



Board of County Commissioners

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Senate Local Government Committee
Colorado State Capitol
200 East Colfax
Denver, CO 80203

Via email to:

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Re: Colorado House Bill 21-1083 – Tax Appeals Valuation Adjustment

Dear Senators and Committee Members:

We write today to strongly advocate for adoption HB21-1083 and ask for your support when this bill comes before your committee and to the full chamber for a vote. HB21-1083 would ensure that all taxable real property is valued and assessed in accordance with its actual value and disincentivize frivolous appeals. The bill would also level the playing field and equalize risk associated with tax appeal litigation defended by counties, the cost of which is paid by taxpayers throughout the state.

Colorado's property tax system relies on determination of actual market value of all taxable real property to ensure fair and uniform ad valorem property tax assessment. County assessors are charged with the responsibility to determine the market value of every parcel of real property in their respective counties every two years. Assessors use reported sales data to value residential property, but must rely on "best information available" in terms of rental rates, occupancy levels and other market data when setting the value of other property types like commercial property. County boards of commissioners, sitting as a county board of equalization, hear appeals of the county assessor's determination of actual value through the protest and adjustment process.

Under current law, the county board of equalization level of appeal is the last point during the protest and adjustment process at which a property valuation may be increased, only if the county board determines the assessor's valuation was set below actual value. Because each stage of the protest and adjustment process is considered a trial de novo – a new and independent controversy – there is no requirement that property owners or their agents produce any documentation or evidence in support of their appeal to the assessor or the board of equalization. In fact, increasing numbers of tax agents now ask for "administrative denial" of their valuation appeals, so that they may move their appeal through the board of equalization process directly to the district court or State Board of Assessment Appeal (BAA), without a hearing or exchange of any evidence. Once the appeal is lodged at a level higher than the board of equalization, no trier of fact may increase the property value, even if it is determined that the actual value of the property is higher than currently assigned.



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Many times, it only becomes apparent through discovery and interior inspections of real property, conducted only at the highest level of the appeals process, that the property is actually undervalued. By that time, current law prevents any correction. It is contrary to the actual-market value standard, which Colorado's property tax system is entirely dependent upon, to restrict a property from being assigned its "actual value" through this process. Having absolutely no risk of increase, and no risk of being responsible for the cost of litigation¹ creates a perverse incentive for property tax agents to push for any unreasonably low value, hoping that a county will agree to a settlement in order to avoid the cost of litigation – even if they know the property is already undervalued.

Over the last three assessment cycles, Eagle County has spent hundreds of thousands of dollars defending high-dollar commercial tax appeal litigation in cases where the property's *actual* value indeed exceeded the County's *assigned* value. In some cases, the BAA, as finder of fact, has expressly determined that the value should be higher, but due to the current restriction contained in C.R.S. § 39-8-108(a), the BAA ordered the value maintained at the County's original underestimated number. Eagle County, and all counties throughout the state, have an interest in deterring frivolous tax appeals, leveling the playing field so that the risk of litigation is more evenly distributed, and to ensure that all taxpayers throughout the state are taxed based on the actual market value of their properties.

Should you have any questions, please feel free to contact us. We'd be happy to answer any questions you may have.

Thank you in advance for your consideration of this matter.

Sincerely,

Eagle County Board of Commissioners

Matt Scherr

Chair

Jeanne McQueeney

Commissioner

Kathy Chandler-Henry

Commissioner

Cc: Senator Kerry Donovan: kerry.donovan.senate@state.co.us

¹ C.R.S. § 39-8-109(1) currently requires each side in property tax litigation to pay their own costs and fees in tax appeal litigation.