valued under one million dollars due to the excessive costs of filing the appeal and hiring an attorney. The cost to pursue an appeal far outweighs the benefit, and this can make or break a small business. It is ironic that the taxpayer pays COTA for an independent third party hearing, but instead they get their money taken and get told their appeal will be dismissed unless they fire the tax consultant and their attorney because COTA doesn't like them. Are they trying to steer business to a specific law firm over others? I know of another law firm that takes referrals from another consultant with a nearly identical tax consultant agreement as I use in my business. The taxpayer/attorney relationship is the same. The investigator discussed this situation in his report. Did COTA file an ethics complaint in that case? NO. Did COTA direct the taxpayer to fire the tax consultant? NO. Did COTA dismiss their appeals? NO. After approving their stipulation, COTA invited the attorney up to the COTA offices for coffee to discuss the legal issues they perceive to exist with tax consultants. I am sure Ms. Terrill would have preferred to have been treated the same way. This behavior should not be permitted to stand.

My clients have also complained about the manner in which they have been treated. Many feel they were insulted. When I use the word insulted that is exactly what I mean. Several were called to testify at COTA, not regarding the value of their property, but to determine if they were a person authorized by the ownership entity, to verify they had hired JW Chatam & Associates, and to see if they hired and knew their attorney, Linda Terrill. Then COTA had all these cases

dismissed or put on an indefinite stay. These people paid a lot of money to have their cases heard, but instead they did not get to discuss the value of their property at all.

Sam Sheldon filed an ethics complaint against Ms. Linda Terrill. After a thorough investigation, the complaint was completely dismissed. The investigator assigned to the case indicated Sam Sheldon was biased, prejudiced and that the complaint was designed to create a hostile environment. The results of the investigation were published in August of 2013 and to this date, over seven months later, the cases are still under the "Stay" and COTA has indicated they have no intention of following the decision of the Office of the Disciplinary Administrator. Unbelievable.

Taxpayers are in a state of limbo with no way of getting a hearing. Counties are accruing interest on any appeals where the end result will be an agreed upon value reduction. Interest paid with tax dollars! All the while, the Court of Tax Appeals continues to hold these taxpayers hostage for what seems a personal agenda.

As a case in point, please consider the 2011 property valuation appeal of Ms. Kathy Lyerla. Ms. Lyerla believed her home was overvalued. She contacted J.W. Chatam & Associates and asked we assist in her appeal process. An appeal was filed with the county on 12/20/2011. The county reduced the property's value to \$749,400. Remember Ms. Lyerla had her home listed for sale at the time for \$669,000. On 3/9/2012, the appeal was filed into the small claims division of the Court of Tax Appeals. At this level, the small claims officer upheld the county's value of \$794,400. The appeal was filed to the regular division of the Court of Tax Appeals on 5/23/2012. Ms. Lyerla closed on the sale of her home on 5/24/2012. The final sale price she obtained was \$622,000. On 8/27/2012 the county offered to settle the appeal at a stipulated value of \$669,000. Ms. Lyerla, after such a long and drawn out process, accepted the stipulation. The paperwork was signed and submitted to the Court of Tax Appeals for final approval. On 10/10/2012, the Court of Tax Appeals dismissed Ms. Lyerla's appeal citing lack of subject matter jurisdiction. This all stemmed from a signature deemed faulty by the Court of Tax Appeals, without giving the taxpayer notice or the opportunity to correct this "flaw". Tell me how this could be the actions of an unbiased, independent third party government agency. Nearly six months after the appeal was accepted at the Court of Tax Appeals, nearly six months after the home sold for nearly \$200,000 less than the original county value, nearly two months after the county and the taxpayer agreed to accept a stipulated value, the Court of Tax Appeals dismissed this woman's appeal instead of signing the stipulation.

I have seen the Kansas Court of Tax Appeals go from a fair governmental agency to an agency biased against taxpayers. Under the leadership of Sam Sheldon, the Court of Tax Appeals places unfair burdens against the taxpayer. The taxpayer must provide their expert report months before the county must do so. The county must only exchange their report twenty days before the hearing. This does not allow the taxpayer adequate time to take the deposition of the county expert regarding their expert report.

The Kansas Court of Tax Appeals in its current form is a biased government agency. The Court of Tax Appeals believes it is okay to disrespect Kansas taxpayers. Numerous times in the investigative report produced for the Office of the Disciplinary Administrator, Judge Sheldon is

both biased and prejudiced running a court room hostile to taxpayers. Judge Sheldon has demonstrated a lack of personal integrity and judicial demeanor to hold this position. It is imperative that someone in the position of judge be impartial, completely un-biased and understand the subject matter of property valuation. He never even represented a taxpayer before this agency he now is in charge of running.

We need a Board instead of a Court of tax appeals with de novo review to the District Court. It is a good compromise between the populist agency for small appeals with a competent backstop for the more complicated. Ironically, it is cheaper to file in District Court then to file a COTA case. Taxpayers need and deserve de novo review in District Court.

Mr. Sheldon testified they are all caught up with no cases over 120 days after the hearing. But, he did not say they have hundreds of cases where they have done nothing and will do nothing on. I have over 350 real estate tax appeals under a COTA "Ordered" Stay. None of these appeals may proceed unless each taxpayer retains legal counsel other than Ms. Linda Terrill. Considering Ms. Linda Terrill is an attorney in "Good Standing" with the Kansas Bar, this is outlandish. Under what authority does COTA dictate which attorney the taxpayer can retain to represent them? COTA is way outside their authority here and in many other things they are attempting to do.

The following is a list of taxpayers being denied due process and whose real estate tax appeals are on a Stay as ordered by COTA:

Johnson County Management  
3705 West 95th Street  
Overland Park, Kansas 66204

Via Christi Property Services  
1035 N. Emporia, Suite 230  
Wichita, Kansas 67214

Emprise Bank  
211 N. Broadway  
Wichita, Kansas 67210

American Fire & Sprinkler  
P.O. Box 958  
Mission, Kansas 66201-0958

Dean Development, Inc  
7200 West 132nd Street, Suite 300  
Overland Park, Kansas 66213

Cornerstone Bank  
9120 W. 135th Street  
Overland Park, Kansas 66221

Campbell Becker  
P.O. Box 1811  
Lawrence, Kansas 66044

H & D Real Estate  
620 Wetmore  
Wichita, Kansas 67209

Medicalodges  
201 West 8th Street  
Coffeyville, Kansas 6733

Bishop Rink Holdings/Ice Midwest  
5225 Renner Road  
Shawnee, Kansas 66217

Maxus Properties  
P.O. Box 34729  
North Kansas City, Missouri 64116

Multi Service Properties  
2060 NW 2nd Street  
Blue Springs, Missouri 64014

Bleakley Company  
1074 W. Santa Fe Street  
Olathe, Kansas 66061

SFB Plastics, Inc.  
1819 West Harry  
Wichita, Kansas 67213

US Bank  
1 US Bank Plaza, 2nd Floor  
St. Louis, Missouri 63101

Bear & Bear Associates  
6811 Shawnee Mission Pkwy, STE 104  
Shawnee Mission, Kansas 66202

LakePoint at Crestview  
600 N 127th Street East  
Wichita, Kansas 67206

Everest Properties  
199 S Los Robles Ave, Suite 200  
Pasadena, California 91101

Privitera Realty Holding  
909 Troost  
Kansas City, Missouri 64106

Capitol Federal Savings  
700 S Kansas Ave  
Topeka, Kansas 66603-3894

Jen-Rentals, Inc.  
8909 E Harry  
Wichita, Kansas 67207

Security Bank of Kansas City  
701 Minnesota Ave  
Kansas City, Kansas 66101

College Blvd Partners  
1533 E. Spruce  
Olathe, Kansas 66061

Metcalf Bank  
609 N. Hwy 291  
Lee's Summit, Missouri 64086

Bank Midwest  
1111 Main 2nd Floor  
Kansas City, MO 64105

Dickinson Financial Corporation  
1111 Main Street, Suite 1600  
Kansas City, Missouri 64105

Stanley Vet Clinic  
8695 West 151st Street  
Overland Park, Kansas 66223

ERA Manning Realtors  
9870 Quivira Rd  
Lenexa, Kansas 66215

Brotherhood Bank & Trust  
756 Minnesota Ave  
Kansas City, Kansas 66101

The Kansas City Country Club  
6200 Indian Lane  
Mission Hills, Kansas 66208

Texas Roadhouse  
6040 Dutchman's Ln, Suite 400  
Louisville, Kentucky 40205

Dale Willey  
2940 Iowa Street  
Lawrence, Kansas 66046

First National Buildings  
1620 Dodge Street  
Omaha, Nebraska 68197-1150

Bank of Blue Valley  
11935 Riley Street  
Overland Park, Kansas 66213

Devlin Enterprises  
1313 N. Webb Suite 100  
Wichita, Kansas 67206

Howards Optical  
14231 Donegal Cir  
Wichita, Kansas 67230

Sunflower Bank, N.A.  
P.O. Box 800  
Salina, Kansas 67402

Athletic Club of Overland Park  
10440 Marty Street  
Overland Park, Kansas 66212

Douglas County Bank  
P.O. Box 429  
Lawrence, Kansas 66044-0429

Collis Leasing LLC  
40 Leawood Drive  
New Century, Kansas 66031

United Warehouse  
901 45th Street N  
Wichita, Kansas 67219

M & I Bank - BMO Harris  
111 West Monroe Street, 21W  
Chicago, Illinois 60603

Wichita Urology Group  
2626 N. Webb Rd  
Wichita, Kansas 67226

Tap Enterprises  
650 N. Lincoln  
Spring Hill, Kansas 66083

Country Club Bank  
P.O. Box 410889  
Kansas City, Missouri 64141

Graham-Michaelis Corp.  
211 N. Broadway  
Wichita, Kansas 67210

One reason COTA has gone rogue is they are a self-reporting agency. Meaning if you have a problem with conduct or any other issue you submit your complaint directly to the offending party. It is easy to figure out how that would go. The Governor has been of no help despite many requests for him to remove Sheldon and others that are biased. We desperately need accountability.

House Substitute for SB231 is the right thing to do. It sends a clear message to Kansas taxpayers and small business owners our elected officials have Kansas taxpayer's best interests in mind. It holds COTA accountable for their actions and provides recourse for abuse to taxpayers. We must transform the Court of Tax Appeals back to its intended purpose and restore balance.

I pray you will take action and right a wrong. I appreciate your consideration.

Respectfully,

Jerry W. Chatam  
President