

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1065

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-30-84
DATE FOR REVIEW 9-10-84
DATE DUE 9-19-84

Adopted w/a hearing X
Adopted w/o hearing
Temporary rule

Approved 9-11-84 MJC Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved 8.31.84 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 8.2.84 Date combined w/ F & F

Notice of Intent to Solicit Outside Opinion not submitted but see HE 4(h) SR 10.24.83
✓ Comments rec'd. Nov. 83

✓ Order for rulemaking
5.11.84 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency no small biz statement

✓ Affidavit of Mailing Notice or rulemaking
4.3.84 At least 30 days prior to hearing/~~adoption~~
Affidavit of Additional Mailing - 4.3.84

✓ Mailing list Certificate

✓ Publication in State Register
4.9.84 At least 30/20 days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
6.12.84 Approving H.E.'s Report
✓ 8.13.84 Approving agency action

✓ Agency's Findings of Fact combined w/ Order Adopting

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness see HE re small biz statement

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

AG copy

Department of Revenue

Property Equalization Division

Adopted Rules Relating to Certificate of Real Estate Value

Rules as Adopted

8110.0100 MANDATORY INFORMATION.

In order to be accepted for filing a certificate of real estate value must contain the following data:

A. Buyer's name and address.

B. Seller's name and address.

C. Legal description of all parcels involved in the transaction. The property identification number assigned by the county for administration of the property tax system is not sufficient.

D. Location of property described such as street address.

E. A statement signed by the buyer that the information provided on the certificate is correct and complete under penalty of the law. "Buyer" for the purpose of this rule means the individual or one of the individuals who will get title to the property, or a partner if a partnership will get title, or an officer if a corporation will get title.

"Buyer" may also include an attorney or agent of the buyer.

~~The form must also require the telephone number of the buyer or the buyer's agent or attorney.~~

F. The buyer's telephone number at home or work. If the buyer has no current telephone number, but has an agent or attorney, the telephone number of his agent or attorney may be used. If the buyer has no current telephone number and no agent or attorney, no telephone number is required.

HE 18

8110.0200 ADDITIONAL INFORMATION REQUIRED.

Subpart 1. **Type of transfer.** The certificate of value must include data regarding the type of purchase or transfer and

must require the buyer to indicate if:

A. the buyer and seller are natural persons related to each other or are related business operations;

B. the transfer or purchase was of a partial interest in the property;

C. the property was transferred as part of a trade of properties;

D. the property was transferred or conveyed to a government, school, church, or charitable organization;

E. the transfer or conveyance was intended only to add or remove a co-owner's name from the title of the property;

F. the property was transferred or conveyed as part of a forced sale such as foreclosure or condemnation;

G. the transfer was a result of a gift or inheritance; or

H. the property was transferred or conveyed in fulfillment of a contract for deed or other purchase price agreement dated more than two years before the transfer.

Subp. 2. **Type of property; financing.** If none of the variables in subpart 1 apply, the buyer must provide the data required by items A to H.

A. Type of property transferred or conveyed, such as: land only; land with buildings; buildings only; and information relating to any new construction, demolition, or additions to buildings which occurred between January 1 of the year of sale and date of the original agreement.

B. Principal intended use of the property:

(1) residential containing no more than three units;

(2) apartments containing four or more units;

(3) seasonal, recreational property with a residential unit but not used for commercial purposes;

(4) agricultural;

(5) commercial or industrial;

(6) other than uses listed above with a brief description of intended use.

C. Date of original agreement establishing the sales price of the property being transferred. Usually this will be the date of the earnest money agreement or other similar agreement requiring performance at an agreed price.

D. Total purchase price of all real, personal, or intangible property being transferred or conveyed as established by the original agreement.

E. Total down payment paid by buyer to include amounts paid prior to and at the time of closing.

F. Information regarding any pre-existing financing for which the buyer will assume responsibility from the seller for repayment of the debt:

(1) unpaid balance on contract for deed, mortgage, and/or other financing assumed;

(2) current interest rate on assumed balance;

(3) remaining period over which the assumed loan balance is to be amortized;

(4) amount of monthly payment for reduction of principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) date of any lump sum payments required at or before the end of the amortization period.

If the buyer is assuming the seller's obligation to repay on more than one debt, the certificate must include full details on each debt.

G. Information regarding any new loans obtained by the buyer, including:

(1) principal amount being financed;

(2) interest rate;

(3) amortization period;

(4) amount of monthly payment for reduction of

principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) points paid and whether paid by the seller or the buyer (but not to include origination fees); and

(8) date of any lump sum payments required at or before the end of the amortization period.

If the buyer is financing the purchase of the property through more than one debt, full details will be required on each debt.

H. Value of all personal or intangible property included in total sales price such as:

(1) personal property such as stoves, refrigerators, other appliances, drapes, tools, and accessories, as part of the transfer of residential property;

(2) personal property such as crops, livestock, tools, machinery, equipment as part of the transfer, or agricultural property;

(3) personal property such as inventory, equipment, or fixtures as part of the transfer of commercial property;

(4) intangible property such as goodwill, licenses, franchises, patents, or business name, as part of the transfer of a business operation.

8110.0300 SUPPLEMENTAL DOCUMENTS.

The buyer when completing the certificate may attach supplemental documents if the buyer needs to expand on any of the requested data. For example, in the case of a lengthy legal description of the property being transferred or conveyed, a copy of the deed may be attached. Any supplemental documents accompanying the certificate ~~should~~ must be attached to the Department of Revenue's copy of the certificate.

HE 22

~~8110.0400 COMMISSIONER'S AUDIT.~~

~~The certificates of value are subject to audit by the commissioner. The commissioner shall require additional documentation from the buyer, the buyer's agent or attorney, or the seller in order to verify the accuracy of any information required on the certificate. The commissioner shall determine the certificates subject to audit.~~

HE 23

8110.0500 FORM TO BE COMPLETE AND SIGNED.

The county auditor shall not accept a certificate for filing unless the form is complete and contains the buyer's signature.

The county auditor shall accept for filing any certificate which contains only the data required by part 8110.0100 if the certificate shows that one of the types of transfers listed in part 8110.0200, subpart 1 is involved. If the type of transfer involved is not listed in part 8110.0200, subpart 1, the county auditor shall not accept the certificate unless the data required by part 8110.0200, subpart 2 is included on the form. If the form is complete, the county auditor shall accept the certificate and has no responsibility for the accuracy for the data provided.

HE 24

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 17 1984
Joan Anderson Growe
Secretary of State
12:17 PM

APPROVED AS TO FORM AND LEGALITY
September 17 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassady
SPECIAL ASSISTANT ATTORNEY GENERAL

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ARTHUR C. ROEMER
Commissioner

DATE: September 17, 1984

ATTN: DOROTHY A. MC CLUNG
Department of Revenue

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of a New Rule of the Department of Revenue Relating to Certificate of Real Estate Value (Minnesota Rules, Parts 8110.0100, 8110.0200, 8110.0300, 8110.0400)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

MJC:cb

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

RECEIVED
APR 16 1984
ADMINISTRATIVE HEARINGS

Rules as Proposed (all new material)

8110.0100 MANDATORY INFORMATION.

In order to be accepted for filing a certificate of real estate value must contain the following data:

Agency Exh. No. 12
File No. DR-84-036-JL
Date 5-11-84

A. Buyer's name and address.

B. Seller's name and address.

C. Legal description of all parcels involved in the transaction. The property identification number assigned by the county for administration of the property tax system is not sufficient.

D. Location of property described such as street address.

E. A statement signed by the buyer that the information provided on the certificate is correct and complete under penalty of the law. "Buyer" for the purpose of this rule means the individual or one of the individuals who will get title to the property, or a partner if a partnership will get title, or an officer if a corporation will get title.

"Buyer" may also include an attorney or agent of the buyer.

The form must also require the telephone number of the buyer or the buyer's agent or attorney.

8110.0200 ADDITIONAL INFORMATION REQUIRED.

Subpart 1. **Type of transfer.** The certificate of value must include data regarding the type of purchase or transfer and must require the buyer to indicate if:

A. the buyer and seller are natural persons related to each other or are related business operations;

B. the transfer or purchase was of a partial interest in the property;

C. the property was transferred as part of a trade of properties;

D. the property was transferred or conveyed to a government, school, church, or charitable organization;

E. the transfer or conveyance was intended only to add or remove a co-owner's name from the title of the property;

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

F. the property was transferred or conveyed as part of a forced sale such as foreclosure or condemnation;

G. the transfer was a result of a gift or inheritance; or

H. the property was transferred or conveyed in fulfillment of a contract for deed or other purchase price agreement dated more than two years before the transfer.

Subp. 2. Type of property; financing. If none of the variables in subpart 1 apply, the buyer must provide the data required by items A to H.

A. Type of property transferred or conveyed, such as: land only; land with buildings; buildings only; and information relating to any new construction, demolition, or additions to buildings which occurred between January 1 of the year of sale and date of the original agreement.

B. Principal intended use of the property:

(1) residential containing no more than three units;

(2) apartments containing four or more units;

(3) seasonal, recreational property with a residential unit but not used for commercial purposes;

(4) agricultural;

(5) commercial or industrial;

(6) other than uses listed above with a brief description of intended use.

C. Date of original agreement establishing the sales price of the property being transferred. Usually this will be the date of the earnest money agreement or other similar agreement requiring performance at an agreed price.

D. Total purchase price of all real, personal, or intangible property being transferred or conveyed as established by the original agreement.

E. Total down payment paid by buyer to include amounts paid prior to and at the time of closing.

F. Information regarding any pre-existing financing for which the buyer will assume responsibility from the seller.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

for repayment of the debt:

(1) unpaid balance on contract for deed, mortgage, and/or other financing assumed;

(2) current interest rate on assumed balance;

(3) remaining period over which the assumed loan balance is to be amortized;

(4) amount of monthly payment for reduction of principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) date of any lump sum payments required at or before the end of the amortization period.

If the buyer is assuming the seller's obligation to repay on more than one debt, the certificate must include full details on each debt.

G. Information regarding any new loans obtained by the buyer, including:

(1) principal amount being financed;

(2) interest rate;

(3) amortization period;

(4) amount of monthly payment for reduction of principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) points paid and whether paid by the seller or the buyer (but not to include origination fees); and

(8) date of any lump sum payments required at or before the end of the amortization period.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

If the buyer is financing the purchase of the property through more than one debt, full details will be required on each debt.

H. Value of all personal or intangible property included in total sales price such as:

(1) personal property such as stoves, refrigerators, other appliances, drapes, tools, and accessories, as part of the transfer of residential property;

(2) personal property such as crops, livestock, tools, machinery, equipment as part of the transfer, or agricultural property;

(3) personal property such as inventory, equipment, or fixtures as part of the transfer of commercial property;

(4) intangible property such as goodwill, licenses, franchises, patents, or business name, as part of the transfer of a business operation.

8110.0300 SUPPLEMENTAL DOCUMENTS.

The buyer when completing the certificate may attach supplemental documents if the buyer needs to expand on any of the requested data. For example, in the case of a lengthy legal description of the property being transferred or conveyed, a copy of the deed may be attached. Any supplemental documents accompanying the certificate should be attached to the Department of Revenue's copy of the certificate.

8110.0400 COMMISSIONER'S AUDIT.

The certificates of value are subject to audit by the commissioner. The commissioner shall require additional documentation from the buyer, the buyer's agent or attorney, or the seller in order to verify the accuracy of any information required on the certificate. The commissioner shall determine the certificates subject to audit.

8110.0500 FORM TO BE COMPLETE AND SIGNED.

The county auditor shall not accept a certificate for filing unless the form is complete and contains the buyer's

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

1 signature.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD501

Agency: Department of Revenue

Division: Property Equalization Division

Agency Contact: Dorothy McClung

Minnesota Rule Numbers: Parts 8110.0100 to 8110.0500

Title: Proposed Rules Relating to Certificate of Real Estate Value

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Janet C. Rahm
Assistant Revisor
Phone: 296-0952
Date: March 13, 1984

RECEIVED
APR 16 1984
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF REVENUE) ORDER FOR HEARING
GOVERNING THE CERTIFICATE OF REAL)
ESTATE VALUE)

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Second Floor Conference Room, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, on May 11, 1984, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Department of Revenue for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

Arthur C. Roemer
Commissioner

Date: March 23, 1984

Agency Exh. No. 4
File No. DR-84-036-JL
Date 5-11-84

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

RECEIVED
APR 16 1984
ADMINISTRATIVE
HEARINGS

PROPOSED RULES GOVERNING CONTENT OF THE CERTIFICATE OF REAL ESTATE VALUE

NOTICE OF HEARING

Notice is hereby given that on Friday, May 11, 1984, a public hearing on the proposed adoption of rules to be codified as 8110.0100, 8110.0200, 8110.0300, 8110.0400, and 8110.0500 in Minnesota Rules will commence at 9:30 a.m. in the second floor conference room of the Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota. The hearing will continue on additional days, if necessary, at times and places determined during the hearing.

The hearing will be conducted by Hearing Examiner Jon Lunde, Office of Administrative Hearings, 400 Summit Bank Building, 3105 Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7645.

The proposed rules will provide the required data elements which must be included on the revised certificate of real estate value. Each certificate must include buyer's and seller's names and addresses, property description and location, along with a statement by the buyer that the information is correct and complete. The Department has proposed that the form must be signed by the buyer, buyer's agent, or buyer's attorney. The present form is not as restrictive in the signature requirements.

Agency Exh. No. 5
File No. DR-84-036-JL
Date 5-11-84

Inclusion of financing data will not be required if the property transfer was between related parties, a partial transfer, a trade, a transfer to certain exempt organizations, a forced sale, a transfer to add or delete the name of a co-owner, a gift or inheritance, or to complete a purchase agreement dated more than two years before recording.

Information regarding type of property and future use of the property may be required. Unless the transfer meets certain stated criteria listed in the rules, data regarding total sales price, down payment, new and assumed financing, and personal property must be provided to the Commissioner on the certificate. The rules further provide audit authority and the criteria that county auditors shall use at time of filing.

A free copy of the proposed rules is available by contacting Dorothy McClung, Director of Legal Research, Department of Revenue, Centennial Office Building, St. Paul, Minnesota 55145, telephone (612) 296-1022.

The Department's authority to promulgate these rules is found in Minn. Stat. § 272.115, subd. 1 (1983).

The Department has determined, pursuant to Minn. Stat. § 14.11, subd. 1 (1982), that the new rules will not require local governmental bodies to incur additional expenses.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review

at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

At the hearing the Department will introduce its statement of need and reasonableness and its exhibits. The statement of need and reasonableness and the exhibits will constitute the Department's affirmative presentation in support of the proposed rules. All interested or affected persons will then have an opportunity to participate by asking questions about the rules or the statement of need and reasonableness and by presenting oral and written comments about the proposed rules. Comments are most helpful if the comments identify with particularity each provision of the proposed rules that is supported or objected to and if the comments suggest specific alternative language to what is proposed and provide the reasons and data that support the proposed modifications.

Written comments may be submitted to the hearing examiner at any time up to five working days after the hearing ends, or for a longer period not to exceed twenty days after the hearing ends if ordered by the hearing examiner. Copies of the comments should also be submitted to the Department.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after

which date the Department may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

This proceeding is governed by Minn. Stat. §§ 14.04 - 14.20 and 14.50 (1982) and by the rules of the Office of Administrative Hearings 9 MCAR §§ 2.101 - 2.113. Any person who has any questions about procedure to be followed may contact the Hearing Examiner.

Please be advised that the items proposed for rules are subject to change as a result of the rule hearing process. The Department urges those who are interested to any extent in the proposed rules, including those who support the rules as proposed and do not want to see changes made, to participate in the hearing and make their view known.

Please be further advised that Minn. Stat. ch. 10A. requires each lobbyist to register with the State Ethical Practices Board within five working days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his or her own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota, (612) 296-5615.

GEORGE W. WINTER
Deputy Commissioner

March 23, 1984

RECEIVED
APR 16 1984
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF RULES GOVERNING CONTENT OF THE
REAL ESTATE VALUE

AFFIDAVIT OF MAILING

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 3rd day of April, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said city of St. Paul, a copy thereof, properly enveloped, to all persons and associations, totaling 35, who had objected to the proposed rule governing content of the real estate value as first proposed.

Donna L Walbridge
DONNA L. WALBRIDGE

Subscribed and sworn to before me this
3 day of April, 1984.

Patricia A. Lien

PATRICIA A LIEN
NOTARY PUBLIC MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 19, 1987

Agency Exh. No. 8
File No. DR-84-036-JL
Date 5-11-84

RECEIVED
APR 16 1984
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

PROPOSED RULES GOVERNING CONTENT OF THE CERTIFICATE OF REAL ESTATE VALUE

NOTICE OF HEARING

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The proposed rules will provide the required data elements which must be included on the revised certificate of real estate value. Each certificate must include buyer's and seller's names and addresses, property description and location, along with a statement by the buyer that the information is correct and complete. The Department has proposed that the form must be signed by the buyer, buyer's agent, or buyer's attorney. The present form is not as restrictive in the signature requirements.

Inclusion of financing data will not be required if the property transfer was between related parties, a partial transfer, a trade, a transfer to certain exempt organizations, a forced sale, a transfer to add or delete the name of a co-owner, a gift or inheritance, or to complete a purchase agreement dated more than two years before recording.

Information regarding type of property and future use of the property may be required. Unless the transfer meets certain stated criteria listed in the rules, data regarding total sales price, down payment, new and assumed financing, and personal property must be provided to the Commissioner on the certificate. The rules further provide audit authority and the criteria that county auditors shall use at time of filing.

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Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

At the hearing the Department will introduce its statement of need and reasonableness and its exhibits. The statement of need and reasonableness and the exhibits will constitute the Department's affirmative presentation in support of the proposed rules. All interested or affected persons will then have an opportunity to participate by asking questions about the rules or the statement of need and reasonableness and by presenting oral and written comments about the proposed rules. Comments are most helpful if the comments identify with particularity each provision of the proposed rules that is supported or objected to and if the comments suggest specific alternative language to what is proposed and provide the reasons and data that support the proposed modifications.

Written comments may be submitted to the hearing examiner at any time up to five working days after the hearing ends, or for a longer period not to exceed twenty days after the hearing ends if ordered by the hearing examiner. Copies of the comments should also be submitted to the Department.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

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Please be advised that the items proposed for rules are subject to change as a result of the rule hearing process. The

Department urges those who are interested to any extent in the proposed rules, including those who support the rules as proposed and do not want to see changes made, to participate in the hearing and make their view known.

Please be further advised that Minn. Stat. ch. 10A. requires each lobbyist to register with the State Ethical Practices Board within five working days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his or her own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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GEORGE W. WINTER
Deputy Commissioner

March 23, 1984

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ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF RULES GOVERNING CONTENT OF THE
REAL ESTATE VALUE

AFFIDAVIT OF MAILING

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 3rd day of April, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said city of St. Paul, a copy thereof, properly enveloped, with first-class postage prepaid, to all persons and associations who have requested that their names be placed on file with the Minnesota Department of Revenue for the purpose of receiving notice of the proposed adoption of rules by this Department.

Donna L. Walbridge
DONNA L. WALBRIDGE

Subscribed and sworn to before me this
3 day of April, 1984.

Patricia A. Lien

PATRICIA A. LIEN
NOTARY PUBLIC MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 19, 1987

Agency Exh. No. 7
File No. DR-84-036-JL
Date 5-11-84

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

RECEIVED
APR 16 1984
ADMINISTRATIVE HEARINGS

PROPOSED RULES GOVERNING CONTENT OF THE CERTIFICATE OF REAL ESTATE VALUE

NOTICE OF HEARING

Notice is hereby given that on Friday, May 11, 1984, a public hearing on the proposed adoption of rules to be codified as 8110.0100, 8110.0200, 8110.0300, 8110.0400, and 8110.0500 in Minnesota Rules will commence at 9:30 a.m. in the second floor conference room of the Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota. The hearing will continue on additional days, if necessary, at times and places determined during the hearing.

The hearing will be conducted by Hearing Examiner Jon Lunde, Office of Administrative Hearings, 400 Summit Bank Building, 3105 Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7645.

The proposed rules will provide the required data elements which must be included on the revised certificate of real estate value. Each certificate must include buyer's and seller's names and addresses, property description and location, along with a statement by the buyer that the information is correct and complete. The Department has proposed that the form must be signed by the buyer, buyer's agent, or buyer's attorney. The present form is not as restrictive in the signature requirements.

Inclusion of financing data will not be required if the property transfer was between related parties, a partial transfer, a trade, a transfer to certain exempt organizations, a forced sale, a transfer to add or delete the name of a co-owner, a gift or inheritance, or to complete a purchase agreement dated more than two years before recording.

Information regarding type of property and future use of the property may be required. Unless the transfer meets certain stated criteria listed in the rules, data regarding total sales price, down payment, new and assumed financing, and personal property must be provided to the Commissioner on the certificate. The rules further provide audit authority and the criteria that county auditors shall use at time of filing.

A free copy of the proposed rules is available by contacting Dorothy McClung, Director of Legal Research, Department of Revenue, Centennial Office Building, St. Paul, Minnesota 55145, telephone (612) 296-1022.

The Department's authority to promulgate these rules is found in Minn. Stat. § 272.115, subd. 1 (1983).

The Department has determined, pursuant to Minn. Stat. § 14.11, subd. 1 (1982), that the new rules will not require local governmental bodies to incur additional expenses.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

At the hearing the Department will introduce its statement of need and reasonableness and its exhibits. The statement of need and reasonableness and the exhibits will constitute the Department's affirmative presentation in support of the proposed rules. All interested or affected persons will then have an opportunity to participate by asking questions about the rules or the statement of need and reasonableness and by presenting oral and written comments about the proposed rules. Comments are most helpful if the comments identify with particularity each provision of the proposed rules that is supported or objected to and if the comments suggest specific alternative language to what is proposed and provide the reasons and data that support the proposed modifications.

Written comments may be submitted to the hearing examiner at any time up to five working days after the hearing ends, or for a longer period not to exceed twenty days after the hearing ends if ordered by the hearing examiner. Copies of the comments should also be submitted to the Department.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

This proceeding is governed by Minn. Stat. §§ 14.04 - 14.20 and 14.50 (1982) and by the rules of the Office of Administrative Hearings 9 MCAR §§ 2.101 - 2.113. Any person who has any questions about procedure to be followed may contact the Hearing Examiner.

Please be advised that the items proposed for rules are subject to change as a result of the rule hearing process. The

Department urges those who are interested to any extent in the proposed rules, including those who support the rules as proposed and do not want to see changes made, to participate in the hearing and make their view known.

Please be further advised that Minn. Stat. ch. 10A. requires each lobbyist to register with the State Ethical Practices Board within five working days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his or her own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota, (612) 296-5615.

GEORGE W. WINTER
Deputy Commissioner

March 23, 1984

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

RECEIVED
APR 16 1984
ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES GOVERNING CONTENT OF THE CERTIFICATE OF REAL ESTATE VALUE

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages numbered 1 through 28 consisting of 331 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 29th day of March, 1984, have requested pursuant to Minn. Stat. § 14.14, subd. 1, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

STATE OF MINNESOTA
ARTHUR C. ROEMER
COMMISSIONER OF REVENUE

By: Donna L Walbridge
Donna Walbridge
Commissioner's Staff

Agency Exh. No. 6
File No. DR-84-036-JL
Date 5-11-84

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Executive Director

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Roseville, MN 55113
Attn: Glenn Thomasen

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Attn: Calvin Jacks, Jr.
Operations Manager

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Attn: Bookkeeper

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Attn: Manager-Tax Accounting

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Montevideo, MN 56265

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Lake Park, MN 56554

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Lake Superior Industrial Bureau
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Attention: Alfred E. France, President

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Attn: Bob Franklin, City Editor

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STATE OF MINNESOTA



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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 8		
42	Monday Apr 2	Monday Apr 9	Monday Apr 16
43	Monday Apr 9	Monday Apr 16	Monday Apr 23
44	Monday Apr 16	Monday Apr 23	Monday Apr 30
45	Monday Apr 23	Monday Apr 30	Monday May 7

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

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Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
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MINNESOTA RULES

Office of the Revisor of Statutes
State Register and Public Documents Division

Announcement of New Minnesota Rules Format

Beginning with the March 19 issue of the *State Register*, proposed rules published in the *State Register* will be drafted in a new format and will use a new numbering system. This format and numbering system change was made by the Revisor of Statutes as part of the Revisor's recompilation of state administrative rules. This recompilation has been published and is known as *Minnesota Rules*.

The MCAR format will still appear when agencies publish changes to proposed rules that were published in the MCAR format. The changes will follow the MCAR format so that readers can easily compare the proposed and adopted rules. Also, rules that began at the proposal stage in the MCAR format before the changeover will still appear in the MCAR format in the *State Register*. After the rules have been adopted, the revisor will recompile them in the new format for inclusion in *Minnesota Rules*.

Copies of the *Minnesota Rules Drafting Manual*, which explains the new format, can be purchased from the State Register and Public Documents Division of the Department of Administration. The cost is $11.00 plus 6% sales tax (Minnesota residents only) and $1.50 handling charge (handling charge applicable to mail orders only). Prepayment is required.

Concordance tables for converting MCAR numbers into MR numbers and vice versa is also available. It is included in Volume 6 of the new set of *Minnesota Rules*, 1983. The entire six-volume set is available for $115.00 plus tax (all orders prepaid; the seventh volume will be mailed out later). A limited number of individual volumes is available. The cost of Volume 6 of *Minnesota Rules* is $17.00 plus sales tax and handling charge ($1.50 for mail orders), and is available from the State Register and Public Documents. For questions about specific MCAR-MR conversions, call Barbara Moehrle, Revisor's Office, at 297-2958.

PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

State Board of Education
Department of Education
Operations Division

Proposed Rules Governing Required Three-Year and Four-Year Senior Secondary School Curriculum Offerings, 3500.2010 and 3500.2110

Notice of Hearing

A public hearing concerning the proposed rules will be held at William Mitchell College of Law, Room 111, 875 Summit Avenue, St. Paul, Minnesota 55105 on May 14, 1984, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearings process.

Following the Board's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon Lunde, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, MN 55415, telephone (612) 341-7645, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 14.02 to 14.56, and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules to be codified MN Rules 1400.0200-1400.6600). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Board and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include all the evidence and argument which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The agency intends to present only a short summary of the Statement of Need and Reasonableness at the hearing but will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

The proposed rules require specific subject courses and credits to be available to all senior secondary school students. These rules include specific required subjects and credits as well as a minimum comprehensive array of elective subjects from which each student would be able to select elective subjects and credits.

The Board's statutory authority to promulgate the proposed rules is provided by Laws of Minnesota 1983, Ch. 314, Art. 8, § 23 and Minn. Stat. § 121.11, subd. 7.

It is estimated that the cost of the total rules proposal will range from $2,000,000 to $4,000,000 depending on the implementation decisions made by the local school districts. See fiscal statement attached.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Dr. Donald A. Johansen, Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact Dr. Donald A. Johansen, (612) 296-4055.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Board (in the case of the Board's submission or resubmission to the Attorney General).

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any one month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone (612) 296-5615.

February 14, 1984

Ruth E. Randall, Secretary
State Board of Education

FISCAL STATEMENT

The State Board of Education estimates that there will be some cost to local school districts in the state in order to implement the proposed rule for the first two years immediately following its adoption within the meaning of Minnesota Statute Section 14.11, subdivision 1. However, because costs vary from school to school depending on staff, licensure, local courses currently being offered, it is not possible to project an accurate cost estimate. We can estimate that the full time equivalent of 120 teachers would be necessary if the only option school districts elected was to hire additional teachers. These 120 teachers at an average salary of $24,000 would amount to $2,880,000 per year and this would not include textbooks, equipment, support services, and other extra costs. There is the very real possibility that many of these courses will be taught by teachers already employed by the schools and licensed in the subject area. They may very well be reassigned from other subject areas which are not required to be offered.

Other options are sharing of teachers with other districts, sharing of students with other districts, alternating course offerings on a yearly basis, and utilizing the emerging technology such as interactive TV or computer assisted interactive video tape. All of these options have start-up costs but varying and undetermined continuing costs.

In determining the estimate of costs, some of the factors in determining the estimated costs which must be considered are:

- The number of districts which can add required courses by reassignment.
- The number of schools currently without the required elective program. I.E.: It is estimated that 200 districts in Minnesota do not presently offer secondary modern and classical foreign language study. It is estimated that other proposed required programs in the rule are being provided in all but the smallest schools.
- The number of districts which will be able to share students and/or teachers.
- The number of districts which will elect to provide options through technology.

The Department of Education estimates that the total cost to the state will range from $2,000,000 to $4,000,000 annually.

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Rules as Proposed (all new material)

3500.2010 REQUIRED CURRICULUM OFFERINGS FOR THREE-YEAR SENIOR SECONDARY SCHOOLS.

Subpart 1. Required during grades 10-12 program. The subjects listed in subpart 2 are required to be offered to students in a secondary school having grades 10 to 12. Except for physical education, each of the listed subjects must be made available over the three-year period for the minimum number of clock hours shown in subpart 2. Physical education must be offered for a minimum of 60 clock hours in grade 10. One credit/hour is equal to 120 clock hours. The minimum requirements may be expressed in clock hours or credit/hours.

Subp. 2. Schedule.

Subjects	Minimum Clock Hours	Credit/Hours
Communication skills	480	4
Mathematics	360	3
Science	360	3
Social studies	360	3
One modern-classical foreign language	240	2
Music	240	2
Visual arts	240	2
Industrial arts	120	1
Health	60	1/2
Physical education in grade 10	60	1/2
Electives, local district choice in five subject areas	1,200	10

Subp. 3. Required offerings without minimum hours. The programs in A and B must be offered to students. The number of clock hours to be devoted to each is up to the local school board. Satisfactory completion will be based on locally determined learner outcomes which are defined as knowledge, skills, or understandings that an individual student derives from a learning experience.

A. A school district must provide a career education program developed by involving parents or guardians and the community. The program must be designed to assist pupils in making career decisions including course selections.

B. A school district must provide an information technology program to meet individual student needs.

3500.2110 REQUIRED CURRICULUM OFFERINGS FOR FOUR-YEAR SENIOR SECONDARY SCHOOLS.

Subpart 1. Required during grades 9-12 program. The subjects listed in subpart 2 are required to be offered to students in a secondary school having grades 9 to 12. Except for physical education, each of the listed subjects must be made available over the four-year period for the minimum number of clock hours shown in subpart 2. Physical education must be offered for a minimum of 80 clock hours in grade 9, and 60 clock hours in grade 10. One credit/hour is equal to 120 clock hours. The minimum requirements may be expressed in clock hours or credit/hours.

Subp. 2. Schedule.

Subjects	Minimum Clock Hours	Credit/Hours
Communication skills	600	5
Mathematics	480	4
Science	480	4
Social studies	480	4
One modern-classical foreign language	240	2
Music	240	2
Visual arts	240	2
Industrial arts	120	1
Health	60	1/2
Physical education *in grade 9*	80	2/3
in grade 10	60	1/2
Electives, local district choice in five subject areas	1,200	10

Subp. 3. Required offerings without minimum hours. The programs in A and B must be offered to students. The number of clock hours to be devoted to each is up to the local school board. Satisfactory completion will be based on locally determined learner outcomes which are defined as knowledge, skills, or understandings that an individual student derives from a learning experience.

A. A school district must provide a career education program developed by involving parents or guardians and the community. The program must be designed to assist pupils in making career decisions including course selections.

B. A school district must provide an information technology program to meet individual student needs.

Housing Finance Agency

Proposed Rules Relating to Local Participation Home Improvement Loans

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

April 6, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.0550 FUNDS.

Subpart 1. Request for funds. A local government that wishes to receive an allocation of funds to make local participation home improvement loans shall submit a request for funds that includes the following items, which may be further described by the agency:

A. a description of the proposed program;

B. a description of the program requirements to be imposed by the local government that are not set forth in parts 4900.0510 to 4900.0570;

C. an analysis of the need for the proposed program in the community;

D. a demonstration of financial feasibility of the proposed program;

E. evidence that an adequate delivery mechanism is available for the proposed program; and

F. the specific funding amount requested and the time period, that is within the maximum time period set by the agency, during which the funds will be expended.

Subp. 2. Deadline for requests for funds. The agency shall give notice that it will accept requests for funds to make local participation home improvement loans from local governments for the period specified by the agency. This period may not be less than 30 days.

4900.0560 ELIGIBLE APPLICATIONS.

An application for a local participation home improvement loan must meet all of the requirements of part 4900.0510.

4900.0570 ELIGIBLE IMPROVEMENTS.

An improvement financed with the proceeds of a local participation home improvement loan must meet all of the requirements of part 4900.0520.

4900.0580 DEFINITION: PERSONS AND FAMILIES OF LOW AND MODERATE INCOME.

For local participation home improvement loans, "persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed 125 percent of the median income for the county in which these projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development, or the income limit for home improvement loans under parts 4900.0510 and 4900.0520, whichever is greater; provided, however, that the maximum adjusted income may not exceed 100 percent of the median income for the county in Minnesota that has the highest median income, as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

Public Utilities Commission

Proposed Rules Governing Automatic Adjustment of Charges

Notice and Order for Hearing

Notice is hereby given that public hearings in the above entitled matter will be held by the Minnesota Public Utilities Commission (the Commission) pursuant to Minn. Stat. § 14.14, Subd. 1, at the following times and locations:

Monday, May 14, 1984, 7:00 p.m., County Service Building, Meeting Room #1, Laurel Street, Brainerd, MN 56401.

Tuesday, May 15, 1984, 7:00 p.m., 715/Large Hearing Room, 7th Floor, American Center Building, St. Paul, MN 55101.

Wednesday, May 16, 1984, 7:00 p.m., Rochester Community College, Cube Room, Highway 14E, Rochester, MN 55904.

The hearing will commence at the designated times and continue until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed amendments to the rules by submitting either oral or written data, statements or arguments.

Authority for the adoption of these amendments is contained in Minn. Stat. §§ 216B.16, Subd. 7 and 216B.08.

The Commission estimates that there will be no cost to local public bodies in the State in connection with implementation of these proposed amendments for the two years immediately following their adoption within the meaning of Minn. Stat. § 14.11, since the rules do not apply to municipal utilities. The Commission has considered pursuant to Minn. Stat. § 14.115 whether these amendments may have an impact on small businesses and has determined that they will not.

The Commission first adopted the above-captioned rules on January 21, 1978. A Notice of Intent to Solicit Outside Opinion regarding this rulemaking was published on December 27, 1982.

The purpose of the proceeding is to determine the need for and reasonableness of the proposed amendments as well as allowing the Commission the opportunity to obtain additional public input on the form and content of the proposed amendments to the rules.

The hearings will be held before Hearing Examiner Phyllis Reha, Office of Administrative Hearings, 400 Summit Bank Building, 310 South 4th Avenue, Minneapolis, Minnesota 55415, telephone 612/341-7611, a hearing examiner appointed by the chief hearing examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, by themselves, or any other representative of their choice, if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted in accordance with the applicable laws relating to the Commission, the Administrative Procedures Act (Minn. Stat. §§ 14.13-14.20), the Rules of the Office of Administrative Hearings (9 MCAR §§ 2.101-2.113), and the Rules of Practice of the Commission (Minn. Reg. PSC 500-521), to the extent that they have not been superseded by the Rules of the Office of Administrative Hearings.

The above-cited procedural rules are available for inspection at the Office of Administrative Hearings and the Commission, or may be purchased from the State Register and Public Documents Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155, telephone 612/297-3000.

The cited procedural rules provide generally for the procedural rights and obligations including the right to present evidence and cross examine witnesses, the right to purchase a record or transcript, and the obligation to meet certain time limits.

A copy of the proposed amendments to the rules is attached to this notice and order.

Any interested person will be provided with one copy of the proposed amendments to the rules without charge upon request to Randall D. Young, telephone 612/296-7526. Additional copies will be available at the hearing.

In the interest of efficiency, the Commission requests that any person having comments on or objections to any part of the proposed amendments to the rules submit their comments or objections to the Commission (attention Randall D. Young, Executive Secretary, Docket No. G,E-999/R-83-467) and to Hearing Examiner Reha as soon as possible and preferably prior to May 9, 1984. Any such comments or objections should:

—state concisely and with particularity each portion of the proposed amendments to the rules that the author supports or objects;

—state the basis for the author's support or objection; and

—state any proposed modifications to the proposed amendments to the rules, the author's reasons for those modifications and the basis for those modifications.

Failure to submit such comments or objections prior to the hearings will not prohibit any person from submitting written or oral statements on the record at the hearing.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Commission's offices and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Commission anticipates presenting at the hearing justifying both the need

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for and the reasonableness of the proposed amendments to the rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or by the Commission in the determination of the above-cited matter. Persons attending the hearings should bring all factual information and evidence bearing on the case which they wish to have included in the record.

At the hearings, the Commission will, through its staffs' written and oral testimony, explain the proposed amendments to the rules and the Commission's reasons for proposing them. Copies of any written testimony and the statement of need and reasonableness will be available at the hearings.

Upon completion of the Commission's presentation, interested persons will be given an opportunity to address questions to the Commission's staff and to submit written and oral statements. It is the Commission's intent and desire that after its staff has completed its presentation, comments and statements be received from interested persons before proceeding to questioning. An opportunity to question the Commission's staff will be afforded all persons upon completion of the exchange of information and comments.

Interested persons who wish to make statements may do so by responding to the Commission's presentation or by offering new information. In addition, interested persons may request the Commission's staff to provide further explanations of any portion of the proposed amendments to the rules if the persons are unclear about the Commission's reasons. All persons making oral statements are subject to questioning by the Commission's staff.

The Commission will respond, in so far as possible, at the hearings to objections and questions presented at the hearing by interested persons. Interested persons may respond with oral or written statements to any new information presented by the Commission. The Commission may also respond to objections or comments in writing after the close of the hearings.

Written material may be submitted and recorded in the hearing record for five working days after the conclusion of the public hearings. Such a comment period may be extended for a period not to exceed 20 calendar days if so ordered by the Hearing Examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Commission may not take any final action on the rules for a period of five working days. Any persons may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Commission. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or the Commission (in the case of the Commission's submission or resubmission to the Attorney General).

All persons are advised that the proposed amendments to the rules may be modified as a result of the hearing process.

Questions concerning the content or form of the above-entitled amendments to the rules should be directed to Randall D. Young, 780 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone 612/296-7526. Any questions concerning the conduct of the hearing should be directed to the assigned Hearing Examiner.

M.S. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in M.S. § 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

ORDER

1. Hearings shall be held in this proceeding as listed herein.
2. A copy of this Order shall be mailed to all persons who have registered their names with the Commission for that purpose.

3. A copy of this Order and of the proposed amendments to the rules shall be published in the *State Register*.

4. This order shall become effective immediately.

March 26, 1984

By Order of the Commission,
Randall D. Young
Executive Secretary

On February 29, 1984, the Minnesota Public Utilities Commission met and adopted the following resolution:

The Minnesota Public Utilities Commission resolves that Randall D. Young, Executive Secretary of the Commission, is hereby authorized and directed to call a hearing to promulgate amendments to the Commission rules governing automatic adjustment of charges. He is further authorized to perform any acts incidental to promulgating these amendments including signing an Order for Hearing and Notice for Hearing as well as acting or designating other members of the Commission's staff to represent the Commission at all hearings.

Rules as Proposed

7825.2390 PURPOSE.

The purpose of parts 7825.2390 to 7825.3000 is to allow a means by which regulated gas and electric utilities may adjust for increases and decreases in the cost of energy delivered to customers that are different from those costs authorized by the commission in the utility's most recent general rate case. Energy costs included in rate schedules are subject to evidentiary hearings in general rate cases filed by the utility. Proposed energy cost adjustments must be evaluated before billing by the Department of Public Service. Annual evaluation of energy cost adjustments must be made by the Department of Public Service and others as provided for in parts 7825.2390 to 7825.3000.

7825.2400 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts ~~7825.2400~~ 7825.2390 to 7825.3000, the following definitions ~~shall~~ apply.

Subp. 2. Annual sales volume. "Annual sales volume" is the sum of the Mcf ~~or~~, Ccf, or Btu of gas delivered during the most recent 12 months of the 14-month period preceding a change in the city gate rate or end of the heating season for which actual data is available.

Subp. 3. [Unchanged.]

Subp. 4. Base cost. "Base cost" is the peak shaving gas volumes or the cost of fuel consumed in the manufacture of gas or generation of electricity and purchased gas or purchased power in the base period expressed as a cost per kilowatt-hour sold or cost per Mcf ~~or~~, Ccf, or Btu sold.

Subp. 5 to 9. [Unchanged.]

Subp. 10. Cost of fuel consumed in ~~the~~ manufacture of gas; peak shaving gas volumes. "Cost of fuel consumed in the manufacture of gas" or "peak shaving gas volumes" is the withdrawals, during the heating season, from account 151 as defined by the Minnesota uniform system of accounts, class A and B gas utilities. All gas public utilities shall use this definition regardless of class.

Subp. 11. and 12. [Unchanged.]

Subp. 13. Current period. "Current period" is the most recent two-month moving average used by electric utilities in computing an automatic adjustment of charges. Upon approval of the commission, a self-billing utility may use a longer period, not to exceed 12 months, provided that the provision contains a settlement procedure. ~~All electric utilities shall use this definition.~~

Subp. 14. to 17. [Unchanged.]

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7825.2500 APPLICABILITY AND TYPES OF AUTOMATIC ADJUSTMENT OF CHARGES.

The commission shall permit the filing of rate schedules containing provisions for the automatic adjustment of charges provided ~~such~~ the provisions conform to parts 7825.2600 to 7825.3000. Parts ~~7825.2400~~ 7825.2390 to 7825.3000 ~~shall be~~ are applicable to all classes of public utilities.

Provisions for automatic adjustment of charges ~~shall~~ must encompass:

A. [Unchanged.]

B. Changes in cost resulting from changes in the federally regulated wholesale rate for purchased gas and changes in the cost of fuel consumed in the manufacture of gas or peak shaving gas volumes. This provision is entitled purchased gas adjustment.

7825.2600 ELECTRIC ENERGY ADJUSTMENT.

The computations of the automatic adjustment to charges ~~shall~~ must conform to the procedures set forth below.

The amount of the billing period adjustment to charges ~~shall~~ must be determined by extending Kwh of sales in the billing period by an adjustment per Kwh. The adjustment per Kwh or the amount of the adjustment ~~shall~~ must be stated on the customer's bill to comply with parts 7820.3500 and 7820.3600.

The adjustment per Kwh ~~shall be~~ is the sum of the current period cost of energy purchased and cost of fuel consumed per Kwh less the base cost per Kwh; except that upon commission approval, a utility that purchases at least 75 percent of its annual total Kwh sales may also separately add an additional adjustment per Kwh equal to the difference between the purchased demand cost and the base cost of purchased demand. This purchased demand cost adjustment is to be computed annually for the previous year less the demand base cost per Kwh.

The adjustment to charges ~~shall~~ must be made in the next complete billing period succeeding the determination of the adjustment per Kwh provided the adjustment has been filed as defined by part 7825.2900, subpart 1. The adjustment factor ~~shall~~ must be calculated monthly. Except, upon commission approval, a self-billing utility may calculate the adjustment less frequently but at least annually and ~~must~~ shall provide for a settlement procedure. The adjustment must be applied each month. The adjustment amount ~~shall~~ must be rounded such that the projected recovery is within two percent of the change in total cost.

7825.2700 PURCHASE GAS ADJUSTMENT PROVISION.

The computation of the automatic adjustment to charges ~~shall~~ must conform to the procedures set forth below.

The amount of the billing period adjustment to charges ~~shall~~ must be determined by extending Mcf ~~or~~, Ccf, or Btu sales in the billing period by an adjustment per Mcf ~~or~~, Ccf, or Btu. The adjustment per Mcf ~~or~~, Ccf, or Btu or the amount of the adjustment ~~shall~~ must be stated on the customer's bill to comply with parts 7820.3500 and 7820.3600.

The adjustment per Mcf ~~or~~, Ccf, or Btu is the sum of the commodity adjustment, demand adjustment, peak shaving gas adjustment, and manufactured gas adjustment as computed below:

A. The commodity adjustment is the difference between the commodity cost which results from a change in the city gate rate and the commodity base cost. To properly reflect adjustment per Mcf ~~or~~, Ccf, or Btu billed, the divisor for a particular class of customer must include total sales volume delivered to that class of customer. The adjustment ~~shall~~ must be applied to billings after the effective date of the commodity rate change provided the adjustment has been filed as defined by part 7825.2900, subpart 1.

B. The demand adjustment is the difference between the annual demand cost which results from a change in the city gate rate and the demand base cost. In the event the demand city gate rate does not change, the demand adjustment ~~shall~~ must be recalculated for each 12-month period from the date of the last change. The adjustment ~~shall~~ must be computed on the basis of annual demand sales volume and applied to billings after the effective date of the demand rate change provided the adjustment has been filed as defined by part 7825.2900, subpart 1.

C. The peak shaving adjustment or the manufactured gas adjustment is the difference between the cost of propane ~~and other~~ or fuel consumed in the manufacture of gas during the heating season and the peak shaving or manufactured gas base cost. The peak shaving or manufactured gas adjustment ~~shall~~ must be computed annually for the heating season ending April 30 of each year on the basis of firm annual sales volume adjusted to the extent peak shaving gas or manufactured gas is used to serve interruptible customers. The cost of peak shaving gas or manufactured gas ~~shall~~ must be applied to interruptible customers. The adjustment ~~shall~~ must be applied to billings during the next 12-month period commencing on June 1 of each year provided the adjustment has been filed as defined by part 7825.2900, subpart 1.

Refunds and interest thereon received from the suppliers of purchased gas ~~which~~ that are attributable to the cost of gas previously sold ~~shall~~ must be refunded by credits to bills or check within a period not to exceed 90 days from the date the refund is received from a supplier, provided the refund amount per customer is equal to or greater than five cents. Upon approval of the commission, refunds of less than five cents per customer may be retained by the utility and separately accounted for until such time as the balance, together with additional supplier refunds, produces a refund of five cents or more per customer. Refunds must be made to each customer class on the same basis as previously charged to customers. If a supplier refund cannot be accurately distributed to customers because of seasonal usage patterns, then upon commission approval, refunding may be delayed for a period of up to 12 months. The utility shall add interest to the unrefunded balance at the prime interest rate.

7825.2800 ~~FILING REQUIREMENTS AND APPROVALS FOR ELECTRIC ENERGY AND PURCHASE GAS ADJUSTMENTS~~ ANNUAL REPORTS; POLICIES AND ACTIONS.

All public utilities shall file annually on ~~October 31~~ September 1 of each year the procurement policies for selecting sources of fuel and energy purchased ~~and~~, dispatching policies, if applicable, and a summary of actions taken to minimize cost.

7825.2810 ANNUAL REPORT; AUTOMATIC ADJUSTMENT CHARGES.

By September 1 of each year, all gas and electric utilities shall submit to the commission an annual reporting by month of all automatic adjustment charges for each customer class for the prior year commencing July 1 and ending June 30. This report must include:

A. the commission-approved base cost of fuel or gas as defined by part 7825.2400, subpart 4;

B. billing adjustment amounts, such as Kwh, Mcf, Ccf, or Btu, charged customers for each type of energy cost, such as nuclear, coal, purchased power, purchased gas, peak shaving gas, or manufactured gas;

C. billing adjustment amounts, by gas supplier, that were used to bill the utiltiy during the reporting period;

D. the total cost of fuel or gas delivered to customers;

E. the revenues collected from customers for energy delivered;

F. the amount of supplier refunds received as defined by part 7825.2700; and

G. the amount of refunds credited to customers.

7825.2820 ANNUAL AUDITOR'S REPORT.

By September 1 of each year, all gas and electric utilities shall submit to the commission an independent auditor's report evaluating accounting for automatic adjustments for the prior year commencing July 1 and ending June 30.

7825.30 ANNUAL FIVE-YEAR PROJECTION.

By September 1 of each year, all gas and electric utilities shall submit to the commission a five-year projection of fuel and gas costs by energy source by month for the first two years and on an annual basis thereafter.

7825.2840 ANNUAL NOTICE OF REPORTS AVAILABILITY.

By September 1 of each year, all gas and electric utilities shall provide notice of the availability of the reports defined in parts 7825.2800 to 7825.2830 to all intervenors in the previous two general rate cases.

7825.2850 ANNUAL COMMISSION MEETING.

The commission shall annually conduct a separate meeting to review the automatic adjustment of charges reported herein.

7825.3000 IMPLEMENTATION.

Existing automatic adjustment provisions in effect on the effective date of these rules ~~which~~ that will not result in adjustment amounts materially greater than those determined by parts ~~7825.2400~~ 7825.2390 to 7825.3000 ~~shall~~ continue in effect until the

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commission, upon its own motion or upon complaint~~,~~ and after appropriate notice and hearing, ~~shall order~~ orders otherwise. Adjustments made pursuant to automatic adjustment provisions in effect on the effective date of these rules which may result in adjustment amounts materially greater than those determined by parts ~~7825.2400~~ 7825.2390 to 7825.3000 ~~shall~~ must be frozen by the utility at the level of charges in effect at the effective date of parts ~~7825.2400~~ 7825.2390 to 7825.3000. The existing level of any such automatic adjustments ~~shall~~, on the effective date of parts ~~7825.2400~~ 7825.2390 to 7825.3000, must be submitted to the Department of Public Service within 30 days.

If existing automatic adjustments of charges are continued under the provision above, then the filing requirements of part 7825.2900, subpart 1 ~~shall~~ apply.

When a utility proposes new or revised electric energy or purchased gas adjustment provisions, the proposal ~~shall be~~ is deemed a change in rates and must be reviewed according to commission rules and practices relating to utility rate changes.

Department of Revenue
Property Equalization Division

Proposed Rules Relating to Certificate of Real Estate Value

Notice of Hearing

Notice is hereby given that on Friday, May 11, 1984, a public hearing on the proposed adoption of rules to be codified as 8110.0100, 8110.0200, 8110.0300, 8110.0400, and 8110.0500 in Minnesota Rules will commence at 9:30 a.m. in the second floor conference room of the Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota. The hearing will continue on additional days, if necessary, at times and places determined during the hearing.

The hearing will be conducted by Hearing Examiner Jon Lunde, Office of Administrative Hearings, 400 Summit Bank Building, 3105 Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7645.

The proposed rules will provide the required data elements which must be included on the revised certificate of real estate value. Each certificate must include buyer's and seller's names and addresses, property description and location, along with a statement by the buyer that the information is correct and complete. The Department has proposed that the form must be signed by the buyer, buyer's agent, or buyer's attorney. The present form is not as restrictive in the signature requirements.

Inclusion of financing data will not be required if the property transfer was between related parties, a partial transfer, a trade, a transfer to certain exempt organizations, a forced sale, a transfer to add or delete the name of a co-owner, a gift or inheritance, or to complete a purchase agreement dated more than two years before recording.

Information regarding type of property and future use of the property may be required. Unless the transfer meets certain stated criteria listed in the rules, data regarding total sales price, down payment, new and assumed financing, and personal property must be provided to the Commissioner on the certificate. The rules further provide audit authority and the criteria that county auditors shall use at time of filing.

A free copy of the proposed rules is available by contacting Dorothy McClung, Director of Legal Research, Department of Revenue, Centennial Office Building, St. Paul, Minnesota 55145, telephone (612) 296-1022.

The Department's authority to promulgate these rules is found in Minn. Stat. § 272.115, subd. 1 (1983).

The Department has determined, pursuant to Minn. Stat. § 14.11, subd. 1 (1982), that the new rules will not require local governmental bodies to incur additional expenses.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the Department and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

At the hearing the Department will introduce its statement of need and reasonableness and its exhibits. The statement of need and reasonableness and the exhibits will constitute the Department's affirmative presentation in support of the proposed rules. All interested or affected persons will then have an opportunity to participate by asking questions about the rules or the statement of need and reasonableness and by presenting oral and written comments about the proposed rules. Comments are most helpful if the comments identify with particularity each provision of the proposed rules that is supported or objected to and if the comments suggest specific alternative language to what is proposed and provide the reasons and data that support the proposed modifications.

Written comments may be submitted to the hearing examiner at any time up to five working days after the hearing ends, or for a longer period not to exceed twenty days after the hearing ends if ordered by the hearing examiner. Copies of the comments should also be submitted to the Department.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Department (in the case of the Department's submission or resubmission to the Attorney General).

This proceeding is governed by Minn. Stat. §§ 14.04-14.20 and 14.50 (1982) and by the rules of the Office of Administrative Hearings 9 MCAR §§ 2.101-2.113. Any person who has any questions about procedure to be followed may contact the Hearing Examiner.

Please be advised that the items proposed for rules are subject to change as a result of the rule hearing process. The Department urges those who are interested to any extent in the proposed rules, including those who support the rules as proposed and do not want to see changes made, to participate in the hearing and make their views known.

Please be further advised that Minn. Stat. ch. 10A. requires each lobbyist to register with the State Ethical Practices Board within five working days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his or her own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota, (612) 296-5615.

George W. Winter
Deputy Commissioner

March 23, 1984

Rules as Proposed (all new material)

8110.0100 MANDATORY INFORMATION.

In order to be accepted for filing a certificate of real estate value must contain the following data:

A. Buyer's name and address.

B. Seller's name and address.

C. Legal description of all parcels involved in the transaction. The property identification number assigned by the county for administration of the property tax system is not sufficient.

D. Location of property described such as street address.

E. A statement signed by the buyer that the information provided on the certificate is correct and complete under penalty of the law. "Buyer" for the purpose of this rule means the individual or one of the individuals who will get title to the property, or a partner if a partnership will get title, or an officer if a corporation will get title.

"Buyer" may also include an attorney or agent of the buyer.

The form must also require the telephone number of the buyer or the buyer's agent or attorney.

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8110.0200 ADDITIONAL INFORMATION REQUIRED.

Subpart 1. Type of transfer. The certificate of value must include data regarding the type of purchase or transfer and must require the buyer to indicate if:

A. the buyer and seller are natural persons related to each other or are related business operations;

B. the transfer or purchase was of a partial interest in the property;

C. the property was transferred as part of a trade of properties;

D. the property was transferred or conveyed to a government, school, church, or charitable organization;

E. the transfer or conveyance was intended only to add or remove a co-owner's name from the title of the property;

F. the property was transferred or conveyed as part of a forced sale such as foreclosure or condemnation;

G. the transfer was a result of a gift or inheritance; or

H. the property was transferred or conveyed in fulfillment of a contract for deed or other purchase price agreement dated more than two years before the transfer.

Subp. 2. Type of property; financing. If none of the variables in subpart 1 apply, the buyer must provide the data required by items A to H.

A. Type of property transferred or conveyed, such as: land only; land with buildings; buildings only; and information relating to any new construction, demolition, or additions to buildings which occurred between January 1 of the year of sale and date of the original agreement.

B. Principal intended use of the property:

(1) residential containing no more than three units;

(2) apartments containing four or more units;

(3) seasonal, recreational property with a residential unit but not used for commercial purposes;

(4) agricultural;

(5) commercial or industrial;

(6) other than uses listed above with a brief description of intended use.

C. Date of original agreement establishing the sales price of the property being transferred. Usually this will be the date of the earnest money agreement or other similar agreement requiring performance at an agreed price.

D. Total purchase price of all real, personal, or intangible property being transferred or conveyed as established by the original agreement.

E. Total down payment paid by buyer to include amounts paid prior to and at the time of closing.

F. Information regarding any pre-existing financing for which the buyer will assume responsibility from the seller for repayment of the debt:

(1) unpaid balance on contract for deed, mortgage, and/or other financing assumed;

(2) current interest rate on assumed balance;

(3) remaining period over which the assumed loan balance is to be amortized;

(4) amount of monthly payment for reduction of principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) date of any lump sum payments required at or before the end of the amortization period.

If the buyer is assuming the seller's obligation to repay on more than one debt, the certificate must include full details on each debt.

G. Information regarding any new loans obtained by the buyer, including:

(1) principal amount being financed;

(2) interest rate;

(3) amortization period;

(4) amount of monthly payment for reduction of principal and interest;

(5) if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment;

(6) if the interest rate is subject to change during the repayment period, a description of the anticipated change;

(7) points paid and whether paid by the seller or the buyer (but not to include origination fees); and

(8) date of any lump sum payments required at or before the end of the amortization period.

If the buyer is financing the purchase of the property through more than one debt, full details will be required on each debt.

H. Value of all personal or intangible property included in total sales price such as:

(1) personal property such as stoves, refrigerators, other appliances, drapes, tools, and accessories, as part of the transfer of residential property;

(2) personal property such as crops, livestock, tools, machinery, equipment as part of the transfer, or agricultural property;

(3) personal property such as inventory, equipment, or fixtures as part of the transfer of commercial property;

(4) intangible property such as goodwill, licenses, franchises, patents, or business name, as part of the transfer of a business operation.

8110.0300 SUPPLEMENTAL DOCUMENTS.

The buyer when completing the certificate may attach supplemental documents if the buyer needs to expand on any of the requested data. For example, in the case of a lengthy legal description of the property being transferred or conveyed, a copy of the deed may be attached. Any supplemental documents accompanying the certificate should be attached to the Department of Revenue's copy of the certificate.

8110.0400 COMMISSIONER'S AUDIT.

The certificates of value are subject to audit by the commissioner. The commissioner shall require additional documentation from the buyer, the buyer's agent or attorney, or the seller in order to verify the accuracy of any information required on the certificate. The commissioner shall determine the certificates subject to audit.

8110.0500 FORM TO BE COMPLETE AND SIGNED.

The county auditor shall not accept a certificate for filing unless the form is complete and contains the buyer's signature.

Department of Revenue
Property Equalization Division

Proposed Rules Relating to the Valuation and Assessment of Electric, Gas Distribution, and Pipeline Companies (Utility Companies)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State of Minnesota Department of Revenue proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivision 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Ronald K. Cook
Property Equalization Division
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-5137

Authority for the adoption of these rules is contained in Minnesota Statutes, sections: 270.06 (14); 270.11, Subd. 1 and 6; 273.33, Subd. 2; 273.37, Subd. 2; and 273.38. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the date and information relied upon to support the proposed rules has been prepared and is available from Ronald Cook at the above-mentioned address upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Ronald Cook at the above-mentioned address.

The proposed rules if adopted will effectively amend the current rules of the Department of Revenue relating to ad valorem (property) taxes imposed on utilities. The present rules deal generally with the valuation, allocation and apportionment of property of electric, gas distribution, pipelines and cooperative electric companies. The proposed rules if adopted would: modify the income approach to value by increasing the capitalization rate by 1%.

Copies of the Notice and the proposed rules are available and may be obtained by contacting Ronald Cook at the above-mentioned address.

March 20, 1984

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed

8100.0300 VALUATION.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Income approach to valuation. The income indicator of value will be estimated by weighting the net operating earnings of the utility company for the most recent three years as follows: most recent year, 40 percent; previous year, 35 percent; and final year, 25 percent. After considering, as far as possible, all conditions that may exist in the future that may affect the present annual return, including risk, life expectancy of the property, and cost of money, the capitalization rates used to compute value for the assessment will be: electric companies, ~~9.75~~ 10.75 percent; gas distribution companies, ~~10.0~~ 11.0 percent; and pipeline companies, ~~10.25~~ 11.25 percent. The income indicator of value computed in accordance with this subpart will be weighted for each class of utility company as follows: electric companies, 15 percent; gas distribution companies, 25 percent; and pipeline companies, 25 percent.

The following example illustrates how the income indicator of value would be computed for a gas distribution company:

	~~1980~~	~~1981~~	~~1982~~
~~1. Net Operating Income~~	~~$ 468,000~~	~~$ 385,700~~	~~$ 450,000~~
~~2. Capitalized Income @ 10%~~	~~4,680,000~~	~~3,857,000~~	~~4,500,000~~
~~3. Weighting Factor~~	~~25 percent~~	~~35 percent~~	~~40 percent~~
~~4. Weighted Capitalized Income~~	~~1,170,000~~	~~1,349,950~~	~~1,800,000~~
~~5. Total Income Indicator of Value~~			~~4,319,950~~

	1980	1981	1982
1. Net Operating Income	$ 570,240	$ 467,650	$ 554,400
2. Capitalized Income @ 11%	5,184,000	4,251,400	5,040,000
3. Weighting Factor	25 percent	35 percent	40 percent
4. Weighted Capitalized Income	1,296,000	1,488,000	2,016,000
5. Total Income Indicator of Value			4,800,000

Subp. 5. Unit value computation. The unit value of the utility company will be the total of the weighted indicators of value. The following is an example of the computation of the unit value for a gas distribution company:

1. Cost Indicator of Value:

$$\$5,000,000 \times 75\% = \$3,750,000$$

2. Income Indicator of Value:

~~$4,319,950~~ $4,800,000 × 25% = ~~$1,079,987~~ $1,200,000

3. Unit Value of Gas Distribution Company:

100% ~~$4,829,987~~ $4,950,000

Any company whose cost indicator was modified under subpart 3 to reflect the average cost per kilowatt adjustment of a plant or plants located in Minnesota shall have an alternative unit value computation made without giving effect to the modification in respect of such plant or plants.

Subp. 6. to 8. [Unchanged.]

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OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Notice of Special Local Need Registration for "Lorox Weed Killer" and "Lorox L Weed Killer"

Special Local Need Registrations (24c) for "Lorox Weed Killer" and "Lorox L Weed Killer" have been issued. They are manufactured by E. I. Du Pont De Nemours and Company, Bio Chemicals Department, Wilmington, Delaware. The State Registration Numbers assigned are MN84-0001 and MN84-0002, respectively. This notice is issued pursuant to Minn. Stat. Sec. 18A.23 and 3 MCAR § 1.0338 B.

In addition to the uses prescribed on the product labels, these special local need registrations permit the use of these products for preemergence and postemergence general weed control in direct seeded, newly planted, and established asparagus.

Questions may be directed to:

Larry P. Palmer
Pesticide Control Specialist
Agronomy Services Division
Department of Agriculture

Department of Agriculture
Food Inspection Division

Outside Opinion Sought Regarding Proposed Amendments to the Rules Governing Dyeing of Fish and Fish Products (Minnesota Rules 1545.2050)

Notice is hereby given that the Department is seeking information or opinions from sources outside the agency in preparing to amend the existing rules governing the dyeing of fish and fish products. The promulgation of these rules is authorized by Minnesota Statutes section 29.27, which permits the Department to adopt and enforce such rules as are necessary to carry out the provisions of Minnesota Statutes sections 29.021-29.091.

The Department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gerald Heil
Planning Division
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements will be received during regular business hours over the telephone at (612) 296-1486 and in person at the above address.

All statements of information and comment shall be accepted until April 23, 1984. Any written material received by the Department shall become part of the record in the event that the rules are promulgated.

April 2, 1984

Jim Nichols
Commissioner
Department of Agriculture

Department of Agriculture
Planning Division

Outside Opinion Sought Regarding Proposed Amendments to the Rules Governing Pesticide Control (Minnesota Rules §§ 1505.0830-1505.1290)

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to amend existing rules governing pesticide control. The promulgation of these rules is authorized by Minnesota Statutes, section 18A.43, which permits the department to adopt and enforce such rules as are necessary to carry out the provisions of Minnesota Statutes sections 18A.21-18A.48.

The Department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment may be addressed to:

Mr. Gerald Heil
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by April 25, 1984. Any written material received by the Department shall become part of the hearing record.

April 2, 1984

Jim Nichols
Commissioner

Health Department
Emergency Medical Services Section

Emergency Medical Services Licensure Application for Stillwater, Minnesota

As of April 9, 1984, a complete application for a basic life support transportation service was submitted by Lakeview Memorial Hospital Association, Inc. (i.e., Lakeview Emergency Medical Services), to operate a base of operation at 919 West Anderson Street, Stillwater, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense; and in a newspaper in the municipality in which the service will be provided.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 300 Metro Square Building, 7th and Robert, St. Paul, MN. 55101, Attn: Tom Chapel, 612/291-6357. The comments must reach the Health Systems Agency before May 9, 1984, or be submitted at the public hearing which will be held in Stillwater.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to this applicant.

Department of Labor and Industry Workers' Compensation Division

Outside Opinion Sought on Rules Governing Reimbursement for Workers' Compensation Medical Services Fees

Notice is hereby given that the Minnesota Department of Labor and Industry, Workers' Compensation Division, is seeking information or opinions from sources outside the agency in preparing to promulgate new permanent rules governing reimbursement for workers' compensation medical services fees. The promulgation of these rules is authorized by Minn. Stat. § 176.136 (Supp. 1983) and 176.83(c) (Supp. 1983). These provisions require the department to promulgate rules which establish procedures for determining whether or not the charge for a health service is excessive and which limit charges for health care services to the 75th percentile of usual and customary fees or charges based upon billings for the previous calendar year.

The Minnesota Department of Labor and Industry, Workers' Compensation Division, requests information or opinions concerning the subject matter of these rules. Interested persons or groups may submit written or oral information or opinions. Written statements should be addressed to:

Steve Keefe, Commissioner
Department of Labor and Industry
Fifth Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Workers' Compensation Division, shall become part of the record in the event that the rules are promulgated.

Oral statements will be received during regular business hours over the telephone at (612) 296-2342 and in person at the above address.

Information or opinions will be accepted until May 15, 1984.

March 30, 1984

Steve Keefe, Commissioner
Department of Labor and Industry

Department of Transportation

Petition of Mille Lacs County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Mille Lacs County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a resurfacing project on CSAH 25 from TH 27 to Vineland Road.

The request is for a variance from 14 MCAR § 1.5032, H.,1.,d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of the required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 26, 1984

Richard P. Braun
Commissioner of Transportation

Water Resources Board

Notice of Cancellation of Regular Board Meeting

The regular meeting of the Water Resources Board scheduled for April 13, 1984 has been cancelled.

The Water Resources Board will resume its regular meeting scheduled on May 11, 1984.

Mel Sinn
Executive Director

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Intergovernmental Information Systems Advisory Council (IISAC)

Request for Proposals for a Study to Determine Possible Areas of Cooperation Between Two Minnesota County Computer Cooperatives

The IISAC, in conjunction with a grant awarded to the Minnesota Counties Computer Cooperative (MCCC), is assisting with the issuance of the Request for Proposal (RFP) which delineates the requirements for a study which will examine the organization of each Cooperative. This study will include: 1) the existing base of hardware and software applications, 2) software development approaches; and 3) staffing as well as other areas of potential which may surface during the study. The final report will develop the possible avenues of cooperation bewteen the two cooperatives which may prove to be of mutual benefit.

The deadline for receipt of submitted proposals is May 7, 1984. The maximum amount of funds available for this effort is $5,000.00.

The RFP can be obtained from Joel Oliver, Executive Director of MCCC (612/224-2933). If you have any general questions concerning this effort you may contact Joel or Roger Sell, Executive Director of IISAC at 612/297-2172.

Department of Administration Procurement Division

Commodities Contracts Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-000-41399	Airfield Runway Marking Paint	DOT Aeronautics	Various	Contact office
79-000-41390	Wallpack Luminaire	Transportation	St. Paul	Contact office
776329	1984 Small Game Hunting and	Natural Resources	St. Paul	Contact office
29-000-35552	Trapping Regulations			
Sch. 170-CA	Abrasive Coated Cloth & Paper	Various	Various	30,000-35,000
Contract	(Sandpaper)			

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Contract	Biological Specimens (live)	Various	Various	Contact office
Contract	School Supplies	Various	Various	15,000
Contract	Transportation of Fuel Peat	Natural Resources	St. Paul	75,000-120,000
37-001-93654-55	Furnish and Install Draperies	Braille & Sight Sav. School	Faribault	Contact office
78 630 05709	Landscaping	MN Correctional Facility	Oak Park Heights	Contact office
27 156 40502	Lawn Care	Normandale Comm. College	Bloomington	Contact office
Contract	Rubbish Disposal-Mn Zoological Garden	Zoo	Zoo	Contact office
26-071-13863	Track Lighting System	Mankato State University	Mankato	Contact office

Contact the receptionist at 296-2513 for referral to specific buyers.

Department of Energy and Economic Development Office of Science and Technology Division

Request for Proposals for Development of a High Technology Data Base and High Technology Business Climate Information Booklet

The Office of Science and Technology Division, Department of Energy and Economic Development, is seeking individuals or firms to provide a high technology data base and information booklet on the high technology business climate in the state of Minnesota. These services which will be provided under contract, are outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Jayne B. Khalifa
Office of Science and Technology
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

It is anticipated that the activities to accomplish the completion of the data base and information booklet will not exceed a total cost to the state of $10,000. The deadline for the submission of completed proposals will be the close of the working day April 30, 1984.

April 2, 1984

Jayne B. Khalifa

Department of Energy and Economic Development Office of Science and Technology Division

Request for Proposals for Development of a Research Proposal Review Process

The Office of Science and Technology Division, Department of Energy and Economic Development is seeking individuals or firms to establish a procedure of Peer Review analogous to the National Science Foundation or National Institute of Health, to evaluate research projects with the potential to become the basis of technological industrial growth in Minnesota and desire funding from Minnesota state funding sources for research. These procedures, which will be provided under contract, are

outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Jayne B. Khalifa
Office of Science and Technology
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

It is anticipated that the activities to accomplish the completion of the Review Process will not exceed a total cost to the state of $10,000-12,000. The deadline for the submission of completed proposals will be the close of the working day April 30, 1984.

April 2, 1984

Jayne B. Khalifa

Department of Energy and Economic Development Energy Division

Request for Proposals for Development of the State Plan Implementing the Commercial and Apartment Conservation Service Program

Notice is hereby given that the Department of Energy and Economic Development, Energy Division intends to engage the services of a contractor to develop the state plan implementing the federally mandated Commercial and Apartment Conservation Service Program. CACS is a program in which major gas and electric utilities offer energy audits to their large residential and small commercial customers. The Request for Proposals will include detailed tasks to be performed under this contract. The Energy Division does not expect this contract to exceed $12,000. All work must be performed between May 1, and June 30, 1984.

The full Request for Proposals is available upon request. Inquiries and requests should be directed to:

Greg Hubinger
Manager of Residential Programs
Department of Energy and Economic Development
Energy Division
900 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101

Proposals must be received by the Department of Energy and Economic Development, Energy Division, no later than 4:00 p.m. on April 25, 1984.

Department of Energy and Economic Development Energy Finance Division

Request for Proposals for District Heating Grant Program

The Energy Finance Division of the Department of Energy and Economic Development solicits applications from municipalities for its district heating grant program which provides funding for district heating planning studies. The maximum award for a Phase I study is $20,000 and the maximum award for a Phase II study is $50,000. A 10% local match is required for both types of grants.

Between $15,240 and $115,240 will be available to fund additional grants. The exact amount will be known in late April pending decisions regarding certain grants awarded with contingencies in an earlier funding cycle. The Department will accept both Phase I and Phase II applications or an application for a combined grant.

Applications will be due May 18, 1984. The grant appropriation expires June 30, 1984 and any funds not awarded will return to the State's General Fund.

Further information and an application package containing the formal Request for Proposals, application forms and program rules can be obtained from Mary Lesch-Gormley, District Heating Program Coordinator, Department of Energy and Economic Development, 900 American Center Building, 150 East Kellogg Blvd., St. Paul, MN 55105 Phone (612) 297-2324.

SUPREME COURT

Decisions of the Court of Appeals Filed Wednesday, March 28, 1984

Compiled by Wayne O. Tschimperle, Clerk

C8-83-1797 Kahnke Bros., Inc., Relator, v. Mark V. Darnall, Commissioner of Economic Security. Department of Economic Security.

Employer's docking of employee-respondent's wages in violation of Minn. Stat. § 181.99 gave the employee good cause attributable to the employer to discontinue his employment and employee is not disqualified from receiving unemployment benefits.

Affirmed. Popovich, Chief Judge.

C8-83-1377 In Re: the Marriage of: Laura A. Benson, petitioner, v. Philip C. Benson, Appellant. St. Louis County.

Trial court's finding that appellant did not present a prima facie case against respondent's proposed removal of their children from the state was clearly erroneous.

Reversed and remanded. Popovich, Chief Judge.

C1-83-1804 Safeco Insurance Company of America v. Dorothy Stariha. Hennepin County.

Existence of unrelated and remote attorney-client relationship between a neutral arbitrator and counsel for a party to the arbitration proceedings is not evidence of undue means or evident partiality under Minn. Stat. § 572.19.

Affirmed. Popovich, Chief Judge.

C9-83-1906 State of Minnesota, Appellant v. Kevin Scott Larson. Swift County.

Officers voluntarily admitted into a home may seize stolen property in plain view.

A *Miranda* warning is not required for non-custodial questioning of a crime suspect at his home.

Reversed. Foley, J.

C2-83-1827 T.B.M. Properties, a partnership of William Fitzgerald et al., v. Arcon Corporation. Olmstead County.

The trial court did not err in finding an accord and satisfaction where landlord, with knowledge of all circumstances, accepted and negotiated a check tendered by tenant conditioned on payment in full, after scratching out the words "Final Payment for Rent Owed T.B.M. Now and Forever" without consent of tenant.

Affirmed. Wozniak, J.

C1-83-1639 LaVerne Hefner v. Estate of Myrtle Ingvoldson and Arthur Espeland, as Personal Representative of the Estate of Myrtle Ingvoldson, and individually, and Stanford Lenhart, and Perham National Bank and First National Bank of Fergus Falls. Otter Tail County.

A joint or co-owner who contributed nothing toward the purchase of federal savings bonds and certificates which were in the sole possession and control of the contributing owner has only an inchoate interest in the bonds and certificates during the lifetime of the contributing co-owner. The non-contributing co-owner suffers no actionable loss if the bonds are improperly cashed but the contributing co-owner realizes the proceeds.

Affirmed. Wozniak, J.

Decisions of the Supreme Court Filed Friday, March 30, 1984

C3-83-881 State of Minnesota v. John Kisch, Appellant, Ramsey County.

Trial court properly departed durationally from the presumptive sentence in sentencing defendant for felony murder.

Affirmed. Amdahl, C.J.

C6-83-308 James E. Klapmeier, Appellant, v. Town of Center of Crow Wing County et al., Crow Wing County.

Notice of a reassessment hearing which failed to include a statement of appeal rights as required by Minn. Stat. § 429.061, Subd. 1 (1978) was defective and rendered the town board without jurisdiction to make the assessment.

Landowner did not waive his right to object to defective notice where he did not commit any overt act inconsistent with asserting his right of objection.

Landowner's claim of defective notice was not barred by laches where there is no evidence in the record supporting the trial court's conclusion that the town was prejudiced by the delay.

Reversed and remanded. Yetka, J.

Took no part, Peterson and Simonett, J.J.

C5-83-199 Guyen Hamilton, Relator, v. International Dairy Queen, Inc., and Commissioner of Economic Security. Department of Economic Security.

Reversed. Scott, J.

Dissenting, Peterson, J., Amdahl, C.J. Kelley J. and Coyne J.

C4-82-1687 Linda Windsperger, Relator, v. Broadway Liquor Outlet, and Commissioner of Economic Security. Department of Economic Security.

An isolated hotheaded incident by an employee which does not adversely affect an employer's business is not "misconduct" which disqualifies an employee from unemployment compensation benefits under Minn. Stat. § 268.09, subd. 1 (2) (1982).

Reversed and remanded. Scott, J.

Dissenting, Peterson, J. Kelley, J., Simonett, J. and Coyne, J.

C4-83-517 Diana Sticha, Relator, v. McDonald's #291, and Commissioner of Economic Security, Department of Economic Security.

The evidence, upon the entire record, is insufficient to establish "misconduct" under Minn. Stat. § 268.09, subd. 1 (2) (1982) where employee's conduct evinced a good-faith error in judgment in an isolated instance during her 10 years of employment and did not adversely affect the employer's business.

Reversed. Whal, J.

Dissenting, Peterson, J. Kelley, J. and Coyne, J.

C5-83-87 State of Minnesota, v. Norman L. Jackson, Appellant, Hennepin County.

Evidence that defendant killed the victim during the course of an assault justified defendant's conviction of felony murder.

Any error resulting from state's failure to obtain and provide defense counsel with criminal record of a key prosecution witness was not prejudicial.

Sentencing court erred in computing defendant's criminal history score.

Remanded for resentencing. Simonett, J.

C5-82-1102 Mary Jo Burgraff, v. Aetna Life & Casualty Company. Appellant. Hennepin County.

The definition of "insured" contained in Minn. Stat. § 65B.43, subd. 5 (1982), applies to uninsured and underinsured coverage.

An insurance policy provision, which excludes from coverage a relative who owns a car and is residing with the insured, is overbroad and in conflict with the statutory definition of "insured," which excludes from coverage a relative who is a named insured in a care insurunce policy and is residing with the insured; the policy provision, therefore, is invalid.

Affirmed. Simonett, J.

Dissenting, Kelley, J. Amdahl, C.J., Peterson, J. and Coyne, J.

C8-83-374 James Terrell, v. State Farm Insurance Co., Appellant, Stearns County.

An automobile insurer is absolved from liability to pay basic economic loss benefits under a policy of no-fault insurance when the insured fails to give the insurer notice of the automobile accident giving rise to the claim within the time period provided in the policy authorized to contain such a time period under the No-fault Automobile Insurance Act, notwithstanding the absence of prejudice to the insurer because of the late notice of accident.

Reversed. Kelley, J.

Dissenting, Wahl, J. Todd, J., Yetka, J. and Scott, J.

C7-83-57 Gerald Laird, Petitioner, Appellant, V. Independent School District No. 317, Deer River, Minnesota. Itasca County.

A substantial reduction in enrollment affords an adequate basis for placing a teacher on unrequested leave of absence because of lack of pupils whether enrollment has declined gradually over a number of years or dropped precipitously in a single year.

A determination by a school board in a matter within its statutory jurisdiction, made in good faith and in conformity with the law, will not be reversed unless the decision is capricious, arbitrary, or unreasonable.

Affirmed, Coyne, J.

C7-82-839 William J. Crolley and Nelson Development Corporation etc., v. O'Hare International Bank, Appellant, and Dorothy K. Bouthilet, personal representative of the Estate of John G. Bouthilet, and John E. Daubney and Seldon, K. Caswell. Sherburne County.

When a prior decision, summarily affirmed by this court, determined that a creditor of contract-for-deed vendors did not have a lien either against the real property which was the subject of the contract or the balance due thereon, the creditor is barred by that decision from again asserting a lien against such balance in a subsequent proceeding to establish attorney's liens.

An attorney may assert a statutory charging lien pursuant to Minn. Stat. § 481.13 (1982) only for services relating to the action in which the lien is sought.

Because the probate court has exclusive original jurisdiction to determine the persons to whom property descends by statutory inheritance, the district court could not direct that attorney's liens be paid from the widow's share of the balance due under the contract for deed and that the remainder of the proceeds be paid to the decedent vendor's children.

Affirmed in part, reversed in part, and remanded. Coyne, J.

C5-83-414 Ellen M. Colburn, Relator, v. Pine Portage Madden Brothers Inc. and Commissioner of Economic Security. Department of Economic Security.

Claimant for unemployment compensation was disqualified for statutory misconduct connected with her work as a waitress. Minn. Stat. § 268.09, subd. 1 (2) (1982); *Tilseth v. Midwest Lumber Co.*, 295 Minn. 372, 204 N.W. 2d 644 (1973).

Affirmed. Per Curiam.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota Tax Court

Elks B.P.O.E. #2261, Appellant, v. Commissioner of Revenue, Appellee, Docket No. 3909

Findings of Fact, Conclusions of Law, and Order for Judgement

This is an appeal from an Order of the Commissioner of Revenue dated February 18, 1983, determining the sales and use tax liability of the Appellant. The Order assessed additional sales taxes, interest and penalty on gross receipts from tip board games operated by Appellant for the period July 1, 1978, through March 31, 1982. The matter came on for trial before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, in the Becker County Courthouse at Detroit Lakes, Minnesota, on September 1 and 2 of 1983. Briefs were subsequently submitted by both parties.

John H. Daniels, Jr., Esq., of the law firm of Willeke and Daniels, Suite 330, 1201 Marquette Ave., Minneapolis, Minnesota 55403, and John C. Quam, Esq., of the law firm of Irvine, Ramstad, Quam and Briggs, P.A., 114 West Holms, P. O. Box 683, Detroit Lakes, Minnesota, appeared for the Appellant.

Thomas K. Overton, Esq., Special Assistant Attorney General, appeared for the Appellee.

SYLLABUS

The issue is whether or not "free plays", where an optional cash award is available to the customer, should be taxed as a cash sale. We hold that where a customer elects to take "free plays" instead of cash, it is not a cash sale and, therefore, not includable in the gross receipts for tax purposes.

From the evidence adduced at trial and from the files and records herein, the Court now makes the following:

FINDINGS OF FACT

1. The Appellant, Elks B.P.O.E. #2261 (hereinafter referred to as the Appellant) is incorporated as a nonprofit corporation and is licensed to engage in the sale of gambling tickets pursuant to Minn. Stat. § 349.26 (1982), the profits from which are used to support charitable and civic activities and organizations, as well as the betterment of its Club facilities located in Detroit Lakes, Minnesota.

2. Charitable gambling has long been employed by nonprofit organizations in Minnesota for fund-raising purposes. Charitable gambling law was clarified during the 1978 Legislative Session with the enactment of Minn. Stat. § 349.26 (1982). Section 349.26 establishes the proper scope of nonprofit gambling in Minnesota.

3. There are several vendors who sell gambling devices to organizations such as the Appellant. All of them operate in similar fashion. Pull-tab tickets with concealed numbers are stapled in packets. The packets contain three, four or five tickets depending on the game. A participant pays a consideration to the operator for the opportunity to obtain a folded or banded ticket or card. The participant then uncovers the numbers or symbols on the ticket or card with the hope of finding a prize ticket. In a traditional game, a winner is entitled to cash, but in the game used by the Appellant, a winner is entitled to a number of "free plays". In substance, however, the participants know in advance that winners of more than five "free plays" will have the option to take cash rather than "free plays".

4. In 1978, the Appellant began using the Minnesota Tipboard game after some of its members attended a seminar in Bloomington, Minnesota. The game was operated throughout the audit period appealed from. Chances were offered for sale at $1.00 each. Each chance contained four tickets. Tickets were drawn from a complete game or "bag" of tickets. Bags contained 700 chances. Of those 700 chances, six tickets awarded 50 "free plays", 24 tickets awarded five "free plays", and 60 tickets awarded two "free plays". Names of winners of 50 "free play" tickets were listed on a "seal card" and stood a chance to win a $60 to $150 "seal award" pre-selected on each seal card. Seal winners were determined by the removal of the seal, exposing a winning number.

5. Although the game used by the Appellant is denominated as the Minnesota Tipboard game, it is in essence a pull-tab game as defined by Minnesota Statutes § 349.26, subd. 5a, as follows:

"Subd. 5a. "Pull-tabs" (or ticket jars") means a single folded or banded ticket or a card, the face of which is initially covered, or otherwise hidden from view, to conceal a number or set of numbers or a symbol or set of symbols. A few of the numbers or symbols out of every set of pull-tabs (or ticket jars) will have been designated in advance and at random as prizewinners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or a card, view the numbers or symbols on it and possibly obtain a prizewinning pull-tab (or ticket jar)."

6. The Appellant gave "free play" winners the option to take cash rather than "free plays" in certain circumstances. Uncontradicted testimony of the Elks Club's secretary and gambling manager was that Appellant's policy allowed the holder of 50 "free play" winning tickets to take cash rather than tickets. Such a "cash option" was not generally granted winners of two and five "free plays". The Appellant's gambling manager testified that occasionally, to avoid a "fuss", some two and five "free play" winners were allowed to take cash—but that this practice was not condoned by the management and was not common.

7. Because the names of the winners of "free plays" are constantly posted on the seal card, customers know in advance how many "free plays" are left in each bag and also know in advance how many of the major winners are still in the bag. Once all six of the 50 "free play" winners have gone out, customers are no longer enticed to purchase tickets from that bag and the remainder of that bag has to be discarded. The Appellee concedes that 11% of all tickets are discarded in that manner and 11% is, therefore, automatically deducted from the total number of tickets in each bag in calculating the sales tax.

8. A sampling of the winners shows that 88% of the major prizes, those winning 20, 50 or 100 "free plays", elect to take cash, but practically all of the minor winners (2 or 5 "free plays") take the "free plays".

9. The Appellant prepared and filed sales tax returns during the audit period and remitted tax based upon its calculations. The Appellant erroneously calculated its sales tax liability by deducting the cost of cash prizes awarded from its gross receipts. With this exception, however, the remittances of the Appellant from 1978 to the commencement of these proceedings reflect the Appellant's actual sales.

10. Prior to the publication of the January 1983 Sales Tax Newsletter, considerable confusion existed in the Department of Revenue and elsewhere regarding the Commissioner's position as to what constituted gross receipts from gambling operations where tip board chances or pull-tab tickets are sold which state that the winner is entitled to a number of "free plays".

11. The January 1979 Sales Tax Newsletter contained the following relevant information:

"NEW LAW—PADDLEWHEELS, TIPBOARDS AND RAFFLES

"Chapter 507, Laws of Minnesota 1978 authorized the operation by licensed organization of gambling devices commonly known as paddlewheels, tipboards or apparatus used in conducting raffles.

* * *

"The gross receipts derived by licensed organization from the operation of gambling devices is subject to the Minnesota sales tax. The sales tax is computed on the full amount of gross receipts with no deduction for funds paid to game winners."

12. From 1978 until January of 1983, the Commissioner's personnel issued unclear and confusing statements leading the Appellant to believe that "free plays" were not to be included in calculating gross receipts.

13. Mr. Robert Finnerty, one of the promoters of the Minnesota Tipboard Game, was very interested in and involved in getting an interpretation of the sales tax law from the Commissioner. On October 12, 1978, he wrote a letter to the Commissioner of Revenue requesting an interpretation of the gross receipts issue. The letter was referred to Mr. J. E. Streiff, Division Attorney of the Sales and Use Tax Division. His reply to Mr. Finnerty read in pertinent part as follows:

"The amounts paid by players to participate in these gambling games are taxable sales; and are subject to Minnesota sales tax. The sales tax is computed on the full amount of gross receipts, with no deduction for funds paid to game winners. Each licensed nonprofit organization is a retailer and must have a Minnesota Sales and Use Tax Permit, and is obligated to charge, collect, and remit the Minnesota sales tax."

14. Not satisfied with the answer, Mr. Finnerty wrote to Mr. Streiff directly on October 19, 1978, asking, " . . . whether the gross amount of receipts must include funds that were not received by the nonprofit organization. For example, if all the tickets for a tipboard were not sold or if some of the tickets were given away free."

15. In response Mr. Streiff sent Mr. Finnerty copies of two Minnesota Tax Court decisions relating to the operation of bingo game.

16. Not satisfied with the answer, Mr. Finnerty again wrote Mr. Streiff on October 23, 1978, and the reply from Mr. Streiff dated October 27, 1978, after acknowledging the inquiry, was as follows:

"M.S.A. 297A.01, Subd. 9, defines "gross receipts" as follows: "Gross receipts means the total amount received, in money or otherwise, for all sales at retail as measured by the sales price. . . . " Consequently, tickets for a tipboard, that were not sold, involves no gross proceeds which are taxable or reportable by the non-profit organization. The same is true for tickets which are given away free by the non-profit organization."

17. Still not satisfied with the answer, Mr. Finnerty personally contacted Mr. Perry Middlemist, a tax examiner of the Sales and Use Tax Division on February 7, 1979, and requested an answer to the following question:

"Will you please tell me if free plays are taxable?" It is quite obvious that Mr. Middlemist in his reply to Mr. Finnerty dated February 23, 1979, did not understand the question about "free plays" as posed by Mr. Finnerty, and hence, gave Mr. Finnerty a confusing answer.

18. Mr. Finnerty was still not satisfied with the answer so on January 18, 1980, he wrote another long letter to Mr. J. E. Streiff, the Division Attorney. Mr. Streiff in his reply to Mr. Finnerty dated January 28, 1980, did nothing to clear up the confusion. He simply sent Mr. Finnerty a copy of the Sales Tax Newsletter dated January 1979. That letter made no reference to "free plays". It simply stated that gross receipts derived from the operation of gambling devices are subject to sales tax.

19. The Commissioner's position was first publicly set forth in his January 1983 Sales Tax Newsletter. It contained the following information:

"TAXABLE TIPBOARD RECEIPTS

"Tipboard receipts are subject to sales tax. On winning tipboard tickets which give the player a certain number of "free plays", the player is usually offered a cash prize option in lieu of the "free plays". The cash prize option may be printed on the tickets or the tipboard, or simply offered by the game operator.

"When the "free plays" are taken, the player has, in effect, exchanged the optional cash prize for the extra plays. The cash prize amount, forfeited by the player for extra plays, is considered part of the game's total taxable receipts and must be included in gross sales on line 1B of the sales tax return.

"No deductions from gross receipts are allowed for prizes, charitable contributions, or other expenses. The games entire receipts are taxable. If, however, your gross receipts include the sales tax collected, you may use the "alternate method of computing gross sales," as explained in your sales tax instruction booklet."

20. The Commissioner's "cash option" theory has been inconsistently applied by State personnel. Testimony at trial revealed that at least three other nonprofit organizations engaged in the sale of the same type of "free play" tickets, granted "cash options" and were audited in 1982 without exception or assessment by the Revenue Department, despite close scrutiny of their ticket sales operations.

21. The fact that there was inconsistent and unequal enforcement of the law as is evidenced by a letter dated January 28, 1983, written by Mr. Edmund M. Blascyk, a field representative of the Minnesota Department of Revenue to Mr. Henry Frechette of Aurora, Minnesota, regarding the Aurora Legion Club. The pertinent part of that letter reads as follows:

" . . . We allowed your club to report on the game's net profit only because of the extraordinary efforts made by Mr. Frank Scheuring to get precise clarification from the Department of Revenue. Schedule A-1, although that answer was technically correct, it could have gone into much more depth."

22. On the final day of the trial of this matter, the Commissioner introduced a previously undisclosed memorandum, drafted in 1981, which contended that "free plays" are taxable where an option to receive cash exists. This document was not made public and had not been brought to the attention of the Appellant. Only one Department witness testifying at the hearing appeared familiar with the memorandum.

23. From the outset of these proceedings, Appellant has conceded those assessments set forth in the Audit Report underlying the Commissioner's Order of February 18, 1983, and represented by Schedule B attached thereto pertaining to the purchase of various supplies and materials by Appellant.

24. The Memorandum attached hereto is made a part of these Findings of Fact.

CONCLUSIONS OF LAW

1. Gross receipts received from the sale of tipboard gambling tickets are subject to sales tax pursuant to Minn. Stat. §§ 297A.01-.02 and 349.26 (1982).

2. Cash awards paid to winners of tipboard games are not deductible from gross receipts in computing the amount of sales tax due.

3. The issuance of "free plays" where an optional cash award is available does not constitute a taxable sale as no new consideration is paid for the "free play".

4. The issuance of "free plays" to the holders of winning gambling tickets, where an optional cash award is available, constitutes the award of winnings, which are not includable in the calculation of gross receipts.

5. That part of the Order disallowing a deduction for cash prizes awarded shall be affirmed.

6. That part of the Order disallowing a deduction for "free plays" shall be reversed.

7. That part of the Order assessing a tax for the items admitted by the Appellant shall be affirmed.

8. In view of the fact that there was so much uncertainty about the method of calculating gross sales, no interest or penalty shall be assessed against the Appellant.

9. The Commissioner shall recalculate the amount of sales tax due consistent with the above conclusions.

JUDGMENT SHALL BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

March 23, 1984

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

State of Minnesota Tax Court
County of Meeker, Regular Division

Lucille M. and Harold C. Carlson, Appellants, v. The Commissioner of Revenue, Appellee, Docket No. 3889

Findings of Fact, Conclusions of Law, and Order

The above-entitled matter came before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, on October 13, 1983, in Litchfield, Minnesota. At issue is the characterization of a transfer of property between the two Appellants as a gift. Briefs were submitted by both sides.

Wendell Nelson of the law firm of Olson, Nelson, Nagel and Drange, attorneys at law, appeared for Appellants.

James W. Neher, Special Assistant Attorney General, appeared for Appellee.

From the Stipulated Facts, the evidence adduced at the trial and the files, we make the following:

FINDINGS OF FACT

1. By warranty deed dated September 11, 1944, the grantors of that instrument conveyed to Harold C. Carlson as grantee the full ownership of 120 acres of land.

2. On March 26, 1945, by appropriate conduit deeds the title to said 120 acres was placed in the names of Harold C. Carlson and Lucille M. Carlson as joint tenants.

3. That by warranty deed dated February 25, 1947, title to an adjoining tract was conveyed to Harold C. Carlson and Lucille M. Carlson as joint tenants.

4. By warranty deed dated March 6, 1961, title to an adjoining farm was conveyed to Harold C. Carlson and Lucille M. Carlson as joint tenants.

5. By appropriate conduit deeds the real estate involved in the prior deeds was placed in the name of Harold C. Carlson on May 2, 1979.

6. That Harold C. Carlson and Lucille M. Carlson, Appellants, are husband and wife, and for thirty-eight (38) years have been engaged in a farming operation on all or part of the lands referred to herein.

7. That Harold C. Carlson was the owner of an undivided interest in the lands conveyed to him in the 1945 transaction, having acquired an undivided interest therein by virtue of the Final Decree of Distribution in his father's estate. The remaining interest in said 120 acres was acquired by the warranty deed in the 1945 transaction and that Harold C. Carlson furnished the consideration therefore. This farm was later placed in joint tenancy in the names of Harold C. Carlson and Lucille M. Carlson in the 1946 transaction.

8. That in the 1947 transaction whereby additional land was added to the farm by purchase from an adjoining neighbor, Harold C. Carlson furnished the consideration for the purchase of said adjoining land.

9. That in 1961 Harold C. Carlson purchased an adjoining farm from a neighbor and that although Harold C. Carlson furnished all of the consideration for the purchase of said farm, title was placed in the names of Harold C. Carlson and Lucille M. Carlson as joint tenants and that in December of 1978, Appellants sold said adjoining farm under a Contract for Deed and have not conducted farming operations on said farm since that date.

10. That farming operations conducted on the lands herein described have at all times been conducted by said Harold C. Carlson and that Lucille M. Carlson has not been a participant nor partner nor joint venturer in said farming operations and all of the personal property, including farm machinery, dairy cattle and livestock used in said farming operations have been the property of Harold C. Carlson and that all of the earnings from said farming operations have been the earnings of Harold C. Carlson and have been reported for income tax purposes as such.

11. That in updating their Wills in 1979, Appellants contacted their attorney and were advised that they were over-maritalized and that in order to take advantage of the full tax advantages under the Tax Reform Act of 1976 it was advisable to place the property back in the name of Harold C. Carlson in order to qualify for the full marital deduction and the specific marital exemptions under the Federal Estate Tax law. That on May 2, 1979, at the request of Harold C. Carlson and upon the advice of their counsel, the joint tenancy in the real estate in question was severed by appropriate conduit deeds and the property was reconveyed back to Harold C. Carlson.

12. The sole reason for the transfer of Lucille M. Carlson's joint tenancy interest in 1979 was for estate planning purposes. There was no other consideration for the transfer.

13. The Memorandum is made a part of these findings.

CONCLUSIONS OF LAW

1. The 1944 and 1945 transfers of real property into joint tenancy, Mr. Carlson having provided all of the consideration therefor, were gifts from him to his wife.

2. The reconveyance to Mr. Carlson in 1979 of his wife's one-half interest in the same properties likewise constituted gifts under Minnesota law, upon which tax has been properly assessed pursuant to Minn. Stat. §§ 292.01, subd. 1, and 292.03 (1979).

3. The Order of the Commissioner of Revenue dated May 31, 1983, is hereby affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

March 26, 1984

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

STATE OF MINNESOTA

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STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

DR-84-036-JL

AFFIDAVIT OF SERVICE BY U.S. MAIL

Donna L. Day, being first duly sworn, hereby deposes and says that on the 12th day of June, 1984, at the City of Minneapolis, county and state aforementioned, she served the attached REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE, FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE (and the official record); OAH Docket No. DR-84-036-JL by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Arthur C. Roemer, Commissioner
Department of Revenue
Centennial Office Building
658 Cedar Street
St. Paul, MN 55145

Donna L. Day
(Signature)

Subscribed and sworn to before me
this 12th day of June, 1984.

Sandra A. Haven
(Notary)

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES AUGUST 21, 1990

HG-00059-35

DR-84-036-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF REVENUE

In the Matter of the Proposed
Adoption of Rules of the Department
of Revenue Governing the Certificate
of Real Estate Value.

REPORT OF THE CHIEF
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for review by the Chief Administrative Law Judge pursuant to the provisions of Minn. Stat. § 14.15, subds. 3 and 4 (1983 Supp.), which provide:

> Subd. 3. Finding of substantial change. If the [administrative law judge's] report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of sections 14.13 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected.
>
> Subd. 4. Need or reasonableness not established. If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

Based upon a review of the record in this proceeding, the Chief Administrative Law Judge hereby approves the Report of the Administrative Law Judge in all respects.

In order to correct the defects enumerated by the Administrative Law Judge, the agency shall either take the action recommended by the Administrative Law Judge or reconvene the rule hearing if appropriate. If the agency chooses to reconvene the rule hearing, it shall do so as if it is initiating a new rule hearing, complying with all substantive and procedural requirements imposed on the agency by law or rule.

If the agency chooses to take the action recommended by the Administrative Law Judge, it shall, prior to submitting the rules to the Attorney General for review, submit to the Chief Administrative Law Judge a copy of the rules as initially published in the State Register, a copy of the rules as proposed for final adoption in the form required by the State Register for final publication, and a copy of the agency's Findings of Fact and Order Adopting Rules. The Chief Administrative Law Judge will then make a determination as to whether the defects have been corrected and whether the modifications in the rules are substantial changes.

Should the agency make changes in the rules other than those recommended by the Administrative Law Judge, it shall also, prior to submitting the rule to the Attorney General, submit the complete record to the Chief Administrative Law Judge for a review in regard to substantial changes.

Dated: June 12, 1984.

DUANE R. HARVES
Chief Administrative Law Judge

DR-84-036-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF REVENUE

In the Matter of the Proposed
Adoption of Rules of the Department
of Revenue Governing the Certificate
of Real Estate Value.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

The above-entitled matter came on for hearing before Jon L. Lunde, Administrative Law Judge, commencing at 9:30 a.m. on Friday, May 11, 1984, in the Second Floor Conference Room at the Centennial Office Building in St. Paul, Minnesota, pursuant to an Order for Hearing dated March 23, 1984. This is a contested rulemaking proceeding held under the provisions of the Minnesota Administrative Procedure Act to determine whether or not the rules proposed by the Department of Revenue are authorized, necessary and reasonable and may be adopted.

Appearing on behalf of the Department of Revenue were Dorothy McClung, Director of Legal Research; John Lally, Senior Management Analyst; and Dr. George Karvel, a Departmental advisor and holder of the Minnesota Chair of Real Estate at St. Cloud State University. Dennis Erno, Assistant Commissioner of Property Taxation; Leonard Peterson, Supervisor of the Department's Sales Ratio Study Unit; Tom Clark, a Sales Ratio Study Compiler; and William Slavin, Assistant Director of the Property Equalization Division were also present at the hearing. In addition, approximately eight other persons attended the hearing which continued until all interested persons had an opportunity to participate. After the hearing was concluded, three written comments were filed with the Office of Administrative Hearings: one was timely and two were late.

The Department of Revenue must wait at least five working days before taking any final action on the rules; during that period, this Report must be made available to all interested persons upon request.

Pursuant to the provisions of Minn. Stat. § 14.15, subd. 3 (1982), as amended by Minn. Laws 1983, Ch. 210, § 6, this Report has been submitted to the Chief Administrative Law Judge for his approval. If the Chief Administrative Law Judge approves the findings of this Report, he will advise the Department of actions which will correct the defects and the Department may not adopt the rule until the Chief Administrative Law Judge determines that the defects have been corrected. However, in those instances where the Chief Administrative Law Judge identifies defects which relate to the issues of need or reasonableness, the Department may either adopt the Administrative Law Judge's recommendations to cure the defects or, in the alternative, if the

Department does not elect to adopt the recommendations, it may submit the proposed rule to the Legislative Commission to Review Administrative Rules for the Commission's advice and comment. Provisions relating to this submission to the Commission may be found in Minn. Stat. § 14.15, subd. 4 (1982), as amended by Minn. Laws 1983, Ch. 210, § 7.

If the Department elects to adopt the recommendations of the Administrative Law Judge and makes no other changes and the Chief Administrative Law Judge determines that the defects have been corrected, then the Departmetn shall submit the rule to the Attorney General for review of form and legality. If the Department makes changes in the rule other than those recommended by the Administrative Law Judge, then it shall submit the rule, with the complete record, to the Chief Administrative Law Judge for a review of the changes before adopting it and submitting it to the Attorney General. Procedures relating to this subsequent review by the Chief Administrative Law Judge are set forth in Minn. Stat. § 14.16 (1982).

When the Department submits the rule to the Attorney General, it shall give notice on the day of submission to all persons who requested that they be informed of the submission to the Attorney General.

Based upon all the testimony, exhibits and written comments, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On March 22, 1984, the Department filed the following documents with the Chief Administrative Law Judge:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On April 9, 1984, a Notice of Hearing and a copy of the proposed rules were published at 8 State Register 41, pp. 2221-2223.

3. On April 3, 1984, more than 30 days prior to hearing, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

4. On April 16, 1984, more than 25 days prior to hearing, the Department filed the following documents with the Administrative Law Judge:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Departmental personnel to represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.
(f) A copy of the State Register containing the proposed rules.
(g) An Affidavit of Additional Notice.
(h) All materials received following a Notice of Intent to Solicit Outside Opinion published at 8 State Register 17, p. 971, on October 24, 1983.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

5. The record remained open for the submission of written public comments a total of five working days through Friday, May 18, 1984, and for three subsequent business days for the Department to indicate in writing whether it was willing to adopt amendments suggested by the public.

Statutory Authority

6. The Department cited Minn. Stat. § 272.115, subd. 1 (1983 Supp.), as its authority to adopt the rules proposed. The statute reads as follows:

> Subd. 1. Whenever any real estate is sold on or after January 1, 1978 for a consideration in excess of $1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or his legal agent shall file a certificate of value with the county auditor in the county in which the property is located. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed. The certificate of value shall include the classification to which the property belongs for the purpose of determining the fair market value of the property. The certificate shall include financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. The commissioner of revenue shall promulgate administrative rules specifying the financing terms and conditions which must be included on the certificate.

The statutory authority cited by the Department authorizes the rules proposed, except as is noted below. Moreover, the rules are needed in order to comply with the legislative directive requiring their promulgation. That directive generally establishes the need for the rules proposed.

Impact on Small Business

7. Under Minn. Stat. § 14.115, subd. 2, an agency must consider the impact of its proposed rules on small business and methods of reducing that impact. The impact-reduction methods that must be considered are:

> (a) the establishment of less stringent compliance or reporting requirements for small businesses;
>
> (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
>
> (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
>
> (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
>
> (e) the exemption of small businesses from any or all requirements of the rule.

If an agency fails to consider the feasibility of reducing the impact of its proposed rules they may not be adopted. Minn. Stat. § 14.115, subd. 5.

The Department's Statement of Need and Reasonableness does not separately consider the five impact-reduction methods mentioned. However, the Department determined that no changes in the rules to accommodate small business are feasible, and no public commentators suggested any specific methods for reducing the impact on small businesses other than the use of questionnaires, which are not satisfactory for purposes of data collection, as is discussed below.

The establishment of less stringent deadlines for reporting requirements under (b) are clearly not feasible because a certificate of real estate value must be filed before the applicable documents of title may be recorded. The rules cannot alter this statutory requirement. Likewise, small businesses may not be exempted from the rule under (e) because a certificate of real estate value is statutorily required for all recorded property transfers involving a con- sideration in excess of $1,000. No performance standards are contained in the rule so the method in (d) is inapplicable.

The Department did consider public comments to reduce and simplify reporting requirements under (a) and (c), and did reduce the data requirements it had originally proposed. Further reductions in data requirements for small business would impair the calculation of current market values.

In view of these factors, it is concluded that the Department's Statement of Need and Reasonableness is adequate for purposes of Minn. Stat. § 14.115, subd. 3 and that any deficiencies are not substantial.

Background

8. Under Minn. Stat. § 270.12, the Commissioner of Revenue constitutes the State Board of Equalization and must annually equalize the assessed value of all properties in the state to reflect their market value. In order to equalize property values, the Department of Revenue annually prepares a real estate assessment/sales ratio study. The study is used for state school aid and local government aid distribution programs, county equalization administration, and tax court litigation. Errors in establishing sales prices in this study can have a substantial impact in the distribution of state aids and property tax dollars.

9. Preparation of the sales ratio study requires the elimination of factors which affect the price, but not the market value of property. Inflation, deflation, personal property included in a sale, and financial arrangements affect the "cash equivalent" market value of a property. They must be identified in order to equalize property values.

10. In recent years, creative, non-traditional financing arrangements have made equalization more difficult. Differences in interest rates and pay schedules, among other things, if not considered in the equalization process, can lead to erroneous assessments and sales ratios because those differences affect the "cash equivalent" value of property.

11. Under Minn. Stat. § 287.241, no deed or other document granting, assigning, transferring or conveying real estate may be recorded or registered by the county recorder or registrar of titles unless it is accompanied by a notice from the county auditor that a certificate of value has been filed in his office as set forth in Minn. Stat. § 272.115. The certificate of real estate value has been used for many years in determining the deed tax, if any, due on the transfer of an interest in real estate.

12. Under the rules proposed by the Department, the certificate of real estate value will require more information than is currently required in order to gather the information needed to equalize property tax values in the sales ratio study process. The additional information required will involve some increased costs in the transfer of real estate. At the hearing, several persons suggested that the Department reduce the amount of additional information required in the cer- tificate of real estate value in order to minimize those additional costs. It was suggested, for example, that the Department obtain needed financial infor- mation through questionnaires. However, Dr. Karvel pointed out that a 15 per- cent response rate to questionnaires is usually considered successful, and that such a rate would

not be adequate for purposes of the sales ratio study. Consequently, the Department has determined that all information needed for purposes of the study must be included on the certificate of real estate value. Since the Department is authorized to obtain necessary financial in- formation from the certificate of real estate value and since the information it proposes to require is necessary for completion of the sales ratio study, it is concluded that the rules are necessary and reasonable in spite of the additional costs that may be involved. The mere fact that it will cost more money to transfer interest in real estate under these rules does not render them unreasonable because the information is needed in order to properly equalize real estate values in the state.

STATEMENT OF NEED AND REASONABLENESS

13. Under Minn. Stat. § 272.115, subd. 2, the certificate of real estate value must require the facts and information determined by the equalization aid review committee to be reasonably necessary in the administration of the state education aid formulas. There is no indication in the record that the equalization aid review committee has made a determination that the facts and information required by the rules is reasonably necessary in the administration of the state education aid formulas or if it has determined that other information should be included. However, since the Commissioner of Revenue is a member of the equalization aid review committee (Minn. Stat. § 124.2131), and since the committee has not filed any objections to the rules, it is concluded that the usual presumption that the agency acted properly and in accordance with law in seeking the input of the Committee should be recognized. Walters v. Common School Districts, 2550, etc., 265 Minn. 284, 121 N.W.2d 605, 608 (1963).

14. Only a few provisions of the proposed rules were questioned on the grounds of need and reasonableness. Those provisions are discussed; and with one exception, the need for and the reasonableness of the proposed rules was established by an affirmative presentation of facts and policy decisions set out in the Statement of Need and Reasonableness. Consequently, except where questions were raised, the need and reasonableness of the rules is not discussed further.

Rule Provisions

15. 8110.0100. This part contains information that must be included in a certificate of real estate value in order for it to be accepted for filing. Mandatory information includes the names and addresses of the buyer and seller, a legal description of the property and its location, and a statement by the buyer or his agent or attorney that the information provided on the certificate is accurate and complete under penalty of law.

16. William E. Slavin, a Departmental employee in the Property Equalization Division, questioned the need for requiring a legal description of the property. He noted that copying the legal description many times requires extra pieces of paper to process, review and store, and that multi-parcel

sales are the least likely to be used in the sales ratio study. Instead of a legal description, he suggested that the form require information relating to the number of acres or the square footage of residential lots. Slavin also suggested that property addresses are of little value for farms, seasonal dwellings, or large commercial or industrial property. For such property, he suggested that the form require the township, section or fire number of the property.

In many cases, the legal description of a property will contain a reference to the township, range or section in which the property is situated, and may even contain a reference to the number of acres involved. To the extent that it does, a legal description may provide some of the information Slavin felt would be useful. To that extent, retention of the requirement for a legal description would be consistent with his own suggestions. Moreover, a legal description of the property is the most precise definition of what has been conveyed, and the Department's proposal to require it is certainly necessary and reasonable. As the Department noted in its Statement of Need and Reasonableness (SONR), it is necessary to identify the property transferred. Since a legal description identifies the property, it may be required. Likewise, requiring the buyer to furnish the address of the property transferred is a necessary and reasonable requirement, even though some additional information might be helpful to assessors in the Property Equalization Division when rural property is involved. The Department is required to balance the need for information against the costs involved in furnishing it and the complexity of any form ultimately used. The ultimate policy decisions it has made regarding the kinds of information that will be required were shown to be necessary and reasonable here, even though an argument could be made that additional or alternative information might be useful to other employees in the Department.

17. Slavin also questioned the language in Part 8110.0100, which requires that the certificate contain a statement that the information provided is correct and complete under penalty of law. Slavin alleged that the phrase "under penalty of law" is generally ignored and is usually unenforceable. He argued that unless a definite penalty is stated and printed on the certificate of real estate value, compliance will be voluntary rather than mandatory, as is intended. His arguments are not persuasive. The information in 8110.0100 is mandatory, and a certificate of real estate value may not be filed unless that information is provided. Failure to state the specific penalty that might be imposed for false statements does not in any way change the fact that certain information is required. It merely puts the buyer on notice that false statements may be punishable under the law.

Under Minn. Stat. § 609.41, for example, any person making any written statement required by law to be made as the basis of imposing, reducing or abating any tax or assessment, and who intentionally makes any statement as to a material matter which he knows is false, is guilty of a gross misdemeanor and may be imprisoned for not more than one year or to payment of a fine of not more than $1,000 or both. This statute would appear to cover false statements on a certificate of real estate value. Therefore, it is concluded that the lanaguage referring to penalties provided for by law is necessary and reasonable regardless of the degree to which they are ignored or enforced.

18. The last sentence of Part 8110.0100 provides that the certificate of real estate value must require the telephone number of the buyer or the buyer's agent or attorney. Slavin objected to this provision on two grounds. First, he argued that the telephone number of the buyer should be required in all cases. Second, he argued that the last sentence should be specifically alphabetized as 8110.0100 F., because as it now exists in the rule, it is hidden.

The Department's initial draft of its rules contained a requirement that the telephone numbers of the buyers and sellers be provided on the certificate of real estate value. The Department received numerous objections to such a requirement because the parties telephone numbers are frequently unknown at the time of closing, especially when residential transactions are involved. In recognition of those objections, the Department has determined that the certificate of real estate value may be accepted for filing even though it does not contain the buyer's telephone number but that the form must contain a blank where the telephone number of the buyer or his agent or attorney may be included. The Department's decision to require the form to contain a space for the telephone number, but not to require that information be provided is necessary and reasonable. However, the language used could be construed by county assessors as requiring the insertion of a telephone number because the language comes under a section designated as "mandatory information". It is suggested, therefore, that the last sentence be clarified. That could be done without making a substantial change in the rules by amending it to read as follows:

> F. The buyer's telephone number at home or work. If the buyer has no current telephone number, but has an agent or attorney, the telephone number of his agent or attorney may be used. If the buyer has no current telephone number and no agent or attorney no telephone number is required.

so amended p. 1

This kind of amendment would require a telephone number where there is one and would permit the agent's telephone number to be used where the buyer does not have a telephone. It would enable the Department to obtain a telephone number where one is known, but not require one where it is unknown.

19. 8110.0200, subp. 1. Under this subpart, the buyer is required to indicate whether the particular sale falls within any of the eight categories listed. This is a necessary and reasonable requirement because the listed categories are not used in the sales ratio study. If the particular transaction is within any of the listed categories, the buyer is not required to complete the remainder of the form.

20. 8110.0200, subp. 2. If the transaction is not one of those listed in subpart 1, the buyer must then provide the stratification and financing data requested in subpart 2. The data requested pertains to the type of property transferred, the planned use of the property and relevant financing information. Required information includes the purchase price, the amount of personal property involved in the transaction, the date the purchase agreement

was signed, the down payment made, points or interest prepaid by the buyer or the seller, and the amount paid for the points or prepaid interest, the amount of mortgage or contract for deed balances remaining, the identification of interest rates, installments, lump sume payments, and other information. The financing information required under subpart 2 is necessary and reasonable. The information is needed in order to calculate current cash equivalency for purposes of the sales ratio study.

21. Slavin suggested that the references in 8110.0200, subp. 2 B.(1) and (2) will be obsolete because the Legislature has recently changed the classification of four-unit buildings. He suggested, therefore, that the reference to three units in B.(1) be changed to four units and that the reference to four units in B.(2) be changed to five units. The Department is unwilling to make that change until the assessor's books are updated to be consistent with the new statute. Its determination is necessary and reasonable at this time. When the new law becomes effective the rule can be amended.

In Subpart 2, Slavin also recommended that the principal intended uses of property under B. be expanded from six to eight classes and that seasonal commercial property and vacant lands be added to the list to assist assessors. Assistant Commissioner Erno rejected the proposed change noting that there are over 40 types of property classifications under state law and that if all of them were to be included, the form would be unduly confusing and lengthy. Erno testified that the six classifications proposed are adequate for purposes of the sales ratio study and that the rules are not intended to relieve assessors of their responsibility to determine the actual use of a property. Based on Erno's comments, it is concluded that the rule as proposed is necessary and reasonable.

22. 8110.0300. This part permits the buyer to attach supplemental documents to the certificate of real estate value when additional space is needed to answer questions on the form. It permits a lengthy legal des- cription to be attached, for example. The rule provides that supplemental documents accompanying the certificate "should be" attached to the Department of Revenue's copy. Since the Department needs copies of these supplemental documents, it is suggested that it consider replacing the words "should be" with the mandatory word "must". If the Department does not want to make it mandatory, it should, in any event, replace the words "should be" with the word "may". This will more clearly indicate that it is discretionary with the buyer.

so replaced p. 4

23. 8110.0400. This part of the rule provides that certificates of real estate value are subject to audit by the Commissioner of Revenue and that he may require additional documentation from the buyer, the buyer's agent or attorney, or the seller in order to verify the accuracy of any information required on the certificate of real estate value. This part also states that the Commissioner shall determine which certificates are subject to audit. The only authority cited by the Department for the promulgation of this part in its Notice of Hearing and in its SONR, is the authority contained in Minn. Stat. § 272.115. The statute states only that the Commissioner of Revenue shall promulgate rules specifying the financing terms and conditions which must be included on the certificate. It does not give to the Commissioner any authority to audit the returns filed or to require the buyer or the seller to

furnish additional documentation the Commissioner determines is needed in order to verify the accuracy of the information contained on those certificates. Moreover, the Department's SONR wholly fails to discuss the need and reasonableness of such a requirement. Consequently, it is determined that the Department has failed to establish the need and reasonableness of the provisions of this part and has failed to establish its statutory authority for promulgating it.

Since the Department has not established its statutory authority for this part, it violates the provisions of Minn. Stat. § 14.05, subd. 1, and constitutes a substantive violation of the law for purposes of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (1982). To cure the defect pertaining to its lack of statutory authority, this part must be deleted from the rules. deleted p. 5

24. 8110.0500. This part requires the county auditor to refuse a certificate of real estate value for filing unless the form is complete and contains the buyers signature. This provision is challenged as ambiguous when read in conjuction with 8110.0100. Concern was expressed with the scope of the county auditor's duty to verify the accuracy and completeness of the information provided on the certificate of real estate value under 8110.0100 and 8110.0200. If an auditor is required to verify the information provided on the certificate, concern was expressed that some certificates may be rejected as incomplete or inaccurate. If that happens, the lending institution, or its title insurer, who has already disbursed loan funds, could lose its prior lien on the property to other intervening liens and could have its sales on the secondary mortgage market adversely affected.

In order to cure these concerns, Gregory J. Pulles, an attorney with Mackall, Crounse & Moore, who appeared on behalf of the Savings League of Minnesota, suggested that this part be revised to read as follows:

> The County Auditor shall not accept a certificate for filing unless the form is completed, and contains the buyer's signature. The County Auditor shall not verify the accuracy of any information provided, and shall only insure that the applicable blanks in the form are completed.

The Department has agreed to clarify the scope of the county auditor's duties by amending Part 8110.0500 to read as follows:

> The county auditor shall accept for filing any certificate which contains only the data required by 8110.0100 if the certificate shows that one of the types of transfers listed in 8110.0200, subpart 1, is involved. If the type of transfer involved is not listed in 8110.0200, subpart 1, the county auditor shall not accept the certificate unless the data required by 8110.0200, subpart 2 is included on the form. If the form is complete, the county auditor shall accept the certificate and has no responsibility for the accuracy for the data provided.

The amendatory language proposed by the Department is necessary and reasonable in order to clarify the duties of the county auditor so that a lender or his title insurer is not subject to the risk of having an auditor attempt to verify the accuracy of any data provided. It is intended that the auditor shall only make sure that necessary items on the form contain an entry, but not to attempt to verify the entries that are made -- that being the responsibility of the buyer. Thus, if an entry merely reads "not applicable" or "n/a", it should be accepted. The amended language was thoroughly discussed at the hearing and the new language proposed does not constitute a substantial change for purposes of Minn. Rule 1400.1100.

25. Pulles recommended that an explanatory statement should accompany the issuance of the rules so that the county auditors' specific responsibilities would be further explained. The Department has noted in its final post-hearing comment that instructions to county auditors will be made available by the Department and that the auditors will be provided with training.

Pulles also submitted some untimely comments concerning the proposed form of the certificate of real estate value the Department intends to adopt. Since the form of the certificate is not part of the proposed rules, it is beyond the scope of this proceeding. However, the Department may consider those comments in drafting its final version of that form.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. That the Department of Revenue gave proper notice of the hearing in this matter.

2. That the Department has fulfilled the procedural requirements of Minn. Stat. §§ 14.14, subds. 1 and 1a (1983 Supp.) and 14.14, subd. 2 (1982), and all other procedural requirements of law or rule.

3. That the Department has demonstrated its statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1 (1982), 14.15, subd. 3 (1983 Supp.) and 14.50 (i)(ii)(1982), except as noted at Finding 23.

4. That the Department has documented the need for and reasonableness of its proposed rules with an affirmative presentation of facts in the record within the meaning of Minn. Stat. §§ 14.14, subd. 2 and 14.50 (iii) (1982), except as noted at Finding 23.

5. That the amendments and additions to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 14.15, subd. 3 (1983 Supp.), and Minn. Rule 1400.1100 (1984 Ed.).

6. That the Administrative Law Judge has suggested action to correct the defects cited in Conclusions 3 and 4 as noted at Finding 23.

7. That due to Conclusions 3 and 4, this Report has been submitted to the Chief Administrative Law Judge for his approval pursuant to Minn. Stat. § 14.15, subd. 3 (1983 Supp.).

8. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

9. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the from further modification of the proposed rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted except where specifically otherwise noted above.

Dated this 6th day of June, 1984.

Jon L. Lunde

JON L. LUNDE
Administrative Law Judge

DR-84-036-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption
of a New Rule of the Department of Revenue
Relating to Certificate of Real Estate Value
(Minnesota Rules, Parts 8110.0100,
8110.0200, 8110.0300, 8110.0400).

ORDER

WHEREAS, a hearing was held on May 11, 1984 before Jon L. Lunde, a Administrative Law Judge of the Office of Administrative Hearings, on the above-entitled matter in compliance with the rule-making provisions of Minn. Stat. Ch. 14; and

WHEREAS, the Report of Administrative Law Judge made pursuant to Minn. Stat. § 14.50, was issued to the Commissioner of Revenue and;

WHEREAS, the Commissioner of Revenue has now determined to adopt the rules; and

WHEREAS, the Commissioner of Revenue has submitted the rules to the Chief Administrative Law Judge for review pursuant to Minn. Stat. §§ 14.16, 14.51, and Minn. Rule 1400.1000, Subp. 1 and 1400.1100; and

WHEREAS, the Chief Administrative Law Judge finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Commissioner of Revenue has cured the defects in the rule as required.

NOW, THEREFORE, upon receipt of this Order, the Commissioner of Revenue has the responsibility of and submitting the rules adopted to the Revisor of Statutes, and to publish in the State Register and file with the Secretary of State if approved by the Revisor of Statutes.

Dated this 13th of August, 1984

Duane R. Harves

DUANE R. HARVES
Chief Administrative Law Judge

(612) 341-7640

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE RELATING TO CERTIFICATE OF REAL ESTATE VALUE (MINNESOTA RULES, PARTS 8110.0100, 8110.0200, 8110.0300, 8110.0400)

ORDER ADOPTING RULES
FINDINGS OF FACT
AND CONCLUSION

The above-entitled matter came on for hearing before Jon L. Lunde, Administrative Law Judge, on May 11, 1984, at 9:30 a.m. in the Second Floor Conference Room, Centennial Office Building, St. Paul, Minnesota, after proper notice required by Minn. Stat. Sec. 14.14, subdivision 1, was served on all persons registered with the Department of Revenue for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules, and having now, therefore, reviewed the record of the hearing, including the exhibits and written materials submitted before the close of the record, the report of the administrative law judge, I do now adopt as my findings of fact in this matter, the findings of fact of the administrative law judge with the following exceptions:

1. In his report on page 8, the administrative law judge suggests clarifying language for part 8110.0100 regarding availability of telephone numbers. Having a telephone number for the buyer or the buyer's agent is extremely helpful if the county or the department need additional data. However, we must recognize that a majority of transfers reported involve residential properties and current telephone numbers may not be available. The language suggested by the administrative law judge is reasonable and necessary to accomplish the goals of the form and accommodating the needs of the buyer.

2. On page 9 of the report, the judge suggests clarification of part 8110.1300. It is necessary and reasonable to mandate that all supplemental documents be attached to the department's copy of the form since we are responsible for ultimately compiling the data into an assessment/sales ratio study.

Now, therefore, it is ordered that these rules identified as Rules of the Department of Revenue Relating to Certificate of Real Estate Value as published at State Register Volume 8, Number 41, pages 2221 - 2223, April 9, 1984 (8 S.R. 2221-2223) and as amended are adopted this 2nd day of August, 1984, pursuant to authority vested in me by Minnesota Statutes, 1983 Supplement, Section 272.115.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

ARTHUR C. ROEMER
Commissioner

Hearing Copy

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE RELATING TO CERTIFICATES OF REAL ESTATE VALUE (Minnesota Rules, Parts 8110.0100, 8110.0200, 8110.0300, 8110.0400, 8110.0500)

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule. It is submitted pursuant to Minnesota Rules, Part 1400.0500 requiring a Statement of Need and Reasonableness. This entire statement is one document; however, there are three parts to this statement. The first part is the background, the second part is the necessary data elements, and the third part is the conclusion.

The Commissioner's authority to adopt these rules is found in Minn. Stat., 1983 Supp., Sec. 272.115, subd. 1.

BACKGROUND

Laws 1983, Chapter 342, Article II, section 4, amended Minn. Stat. Sec. 272.115, subd. 1, to require the certificate of real estate value be revised to include "financing terms and conditions of sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study." Further, section 4 requires the commissioner of revenue to promulgate rules specifying the data elements to be included on a revised certificate of real estate value. Chapter 342 was approved on June 14, 1983. A copy of the existing certificate is attached for reference.

While the concept of adjusting for financing had been discussed by Revenue staff, the actual particulars had not been developed. To aid the Department in developing a revised certificate of real estate value and the methodology of determining present values based on financing details, the Department contracted with Dr. George Karvel. Dr. Karvel is a professor and holder of the Minnesota Chair in Real Estate at St. Cloud State University and authored the attached article entitled "Creative Real Estate Financing: Assessors Dilemma and Threat to Tax Equalization" which appeared in the December, 1982, edition of "Equal Eyes" published by the Minnesota Chapter of the International Association of Assessing Officers and the Minnesota Association of Assessing Officers.

Dr. Karvel and his research associates worked with the Department staff through the summer and fall of 1983 to develop proposed rules. In addition, the Department received the attached letter from Louise Leoni which was considered.

A Notice of Intent to Solicit Outside Opinion was published October 24, 1983 in the State Register (8 S.R.971). A copy of the working draft of the proposed rule is attached. It was made available to everyone that requested a copy.

In response, by December 7, 1983, the Department received thirty-five letters commenting on the rule. These letters were reviewed carefully by the staff. By letter of December 7, 1983, the Department acknowledged receipt of all comments received by that date (see letter to Mr. William J. Keefer and list of names and addresses attached to that letter). After that date, we received letters from Douglas W. Cann, Franklin Michaels, and J. B. Clarkson (all attached). To repeat, the Department carefully considered each and every comment in drafting the rules as now proposed.

In reviewing the comments submitted, especially regarding the unavailability of some data at closing and increased costs of attorneys services, the Department decided to meet directly with persons involved in closing real estate transactions. We needed to know what data was readily available and the problems with completing and filing the certificates of real estate value.

We contacted Hank Fischer representing Twin City Federal Savings and Loan Association and Conrad Sheets, President of North Star Abstract and Title. We found that North Star does virtually all the real estate closings for TCF. On December 14, 1983, four representatives from Revenue met with Mr. Sheets, Mr. Fischer, others from TCF, including N. Thomas Mattiuz, Senior Vice President of TCF Mortgage Corporation, and several closers from North Star.

A major stumbling block was the requirement in the draft rules that only the buyer could complete and sign the certificate. Since financing is the buyer's problem and can be obtained from so many sources, only the buyer could provide the financing data elements required by the 1983 changes in the law. While agreeing with our conclusion, the "experts" pointed out that a buyer is not always present at the closing

and even if present, is not always the most knowledgeable source. It is necessary and reasonable to require that the certificate be completed by the buyer, the buyer's attorney, or the buyer's agent. Based on our meetings, compliance with this requirement is feasible.

The draft rules were revised based on the concerns expressed in the response to our Notice and our discussions with those people involved on a day-to-day basis with real estate transactions.

NECESSARY DATA ELEMENTS

A prime requisite for effective equalization in property taxation is the existence of a dependable mechanism for comparing the assessor's estimates of market values to the actual market value for each parcel in the jurisdiction. For Minnesota, as for most states, the mechanism used in making this comparison is the real estate assessment/sales ratio study, conducted annually by the Minnesota Department of Revenue.

Determining the estimated market value/actual market value relationship presents some practical problems for taxpayers and tax administrators alike, since "market value" is purely an abstraction which can only be estimated for any parcel which does not sell, and merely approximated for parcels which do sell. As a result, tax administrators are forced to rely on statistical studies which use sale prices as surrogates for market value, and a sample of actual sales to represent the population of parcels. The statistical methodology of assessment/sales ratio analysis is quite well defined in the professional literature of the field, and the practice of using assessment/sales ratios in place of assessment/market ratios in equalization studies is universally accepted.

A fundamental element of sales ratio study preparation is the need for comparing like properties by eliminating extraneous positive and negative factors that affect price but which do not reflect accurately the influence of physical value factors such as location, utility and condition of the real property involved in the assessment. Factors such as inflation (or deflation) and personal property are examples of these factors, as well as financial arrangements which impact the "cash equivalent" market value of the property.

Professional societies of appraisers, realtors and tax administrators have long acknowledged the significance of financing in setting the sale price for a parcel of real estate, and standard appraisal theory accommodates the need for financial analysis in situations of non-market financing. Articles outlining the techniques of financial adjustment regularly appear in professional and technical journals.

In recent years, the emergence of "creative" or non-traditional financing has introduced a complicating factor into sales analysis. When conventional mortgage financing was the norm, there was little variance in the interest rates for various types of financing, and the minor differences that did exist were subsumed into the general overhead of the statistical study methodology. Now, however, significant differences in the cash-equivalent sale price of identical parcels can be introduced because of the differences in interest rates and payment schedules that relate to the financing and are not indicative of the physical characteristics of the purchased properties. Inappropriate use of unadjusted sale prices can lead to significant misstatement of assessment/sales ratios.

Minnesota relies on the assessment/sales ratio studies conducted by the Department of Revenue for state school aids and local government aid distribution programs, county equalization administration and in tax court litigation. Errors in

establishing sale prices can have substantial impact on literally hundreds of millions of dollars in state aids and property tax dollars.

While the mathematics of cash-equivalence adjustment is not complex, adjustment requires certain facts about the terms and conditions of the specific financing arrangements of the sales used in the study, and about the prevailing types of financing alternatives available on the open market. This information can be gathered through interviews with the parties to the sale, by mail questionnaire or on documents completed at the time of sale. The latter method is the most economical method of obtaining accurate and complete data. At the same time it entails the least amount of inconvenience to the concerned parties, since all of the required information is normally available at the time of closing. Using the Certificate of Real Estate Value as the vehicle for capturing the required data is the most efficient method available; alternatives would be significantly more intrusive, costly and time-consuming.

Without accurate assessment/sales ratio studies, many millions of dollars of state property tax relief may be misdirected, resulting in unequal property tax burdens and distortion of the property tax equalization process. The requisite accuracy is obtainable only if the required data is available to the department.

Data obtained through the Certificate of Real Estate Value falls into three broad classifications: Mandatory information required for identification of the parties to the transaction or the property transferred and clarifying the nature of the transaction; conditionally required information detailing the characteristics of the property for use in the study sample selection and stratification process; and conditionally required financial information needed to provide the basis for cash-equivalency computations and for comparison to the assessor's estimated market value.

A. IDENTIFICATION AND SELECTION DATA

1. Buyer's name and address

2. Seller's name and address

These items identify the parties in the sale. This information is required to fully identify the transaction, to make accurate verification, audit, and post-audit processing possible, and to allow identification of old sales, relative sales, exempt sales and similar categories of sales which are invalid for study purposes.

3. Legal Description of property transferred

4. Address of property transferred

These items identify the property transferred. They are used to assure that accurate information about the assessor's values, property location and use class can be collected, and to enable field verification of complex or questionable sales to be handled efficiently. It is also necessary for allocation of sales to the proper jurisdiction for determining individual and aggregate assessment/sales ratio statistics and equalized value allocation in state aid formula.

5. Type of acquisition

This question requires the seller to identify attributes of the sale which may render it unacceptable for study purposes according to generally accepted assessment/sales ratio study standards. The sale may be excluded from the sales ratio study on the basis of this question. If any of the items in this question apply, the Department will allow filing of the form without completing the financial information and stratification questions which follow. This will minimize the impact on persons

filling out the form for non-sale transfers, and also allow expeditious processing of a large number of items which are not valid for study purposes, but which are required by law to be filed. The categories identified in this item are consistent with the screening procedures identified by the International Association of Assessing Officers and other professional organizations.

B. STRATIFICATION

For those certificates which are potentially valid study sample items (based on the response to question A.5, above), two questions must be answered to enable the Department to accurately categorize and stratify the sales for assessment equalization, state aids, and tax court study purposes. These are:

1. Type of property transferred.

This allows for comparison of data from the sale with assessor's records, to insure that the sale price of the property reflects the same property valued by the assessor, and that new construction, ground leases or partial transfers can be properly identified, classified and analyzed.

2. Planned use of property.

This question is used to stratify property types (required by both standard study procedures, statistical theory and state aid programs). It also allows us to identify intended changes in use, new development or speculative purchases which need further research before inclusion in the study. It also allows determination of whether particular items can be used for one year or two years in the study,

or used at all. Further, this is a check on the accuracy of assessment records and sale price data.

C. FINANCING INFORMATION

The remaining data elements, required for any certificates not excluded under 5(b), are needed for cash-equivalence analysis and adjustment.

1. Total Purchase Price.

This is the total price of all real, personal or intangible property being transferred or conveyed as part of the original agreement. This serves as the base price, the amount to which all adjustments for time, financing and non-real property will be made.

2. Total Amount of Personal Property.

The personal and intangible property value, as established by the sales agreement or separate appraisal or verification, must be subtracted from the total purchase price since this property is not subject to the property tax nor included in the assessor's valuation of real property. Itemization is required for verification of value and to allow proper classification of the portion of value as real or non-real property. This is necessary because of differences between the popular and legal definition of "personal" property. The "nominal" sales price is the total purchase price less any personal property.

3. Date Purchase Price Agreement Signed.

This date is necessary to determine if the sale falls within the study period, to allow accurate adjustments for time, and to serve as further identification of individual transactions in a series of transactions.

4. Total Down Payment.

This is necessary for determining the cash equivalent value of the real property sold; since this amount is normally paid immediately and is not part of the financing arrangements, no adjustments are generally needed to this portion of the sale price. This item is also used to identify sales with unusually low or high equity arrangements, which require further study.

5. Points or Prepaid Interest Paid by Buyer or Seller.

Under certain circumstances, the amount of any points or prepaid interest paid by the buyer must be subtracted from or added to the nominal sale price reported. This item allows the Department to identify these instances and adjust them accordingly.

6. Amount Paid for Points or Prepaid Interest.

This amount is necessary if the Department will be required to make any adjustment to the nominal sale price for points or prepaid interest.

For each mortgage agreement and contract for deed included in the transaction, whether new or assumed, certain data elements must be provided to allow for accurate price adjustments to bring the nominal sale price to a cash equivalent value. These include:

7. Amount of Mortgage or C/D balance remaining.

This is necessary for computation of the cash equivalent value and for verification of the reported sale price and payment stream for calculations.

8. Identification of assumed mortgages or C/D.

This is necessary to avoid errors in performing discount calculations, and for verification of payment stream information.

9. Interest Rate in Effect Now.

This is necessary for computing present value.

10. Total number of installments remaining.

This is necessary for computing present value.

11. Date of any lump sum payments.

This is necessary for computing the discounted value of any "balloon" or lump sum payments due at some future date.

12. Schedule of Payments if not monthly.

This is necessary to identify transactions which must be handled according to a different discounting method because the payment schedule is not monthly.

The computation of present value is more complex and must be completed separately.

13. Scheduled payment level changes.

If the amount of the monthly principal and interest payment is scheduled to change (as opposed to an unspecified but variable rate), the dates of change and the new payment amounts must be stated to allow for accurate computation of the cash equivalent value of the payment stream.

The Department will require the person completing the certificate to sign a declaration that the information contained on the form is correct and complete to the best of his/her knowledge, and to provide a telephone number to allow verification or clarification of data elements in question.

CONCLUSION

The Department has considered the implications of these proposed rules on small business. The rules have been modified significantly in response to concerns raised in the letters and our meeting with real estate closers. In our opinion, the rules as proposed cannot be further modified to accommodate small business. Small businesses should not be adversely impacted. In theory, the new data on the certificate will allow the Department to produce a better sales ratio study which will cause better administration of the property tax. In the long run, the benefit to small business owners could be significant from the improvement in the study.

Based on requirements established by the legislature and our research in the area, the proposed rules are reasonable and necessary to allow us to determine the actual, present value of the sales price of real property in this state.

29477

READ INSTRUCTIONS ON BACK OF THIS FORM

PLEASE TYPE OR PRINT CLEARLY

LGA-20 (REV. 12-79)
RV-01931-02

MINNESOTA

CERTIFICATE OF REAL ESTATE VALUE

1. BUYER'S NAME AND ADDRESS	2. SELLER'S NAME AND ADDRESS
SOCIAL SECURITY NO. OR MINN. IDENTIFICATION NO.	SOCIAL SECURITY NO. OR MINN. IDENTIFICATION NO.

3. LEGAL DESCRIPTION OF ALL PARCELS (Fill in legal description below or attach 3 copies of legal description from instrument of conveyance)

PLAT NAME LOT NO. BLOCK NO.

OR:

LOCATION OF PROPERTY TRANSFERRED	7. DATE OF SALE PRICE AGREEMENT (If purchase was on contract for deed, give contract beginning date.)
4. Number & Street or R.R.	
5. Town or City 6. County	MONTH: YEAR: 19

8. Means of transfer (check one) ☐ Warranty Deed ☐ Contract for Deed ☐ Other (explain) _____

9. Total sale price including personal property, assumed mortgage or contract for deed, taxes or special assessments . . . . . .

10. Total amount of personal property, crops, etc., included in price (list on the back of the Dept. of Revenue Copy) . . . . . .

11. Sale price of real estate only (subtract line 10 from line 9) . . . . . .

12. Total amount of assumed old mortgage or contract for deed, assumed special assessments or taxes . . . . . .

13. Amount subject to deed stamp tax (subtract line 12 from line 11) (see instructions on back of form) . . . . . .

14. Deed stamp tax (to determine tax, read instructions on the back of this form). . . . . .

15. KIND OF PROPERTY SOLD: (check one) ☐ Land only ☐ Land with previously used building ☐ Land with new building (give year of completion _____)

16. PRINCIPAL INTENDED USE: (check one) ☐ Residential ☐ Apartment (4 or more units) ☐ Seas./Rec. Residential ☐ Seas./Rec. Commercial ☐ Agricultural ☐ Commercial ☐ Industrial ☐ Other (explain)

17. The property transfer was: (check one) ☐ Between relatives or related firms ☐ A gift ☐ A trade ☐ An inheritance ☐ A forced sale ☐ An auction sale ☐ To or from a government or exempt organization ☐ A partial interest transfer ☐ None of the above

18. If in your opinion this was not a sale between a willing buyer or seller, briefly explain why:

19. I (we) declare under penalty of law, that this certificate (including supplemental legal description) has been examined by me (us) and to the best of my (our) knowledge and belief is true, correct, and complete. (Signature of purchaser, seller, or agent.)

DATE _____

Print name here _____ SIGN HERE _____ Telephone number of person signing this form: _____

DO NOT WRITE BELOW THIS LINE

	19___ LIMITED	19___ ESTIMATED	19___ LIMITED	19___ ESTIMATED	19___ LIMITED	19___ ESTIMATED
LAND						
BUILDING						
TOTAL						

TYPE OF TRANSFER	PLAT – PARCEL	S.D.	PT	SALE PRICE	
USE CODE		TRANS.	DATE	DIS	MULT
CITY ☐ TOWN ☐ NAME OF CITY/TOWN		ACRES		PLAT	

DISP CODE

CO CODE

CT

Creative Real Estate Financing



Assessors Dilemma and Threat to Tax Equalization

By DR. GEORGE R. KARVEL



Dr. George R. Karvel, Professor and holder of the Minnesota Chair in Real Estate at St. Cloud State University is responsible for development of Minnesota's only Bachelor of Science in Real Estate. The program permits students to specialize in real estate appraisal, brokerage, finance, sales or property management. Dr. Karvel's articles have appeared in the Appraisal Journal, Real Estate Review and Journal of Property Management. He also is co-author of the book Real Estate Principles and Practices.

INTRODUCTION

A home's estimated market value traditionally reflects housing differences such as size, location, age, quality and condition. The effect of financing is normally not considered in determining an estimated market value.

Consideration of the impact of interest rates and mortgage term (amortization period, balloon dates, etc.) is unnecessary when all homes are financed at the same interest rate for the same period of time. Today "creative financing" has introduced previously unknown variations to the financing of real estate.

Many assessors understand that it is easier to sell, or better to buy, a property which has favorable financing Many understand that a home with favorable financing may even sell at a premium over an identical property which must be financed at the market rate[1] of interest.

Consumers, REALTORS and assessors have all had to learn the new language of real estate finance.[2] What each has not learned is "why" and "by how much" variations in the mortgage interest rate and term affects the price and estimated market value of a residential property.

THE ASSESSORS DILEMMA

Assume an assessor has knowledge of the recent sale of two homes located next to one another. The certificates of value reveal that one home sold for $85,000 and the other sold for $72,275. In each case, purchase and sale was conducted at "arms length" between unrelated parties.

Examination of the property appraisal card reveals that the homes were built the same year, of similar materials by the same builder and have identical amenities and square footage. In fact everything about the homes is identical except one floor plan is the reverse of the other.

Personal inspection of the properties confirm that the present physical condition, landscaping and land characteristics are also identical. The single physical

CITY OF ELY

209 E. Chapman St.
Ely, Minnesota 55731

June 30, 1983

Dorothy McCluns
c/o Commissioner of Revenue
2nd Floor Centennial Bldg.
St. Paul, MN 55145

Dear Dorothy:

I understand you are working on revisions to the Certificate of Real Estate Value on which so much of our sales ratio studies depend.

It is good to see the state recognize the need for some changes that take into consideration financing of real estate sales. It would also improve the quality of sales ratio studies if other changes were made as well.

Commercial sales often include monies for things other than land and buildings. And, although there is a place to note personal property, there is no place to list the cost of a franchise, or a liquor license, or any other intangible that frequently gets thrown into the total sale price. (see enclosed article)

You would be a great benefit to the process of utilizing certificates of Real Estate Value by reviewing the problems inherent in using them in Commercial Sales.

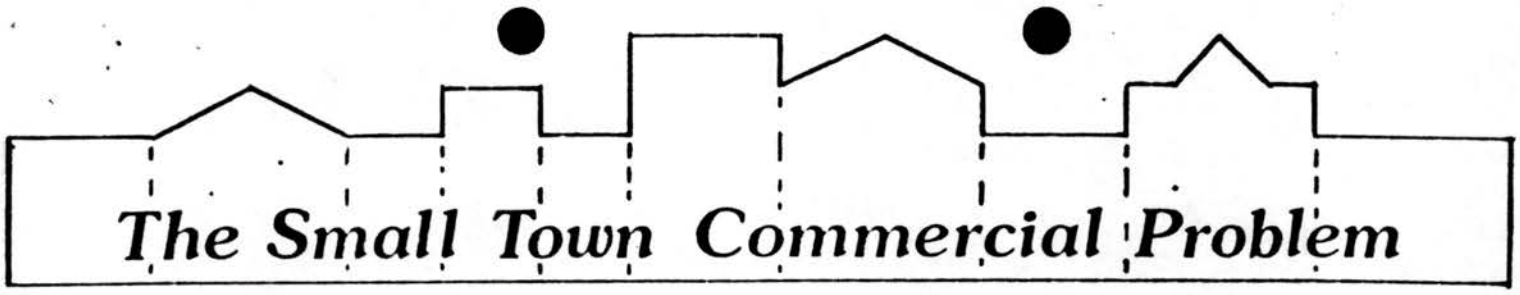
Thanks for your consideration.

Sincerely,

Louise Leoni

Louise Leoni
Assessor, City of Ely/Fall Lake Township

LL/pw
Enclosure



The Small Town Commercial Problem

By LOUISE LEONI
Assessor Fall Lake/Ely

For the past few years I've heard the phrase "Small town commercials are a problem" in the northeastern part of the state. Earl Ramstead of the Dept. of Revenue has had a fine presentation at the annual Assessor's Short Course in Hibbing 3 years running on the Problems of Small Town Commercial Properties. Everywhere I go, with whomever I discuss this, it is agreed that we do indeed have a problem with sales ratio studies on Small Town Commercial properties.

It is now time to get past that aspect of the problem . . . recognition that it exists . . . and get to some answers for solving the problem.

In an attempt to do just that for the City of Ely, I undertook a study of commercial sales for the past three years and have made a bar-graph of that study so that I could more easily visualize the results and implications of what was found.

The bar-graph shows on a per square-foot basis the differences among: 1) sale value of structures (sale minus land EMV); 2) Assessors value of structures; 3) Marshall/Swift value of structures (less depreciation) and 4) sale value of structures if the land values had been increased to the 1983 level.

The significant finding in this bar-graph study is that, although there are fluctuations of relative value of several commercial properties, there is a consistency of very low sales ratios with specific types of properties: i.e. liquor establishments, gas stations and seasonal-recreational commercial parcels.

Another indicator shows up in bare land sales (and also is seen in this bar-graph study in one sale involving Continental Telephone Co.) that commercial interests based throughout the state, or regionally, have a heavy impact on property values in smaller communities. Their willingness to pay prices higher than what the normal local market sales indicate values should be, tends to pull down sales ratios, which creates pressure to increase values. The sale itself often tends to create an upward trend in sale prices of other properties within the community as well.

In researching commercial sales of the past 3 years in Ely, it has become apparent that the Certificates of Real Estate Value filed at the time of the sale are wholly inadequate for use in commercial sales. After talking to buyers, sellers, brokers, and attorneys it is evident that in many commercial property sales "Net Sale Price" is a figure totally unrelated to simple land and structure value. For a multitude of reasons, deductions for personal property, etc. are not used or are used only in part.

Reasons given for this have been that lending institutions do not loan money for intangibles such as business opportunity ("blue sky") clientele, an established "name" in business, and/or one cannot depreciate such items at income tax time. Therefore, all the intangibles, plus licensing fees and franchise costs are lumped into the Net Sale Price on the certificate. This makes an objective analysis of these sales certificates virtually impossible, yet the State Revenue Department insists on using them as a basis for sales ratio studies.

If this practice continues, there are some fundamental changes that need to be made. A thorough study needs to be done to identify business categories which consistently show *extra-ordinary* gaps between local real estate values and "sale price", and CONSISTENTLY REMOVE THEM FROM SALES RATIO STUDIES (as the bar-graph study has pointed out).

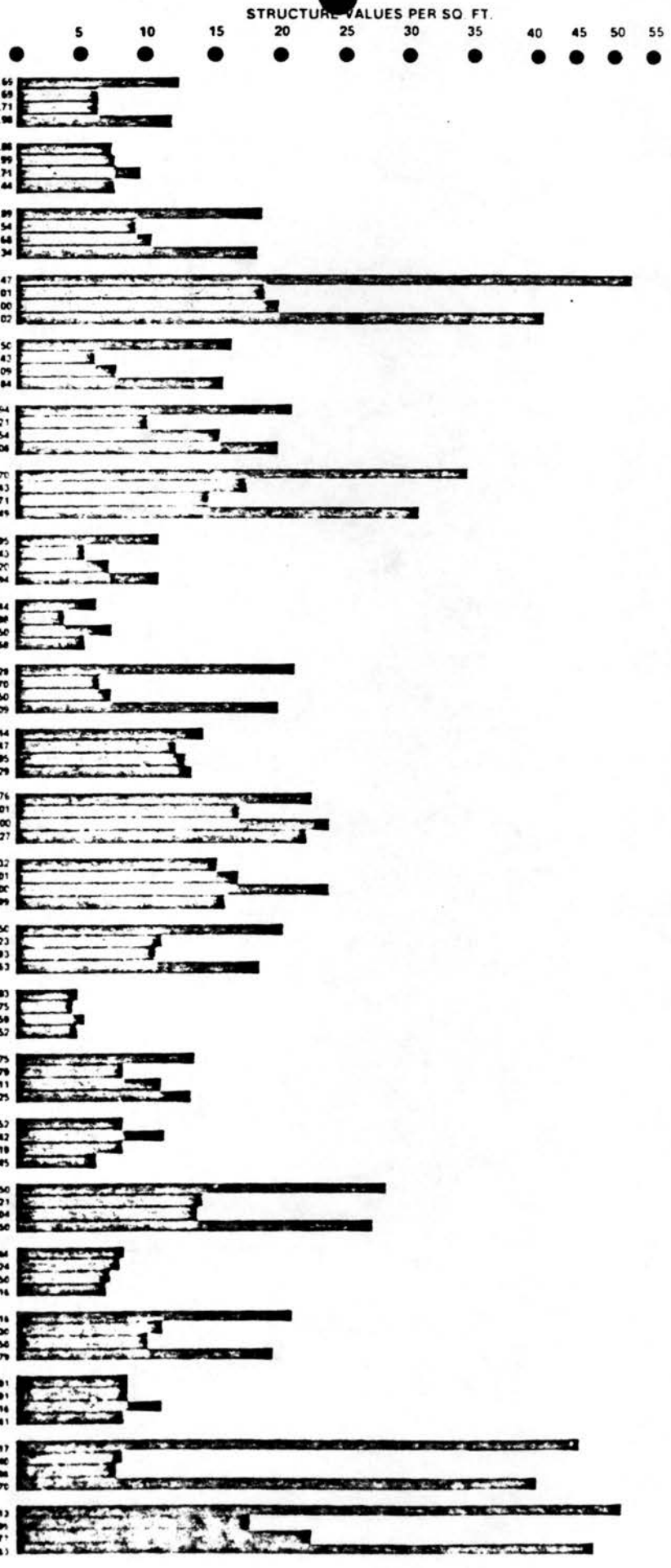
An alternative is to make some basic changes in the design, use and/or penalties for mis-use of the sales certificate. Categories specifically listing items such as "business opportunity", licenses, land and structures and requiring a dollar figure for each would greatly enhance the effectiveness of this document. It may also be beneficial to attach an appropriate . . . and enforceable . . . penalty for not complying with proper use of the document.

Not every part-time assessor has the time or resources to do an in-depth study every year to prove that a Department sales ratio study is inaccurate or inappropriate. It would seem the most sensible approach is to look at the problem logically, revise the certificate and reform its use in Department sales ratio studies. The state cannot with good conscience expect local assessors to do what it will not do.

Until the Department of Revenue makes these changes, local Assessors need to initiate open dialogue between themselves and their local realtors and attorneys, explaining the affects of Certificates of Real Estate Value on commercial property values in their area. This might also be an important point of discussion and/or course material for the Assessor's Short Course in the fall.

The problem of small town commercials will never be resolved until we look at those points mentioned, and make some changes in our approach to sales ratio studies. It should not be an on-going cliché in this state: "Oh, yes . . . the small town commercial problem . . .". We have recognized it as a problem, now let's get the problem solved! >

ELY COMMERCIAL SALES STUDY



1	Gift Corner	EMV Land	2250	Sale STR	12.69
	3 79 CD	STR	14100	EMV	6.69
	$29000	56%	16350	MS	6.71
	2108 Sq Ft	1983 Land 3750	— —	Sale	11.98
2	James Drug	EMV Land	4950	Sale STR	7.86
	7 80 CD	STR	60930	EMV	7.99
	$65000	101%	65880	MS	9.71
	7623 Sq Ft	1983 Land 8250	— —	Sale	7.44
3	Elna's Bar & Cafe	EMV Land	2475	Sale STR	18.89
	10 80 WD	STR	29065	EMV	9.54
	$60000	53%	31540	MS	10.68
	3046 Sq Ft	1983 Land 4125	— —	Sale	18.34
4	Phillips 66	EMV Land	1925	Sale STR	52.47
	2 81 CD	STR	3650	EMV	19.01
	$12000	46%	5575	MS	20.00
	192 Sq Ft	1983 Land 4125	— —	Sale	41.02
5	Timber Inn	EMV Land	2000	Sale STR	16.50
	3 81 CD	STR	17145	EMV	6.43
	$48000	42%	19145	MS	8.09
	2867 Sq Ft	1983 Land 3750	— —	Sale	15.84
6	Marguerite's Clothing	EMV Land	2430	Sale STR	20.64
	3 81 WD	STR	19290	EMV	10.21
	$42000	52%	21720	MS	15.54
	1890 Sq Ft	1983 Land 4050	— —	Sale	20.08
7	Conoco	EMV Land	7350	Sale STR	34.70
	5 81 CD	STR	20495	EMV	17.43
	$88625 (incl #8)	59% (incl #8)	27845	MS	14.71
	1176 Sq Ft	1983 Land 10500	— —	Sale	31.49
8	Graystone Outfitters	EMV Land	8400	Sale STR	10.95
	5 81 CD	STR	15905	EMV	5.43
	$88625 (incl #7)	59% (incl #7)	24305	MS	7.20
	2928 Sq Ft	1983 Land 12000	— —	Sale	9.94
9	Victors Studio	EMV Land	2250	Sale STR	6.44
	6 81 CD	STR	7680	EMV	3.88
	$15000	66%	9930	MS	7.50
	1980 Sq Ft	1983 Land 3750	— —	Sale	5.68
10	Ely Shopper	EMV Land	1750	Sale STR	21.29
	6 81 Estate	STR	11250	EMV	6.70
	$37500	35%	13000	MS	7.50
	1680 Sq Ft	1983 Land 3750	— —	Sale	20.09
11	Preblich	EMV Land	2170	Sale STR	14.14
	9 81 CD	STR	21890	EMV	12.47
	$27000	89%	24060	MS	12.95
	1756 Sq Ft	1983 Land 3660	— —	Sale	13.29
12	Comm Condo	EMV Land	845	Sale STR	22.76
	10 81 WD	STR	21345	EMV	17.01
	$29400	75%	22190	MS	24.00
	1255 Sq Ft	1983 Land 1453	— —	Sale	22.27
13	Comm Condo	EMV Land	3488	Sale STR	16.32
	10 81 WD	STR 118948		EMV	17.01
	$117600	104%	122436	MS	24.00
	6993 Sq Ft	1983 Land 5600	— —	Sale	15.99
14	Rums Canoe	EMV Land	5625	Sale STR	20.50
	10 81 CD	STR	79075	EMV	11.23
	$150000	58%	84700	MS	10.93
	7044 Sq Ft	1983 Land 18750	— —	Sale	18.63
15	Bothnian Garage	EMV Land	3360	Sale STR	4.83
	11 81 WD	STR	25630	EMV	4.75
	$30000	87%	28990	MS	5.58
	5400 Sq Ft	1983 Land 5600	— —	Sale	4.52
16	Ely Co-op Grocery	EMV Land	8000	Sale STR	13.75
	11 81 WD	STR	49240	EMV	8.79
	$75000	67%	57240	MS	11.11
	5600 Sq Ft	1983 Land 10800	— —	Sale	13.25
17	Stagecoach Hotel	EMV Land	5125	Sale STR	8.52
	5 81 CD	STR	27990	EMV	11.42
	$70000	127%	33115	MS	7.19
	2450 Sq Ft	1983 Land 10200	— —	Sale	6.45
18	Mar Mtn Electric	EMV Land	2250	Sale STR	28.50
	1 82 WD	STR	21320	EMV	14.21
	$45000 (Cont Tele)	52%	23570	MS	14.84
	1500 Sq Ft	1983 Land 3750	— —	Sale	27.50
19	Bookstore	EMV Land	2480	Sale STR	8.84
	3 82 CD	STR	11900	EMV	8.24
	$15000	86%	14380	MS	7.56
	1445 Sq Ft	1983 Land 4650	— —	Sale	7.16
20	Barton Liquor & Apts	EMV Land	3495	Sale STR	21.16
	4 82 CD	STR	32840	EMV	11.30
	$45000	56%	36335	MS	10.56
	2908 Sq Ft	1983 Land 7500	— —	Sale	19.79
21	Barbara Ann Beauty	EMV Land	3250	Sale STR	8.01
	6 82 WD	STR	26530	EMV	8.01
	$24750	100%	29780	MS	11.16
	2970 Sq Ft	1983 Land 3750	— —	Sale	8.61
22	Pure Oil	EMV Land	6050	Sale STR	46.17
	9 82 WD	STR	4720	EMV	8.40
	$31500	29%	8770	MS	7.86
	5400 Sq Ft	1983 Land 7125	— —	Sale	40.70
23	Steger Liquor	EMV Land	2250	Sale STR	81.13
	11 82 CD	STR	10770	EMV	17.91
	$32925	40%	13030	MS	22.77
	847 Sq Ft	1983 Land 3750	— —	Sale	48.63

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION
REGARDING RULES ESTABLISHING A NEW CERTIFICATE
OF REAL ESTATE VALUE

The Commissioner of Revenue has been directed by Laws 1983, chapter 342, article 2, section 4, to revise the certificate of real estate value to specifically require terms and conditions of financing relating to sales of real estate. The Department has formulated a working draft of a proposed rule outlining new requirements.

We are now seeking information, opinions, or comments on this draft rule. A copy of the draft rule can be obtained by contacting:

Dorothy McClung, Director
Legal Research Division
Department of Revenue
Centennial Office Buiding
St. Paul, Minnesota 55145

Written information, opinions, or comments will be accepted until November 18, 1983, and should be directed to the address above.

Any written material received shall become part of the background record regarding these rules.

[CERTIFICATES OF REAL ESTATE VALUE]

A. Information to be included on the form. In order to be accepted for filing the certificate must contain the following data:

1. Buyer's name, address, and telephone number.

2. Seller's name, address, and telephone number.

3. Legal description of all parcels involved in the transaction. The property identification number assigned by the county for administration of the property tax system is not sufficient.

4. Location of property described such as street address.

5. Type of instrument being used to convey or transfer the property. For example:

   a. warranty deed.

   b. quit claim deed.

   c. contract for deed.

   d. probate deed.

   e. sheriff's deed.

   f. other including a description of the instrument.

6. Description of the transfer:

   a. buyer and seller are natural persons related to each other or are related business operations.

   b. gift.

   c. trade.

   d. inheritance.

   e. a forced sale such as foreclosure or condemnation.

   f. an auction sale.

   g. transfer or conveyance to or from a government, school, church, or charitable organization.

h. transfer of a partial interest in the property.

i. none of the above.

7. Type of property transferred or conveyed such as:

a. land only.

b. land with buildings.

c. buildings only.

d. information relating to any new construction, demolition, or remodeling of buildings which occurred between January 1, of the year of sale and the date of the original agreement.

8. Principal intended use of the property:

a. residential containing no more than three units.

b. apartments containing four or more units.

c. seasonal, recreational property with a residential unit but not used for commercial purposes.

d. seasonal, recreational property with residential units used for commercial purposes.

e. agricultural.

f. commercial or industrial.

g. other than uses listed above with a brief description of intended use.

9. Date of original agreement establishing the sales price of the property being transferred. Usually this will be the date of the earnest money agreement or other similar agreement requiring performance at an agreed price.

10. Total sales price of all real, personal, or intangible property being transferred or conveyed as established by the original agreement.

11. Total down payment paid by buyer to include amounts paid prior to and at the time of closing.

12. Information regarding any pre-existing financing for which the buyer will assume responsibility from the seller for repayment of the debt:

a. unpaid balance on contract for deed, mortgage, and/or other financing assumed.

b. current interest rate on assumed balance.

c. remaining period over which the assumed loan balance is to be amortized.

d. amount of monthly payment for reduction of principal and interest.

e. if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment.

f. if the interest rate is subject to change during the repayment period, a description of the anticipated change.

g. date and amount of any lump sum payments required at or before the end of the amortization period.

If the buyer is assuming the seller's obligation to repay on more than one debt, the certificate shall include full details on each debt.

13. Information regarding any new loans obtained by the buyer including:

a. principal amount being financed.

b. interest rate.

c. amortization period.

d. amount of monthly payment for reduction of principal and interest.

e. if scheduled payments are not on a monthly basis, a description of the payment schedule including frequency and amount of each payment.

f. if the interest rate is subject to change during the repayment period, a description of the anticipated change.

g. points paid and whether paid by the seller or the buyer (but not to include origination fees.)

h. date and amount of any lump sum payments required at or before the end of the amortization period.

i. data on any source of new financing subsidized by a federal, state, or municipal bond issue such as the reduction in interest rate directly attributable to the governmental subsidy and the unit of government subsidizing the interest rate.

If buyer is financing the purchase of the property through more than one debt, full details will be required on each debt.

14. Value of all personal or intagible property included in total sales price such as:

a. personal property such as stoves, refrigerators, other appliances, drapes, tools and accessories, as part of the transfer of residential property.

b. personal property such as crops, livestock, tools, machinery, equipment as part of the transfer of agricultural property.

c. personal property such as inventory, equipment, fixtures as part of the transfer of commercial property.

d. intangible property such as goodwill, licenses, franchises, patents, business name, as part of the transfer of an ongoing business operation.

15. A statement signed by the buyer that the information provided on the certificate is correct and complete under the penalty of the law. "Buyer" for the purpose of this rule means the individual or one of the individuals who will get title to the property, or a partner if a partnership will get title, or an officer if a corporation will get title.

B. The buyer when completing the certificate may attach supplemental documents if the buyer needs to expand on any of the requested data. For example, in the case of a lengthy legal description of the property being transferred or conveyed, a copy of the deed may be attached. Any supplemental documents accompanying the certificate should be attached to the Department of Revenue's copy of the certificate.

C. If the mathematical accuracy of data furnished by the buyer is questioned by the commissioner of revenue, the commissioner shall require additional information from the buyer or the seller in order to have correct data.

D. The certificates shall be subjected to audit by the commissioner. The commissioner shall require additional documentation from the buyer or the seller in order to verify the accuracy of any information required on the certificate. The numbers of certificates which shall be subjected to audit shall be determined by the commissioner.

E. The county auditor shall not accept a certificate for filing unless the form is complete and contains the buyer's signature. Upon acceptance, the county auditor shall assign a number in a sequential ordering system and place the current date on the certificate.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-1022

December 7, 1983

Mr. William J. Keefer
Fudali, Keefer & Anderson
2408 Central Avenue N.E.
Minneapolis, MN 55418

Dear Mr. Keefer:

Thank you for responding to the Notice of Intent to Solicit Outside Opinion relating to the certificate of real estate value. So far, I have received thirty-five letters.

Because of the comments, we have revised the draft form and draft rule and are currently testing the new form with people actually involved in real estate closings.

In about four weeks, we will be publishing the rule as proposed for adoption and announcing the date of the hearing on the rule. You will be sent a copy of the proposed rule and notice of hearing.

Again, thank you for taking the time to respond.

Sincerely,

DOROTHY A. McCLUNG
Director of Legal Research

DAM:Fda

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TELEPHONE
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December 16, 1983

DEC 19 1983

Ms. Dorothy McClung
Department of Revenue
Centennial Office Building
St. Paul MN 55145

Dear Ms. McClung:

It has come to my attention that a new certificate of real estate value is being proposed requiring considerably more and detailed information. In fact, the proposal which came to my attention would undoubtedly double the cost of handling a simple real estate transaction for a buyer. Quite frankly, I know of no justification for requiring a buyer to submit that kind of detail and documentation. I would urge that this entire matter be given further study and that effort be made to lessen this imposition upon the parties to a simple real estate transaction, and still provide the taxing authority with the necessary information to continue its study.

Yours very truly,

Douglas W. Cann

DWC:be

REVENUE
DEC 9 1983

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TELEPHONE 288-7755
AREA CODE 507

December 7, 1983

Dorothy A. McClung
Director of Legal Research
Department of Revenue
Centennial Office Building
St. Paul, MN 55145

Dear Ms. McClung:

Thank you so much for your letter of December 7, 1983. For your information, I am the general counsel for a Savings and Loan and draft all of their loan papers in this office. In addition, other members of my firm do all the loan closings for a major bank in Rochester, so that our office is substantially involved with the actual closing of real estate transactions. I would very much appreciate having an opportunity to review your new forms and would do my best to give you an honest appraisal of them.

I do understand that changes have to be made to comply with the law and the goal should be to give the Department of Revenue the information it needs to perform its proper duties and, at the same time, not put too much of a burden on the actual closing of the transaction.

Sincerely,

Franklin Michaels

FM/cmt

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MOSS & BARNETT

A PROFESSIONAL ASSOCIATION

1200 Pillsbury Center • 200 South Sixth Street • Minneapolis, Minnesota 55402
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FORMERLY
MOSS, FLAHERTY, CLARKSON & FLETCHER
and
BARNETT, RATELLE, HENNESSY, VANDER VORT, STASEL & HERZOG

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J. BRAINERD CLARKSON
HERMAN J. RATELLE
PATRICK F. FLAHERTY
JAMES H. HENNESSY
FREMONT C. FLETCHER
WAYNE A. VANDER VORT
PAUL VAN VALKENBURG
STANLEY R. STASEL
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ABBOTT L. FLETCHER (1889-1976)
L. GLENN FASSETT (1907-1975)

December 7, 1983

Ms. Dorothy A. McClung
Director of Legal Research
Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Dear Ms. McClung:

Thank you very much for your letter dated on Pearl Harbor day.

We will look forward to seeing a copy of the proposed rule and notice of hearing.

Merry Christmas and a Happy New Year.

Yours very truly,

J. B. Clarkson

J. B. Clarkson

JBC/dlo

STANDARD ON ASSESSMENT-RATIO STUDIES

International Association of Assessing Officers
Assessment Standards Committee

September 28, 1980

The Assessment Standards set forth herein represent a consensus of thought in the assessing field and have been adopted by the Executive Board of the International Association of Assessing Officers. The objective of these standards is to provide a systematic means by which assessing officers can improve and standardize the operations of their offices. The standards presented here are advisory in nature and the use of, or compliance with, such standards is purely voluntary.

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1. Scope

This standard provides recommendations on the preparation for, design of, and use of assessment-ratio studies in the internal operations of an assessor's office, in interjurisdictional assessment equalization, and in other determinations of assessment equity.

2. Introduction

2.1 *The Concepts of Market Value and Ad Valorem Taxation.* Estimating the market values of properties is the major responsibility of assessing officers. The validity of the property tax depends in large measure on the accuracy of those estimates, since they are the legal basis for most of the assessed values upon which property tax bills are calculated. Thus the accuracy of assessments is of considerable interest to property owners and their elected representatives, as well as to assessing officers. Assessment-ratio studies provide a means by which the accuracy of assessments may be evaluated.

Assessment accuracy refers to the degree to which each property in a jurisdiction is assessed at its legally mandated percentage of market value. An assessment ratio is simply the fractional relationship an assessed value bears to an indicator of the market value of the property in question. As the definition of market value implies (see Section 8), market value is an elusive target: it cannot be observed directly. Actual sales prices and independent appraisals are used as indicators of market values. Consequently, actual assessment ratios should not be expected to equal the legally mandated assessment ratio. While the ultimate question may be how much of the discrepancies between legally mandated assessment ratios and actual assessment ratios can be attributed to circumstances actually under the assessor's control, preliminary concerns relate simply to the magnitude of differences between observed and legal ratios.

There are two major aspects to assessment accuracy: assessment level and assessment uniformity. Assessment level refers to the overall ratio of assessed values to market values and the degree to which this ratio approximates the legally mandated ratio for the class of property in question. Assessment uniformity refers to the degree to which different properties are assessed at equal percentages of market value, that is, the degree to which property tax levies are distributed in proportion to value. Concern about assessment accuracy ranges from the accuracy of individual assessments, to the overall degree of assessment accuracy within and among groups of properties (e.g., neighborhoods, properties of the same type or use, and the like), to the overall degree of assessment accuracy within a local assessment district, and finally to the degree of assessment accuracy of an entire province or state.

2.2 *Uses of Assessment-Ratio Studies.* The uses of assessment-ratio studies can be as wide-ranging as concerns about assessment accuracy. Assessors use assessment-ratio studies to determine the need for a general reappraisal, to establish priorities for reappraisal of selected groups of properties, to identify potential problems with appraisal procedures, to trend appraisals between reappraisals, to adjust sales prices for time, and to develop depreciation factors. Equalization agencies use assessment-ratio studies to estimate the total market value of taxable property in each jurisdiction under their supervision to ensure that intergovernmental transfer payments based on per-capita or per-pupil wealth are distributed equitably, to bring centrally-assessed properties into line with locally-assessed properties, and to ensure that partial exemptions have equal value in all jurisdictions under their supervision. Property wealth estimates based on assessment-ratio data also are used for other purposes. Property tax supervisory agencies use assessment-ratio studies to support decisions to order reappraisals. Taxpayers and appeal bodies use assessment-ratio studies to establish the level of assessment that prevails in the jurisdiction and to demonstrate patterns of assessment inequities so that appropriate remedies can be applied.

2.3 *Introductory Considerations.* Assessment-ratio studies have been used in assessment administration since about 1880.[1] However, designing, operating, or evaluating an assessment-ratio study can be a new experience for an assessing officer. One misconception that is sometimes held is that all assessment-ratio studies are alike. That is not the case; assessment-ratio studies are—or should be—tailored to their particular purposes. Fortunately, a variety of reliable and sophisticated assessment-ratio study methods are available. These methods reflect the availability of computers to assessing officers, the market-value orientation of modern mass appraisal techniques, better understandings of the causes and consequences of assessment inequities, and increased knowledge of the most appropriate statistics to measure those inequities. Therefore, the number of issues that need to be considered when designing an assessment-ratio study is growing, and this standard gives consideration to the issues that are widely recognized as being important.

The multiplicity of issues covered in this standard might lead to another misconception: assessment-ratio studies are too complex for ordinary appraisers and laymen to comprehend. That need not be the case. A basic design principle should be to keep the study as simple as possible, consistent with the purposes of the study. The amount of statistical sophistication that is required (or is desirable) varies greatly, depending on the uses of the findings of the study. In general, assessment-ratio studies that are used in the internal operations of an assessor's office require less statistical sophistication than studies used in assessment appeals or in interjurisdictional assessment equalization, the purpose of which usually is to make precise estimates of assessment levels, and which may require the services of a trained statistician familiar with the particular requirements of such studies.

Whatever the degree of statistical sophistication, it is important to recognize that an assessment-ratio study is a form of applied statistics. Statistics has been described as a body of methods for making wise decisions in the face of uncertainty. Assessment-ratio studies deal with uncertainties about the accuracy of assessments, and certain statistical concepts are of fundamental importance.

Among them is the concept of a "sample." The properties that happen to have been sold in a jurisdiction in a given period of time is a sample of all the properties in that jurisdiction. The statistical term for "all of the properties" in an assessment jurisdiction is "population," and an individual sample item (e.g., the assessment ratio of a property that was sold) is an "observation." Samples are used in statistical investigations because it is often impractical or impossible to study the entire population. For example, it would be necessary for all properties to have been sold under circumstances similar to those in the definition of market value on the appraisal date (i.e., the date as of which the assessments for a year are to be made) to determine the degree of assessment accuracy with certainty. In fact, only a small proportion of properties are likely to be sold each year, only a few of these are likely to be sold on the appraisal date, and not all of the available sales will provide good indications of market values.

Hence, assessment-ratio studies are used to make

1. U.S. Bureau of the Census, *State and Local Ratio Studies and Property Tax Assessment*, State and Local Government Special Studies, no. 72 (Washington, D.C.: Government Printing Office, 1975), p. 7.

greater the variability, the larger the sample required to attain a given degree of precision. If all assessment ratios could be expected to be uniform, a sample of one assessment ratio would be sufficient. If each assessment ratio is expected to be unique, all of the properties in a stratum would have to be sampled before the overall level of assessment could be determined with absolute precision.

One method of estimating the sample size required to estimate the true but unknown median assessment ratio with a required degree of precision is given by the formula

$$n \geq \frac{Z^2}{\Delta^2\left(\frac{1}{\mu^2}+\frac{1}{\sigma^2}\right)} \approx \frac{Z^2}{\Delta^2\left(\frac{1}{\overline{A/S}^2}+\frac{1}{s^2}\right)}$$

where n is the required sample size; Z is the value of the standard normal variate that is exceeded a proportion $\alpha/2$ of the time (Z is obtained from a statistical table and at the 95 percent confidence level is 1.96); Δ is the tolerated percentage deviation between the calculated and true median assessment ratios; μ is the true but unknown mean assessment ratio; σ is the true but unknown standard deviation. $\overline{A/S}$ is the sample mean assessment ratio; and s is the sample standard deviation of assessment ratios.[5] A comparable formula, using the natural logarithms of the sample assessment ratios is

$$n \geq \frac{e^{2y}\sigma_y^2 Z^2}{\Delta^2}$$

where e is the base of natural logarithms, a number approximately equal to 2.718; y is the natural logarithm of an assessment ratio. Appendix 2 contains thirteen tables that can be used to estimate required sample sizes for selected values of $e^{2y}\sigma_y^2$ between 0.025 and 0.325 for various confidence levels (90, 95, and 99 percent), and for various values of Δ.

While such a method of calculating a required sample size suggests a solution in an important problem area, the mathematics can be difficult and subtle. One should have a firm grasp of basic sampling theory before making decisions in this area or have the advice of someone who has such knowledge.

3.8.3 *Remedies for Inadequate Samples* Attempts should be made to remedy inadequate samples where operational requirements dictate that there be a reliable estimate of assessment level for *each* stratum, such as is the case in interjurisdictional assessment equalization. The following alternatives should be considered:

(1) Restratifying. If circumstances permit, broader strata containing larger samples can be created by combining existing strata or by stratifying on a different basis. While restratification in the direction of fewer, larger strata will usually address the problem of small sample size, it may add to the problem of the respresentativeness of the samples (3.8.1)

(2) Extending the time period from which sales are drawn. If this alternative is chosen, adjusting sales prices for time ordinarily will be necessary (3.7).

(3) Enlarging the sample by the inclusion of previously rejected sales. Sales that were previously excluded from the analysis because it was not administratively expedient to confirm them or to make adjustments for personal property, financing, and the like can be reevaluated. If previously rejected sales are included, additional efforts to confirm or adjust them should be made.

(4) Using appraisals in lieu of sales prices or enlarging an appraisal sample (4.3). One disadvantage of this alternative is the cost of making appraisals and the time involved. Another, given the necessary subjectivity of the appraisal process, is the debatable precision of appraisals.

(5) Imputing assessment-ratio statistics. Assessment ratios can sometimes be imputed from the ratio of similar strata or by computing a weighted average of the assessment ratios of the strata with adequate samples.

3.9 *Selective Reappraisal of Properties That Have Sold.* Assessment-ratio studies made by an assessment supervisory agency for the purpose of interjurisdictional assessment equalization, or for enforcing legal assessment accuracy requirements should include procedures for detecting whether local assessors selectively reappraise only properties that have been sold or are newly constructed, while not reappraising unsold properties in general or while not reappraising similar or surrounding properties.[6] Assessment-ratio studies made for assessment appeals should include similar procedures.

Selective reappraisals can be detected by comparing the year-to-year percentage increases in appraised value of all the properties in a stratum with the year-to-year percentage increases in appraised value of the sample of properties from the stratum that were sold or improved. If the increases in appraised value are consistently greater for the samples than for the strata, selective reappraisal can be inferred. While low coefficients of dispersion are desirable, extraordinarily low coefficients of dispersion for assessment-sale price ratios based on sales made before assessments are finalized can also be a warning that selective reappraisal is being practiced.

3.10 *Analyses of the Data.* The following calculations and analyses should be considered:

3.10.1 *Individual Assessment Ratios.* Assessment ratios should be calculated for each observation in a sample. Data on individual assessment ratios are required for every assessment-ratio statistic or test except those relying solely on weighted mean assessment ratios. The calculation of individual assessment ratios should not be part of the sales screening process (4.2.4).

3.10.2 *Displays.* Displays or exhibits which provide a profile or picture of samples and populations can be prepared. The particular form of the display or displays, as well as the variables used (e.g., assessment ratios, sales prices, assessed values, estimated market values, property use type, and other property characteristics), will depend on the purpose of the particular display. Types of displays include arrays, frequency distributions, histograms, scatter diagrams, schematic plots, and maps. The purposes of these displays include: (1) indicating whether a sample is representative; (2) indicating the degree of non-normality of the distribution of assessment ratios; (3) depicting the degree of assessment uniformity in a stratum; (4) detecting outliers; and (5) comparing the degree of assessment accuracy among strata. (See Appendix 1.)

3.10.3 *Measures of Central Tendency.* Overall assessment ratios or measures of central tendency should be calculated for each stratum and for such aggregations of strata as may be appropriate (such as the entire assessment district in the case of interjurisdictional assessment equalization). The median assessment ratio is

5. See A.R. Manson, "Sample Size Estimation in Ratio Studies" (unpublished paper, 1980).

6. This requirement obviously does not apply in jurisdictions (such as California) where the disapproved practice of selective reappraisals has been made legal. Selective reappraisals also may be proper in certain other instances such as the result of an appeal or when the property that has been sold is of an unusual type for which sales data are rare and the sale is deemed to be representative of market value.

4.2 *Sales Data.* Most assessment-ratio studies use actual sales prices as indicators of or surrogates for, market values. For such studies, information on sales must be acquired and screened. In most instances, it is also desirable to confirm sales information. In some instances, adjustments to sales prices also should be made (see 4.2.5).

Sales data are also important in assessment-appraisal ratio studies and in any effective and efficient mass appraisal system.

4.2.1 *Information Required.* Listed below are the types of information that are needed to screen sales, to determine whether adjustments to reported sales prices are warranted, and to calculate assessment ratios.[10]

(1) Full consideration involved. This is the total amount paid for the property including the cash down payment and amounts financed. Often this information is not supplied or is erroneous. In many jurisdictions it is common practice in deeds of conveyance to state considerations in such terms as "one dollar plus other due and just consideration," "ten dollars plus other value," or "that for and in consideration of the sum of ten dollars ($10.00) cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable considerations." In other cases, particularly when the transferred properties are large or involve sophisticated buyers, sales prices may be deliberately understated or overstated for a number of reasons.

(2) Names of buyer and seller. This information permits the assessor to maintain a current record of the owners of all property in the jurisdiction. Transfer documents often refer to the buyer as the grantee or transferee, and to the seller as the grantor or transferor.

(3) Addresses of buyer and seller or their legal designee. These addresses help to identify more positively the parties involved. If the buyer will not reside at the property, the buyer's address may be needed for future correspondence, including tax billing. If the seller has established a new address, this information will aid the assessor in contacting the seller regarding the sale.

(4) Legal description, address, and parcel identifier. If each parcel is assigned a unique identifier and if this number is noted on the document at the time it is recorded, then the assessor can locate the parcel in the files directly. If each parcel is not assigned a unique identifier or if this number is not recorded on the document, then the legal description or street address is essential to locate the parcel. The name of the seller alone may not suffice, since (a) the seller may own multiple properties or (b) the seller may not appear in the taxpayer index at all (e.g., the case in which a mortgagee pays the taxes). While a clerk will be interested primarily in the parcel identifier or street address of the parcel, a draftsman probably will be more interested in the legal description, particularly if a split of a parcel or a combination of parcels is involved.

(5) Type of transfer. It is crucial to identify whether or not a sale is an "arm's-length," open-market sale. In such a sale, the seller seeks the highest possible price for his or her property on the open market. While willing to sell, he or she is under no undue coercion to do so. Similarly, the buyer is knowledgeable concerning the market and seeks to buy the property at the lowest possible price. While willing to buy, he or she is under no undue coercion to do so. The following are some examples of sales that are usually not arm's-length, open market transactions: gifts or transactions for a nominal fee; sales between relatives or corporate affiliates; some governmental purchases; foreclosures or forced sales; condemnations; some probate sales; and sales to correct a title defect, to create a joint tenancy, or for other legal convenience. The type of deed (e.g., general or special warranty, land contract, quit claim, sheriff's, etc.) can reveal information about type of transfer and the interest transferred.[11] Therefore, if the sources of sales data are not copies of deeds, information on the type of deed should be supplied.

(6) Interest transferred. It is also crucial to identify whether or not the entire bundle of rights to the property has been transferred. If they have not, the sale price cannot be considered representative of the total value of property. In some transactions, for example, only a life tenancy ("life estate") may be conveyed, or the seller may retain mineral or other rights to the property. Similarly, the sale price of a property encumbered by a lease may not reflect the total value of the property. A transaction in which the buyer acquires full rights to the property, subject, of course, to zoning, other police powers, and other rights reserved to government, is known as a "fee simple" transaction.

(7) Type of financing. This refers to the manner in which the purchase was financed. In analyzing the sale, it is helpful to know the amount of down payment; the type, amount, and interest rate of mortgages or deeds of trust assumed by the buyer; and the value of any stocks, bonds, notes, or other property passed to the seller. It is also important to know whether the sale conveys title to the property or is a land contract in which title to the property is not conveyed until some time in the future, typically several years.

(8) Personal property. In an assessment-ratio study, the assessor is interested chiefly in the price paid for real property. The sale document ideally would note the type and value of any significant personal property items included in the transaction. Carpeting, custom draperies, appliances, and other fixtures are not items of personal property that need to be separately listed.

(9) Date of transfer. This is ordinarily the date on which title passes from the seller to the buyer. It may not be the date on which the instrument is recorded.

(10) Instrument number. This number indicates where the deed is located in the register of deeds.

4.2.2 *Sources of Sales Data.* Sources of sales data are listed below. The best sources are copies of deeds or real property transfer affidavits containing the particulars of each sale including the sale price. Assessing officers in jurisdictions that do not require the disclosure of the particulars of sales should seek legislation that provides for such disclosure.

(1) Real estate transfer documents. These documents include (a) copies of deeds and land contracts and (b) copies of real property transfer affidavits.

(2) Buyers and sellers of real property can be contacted directly to secure or confirm sales data. Means of contact include sales questionnaires (see Appendix 3), telephone interviews, and personal interviews.

(3) Third-party sources. Third-party sources include attorneys, real estate brokers and agencies, multiple-listing agencies, government and private fee appraisers, appraisal organizations, and others. Of

10. The following list is taken from *Improving Real Property Assessment*, pp. 89-90

11. The terms applied to different types of deeds vary considerably, and deed types are subject to parochial interpretation.

12. See *Improving Real Property Assessment*, pp. 383-384, and International Association of Assessing Officers, "Policy Statement 4: Full Disclosure" (Chicago: 1972).

(7) Other forced sales. Such sales include those resulting from a judicial order, decree, or proceeding. The seller in such sales is normally a sheriff, receiver, or other court officer.

(8) Sales of doubtful titles. When a sale is made on other than a warranty or similar deed, there is a question of whether the title is merchantable. Quit claim and trustee's deeds are examples of such questionable deeds. Of course, a warranty may not be given simply because the seller wishes to avoid personal liability of any sort. Quit claim deeds are frequently used to transfer large and valuable properties, and in such instances, the sale should not be automatically rejected. Instead, the sale should be conditionally accepted pending receipt of evidence that it was not acceptable.

4.2.4.2 *Sales Involving Trades, Partial Interests, Land Contracts, and Incomplete or Unbuilt Community Property.* In addition to non-arm's-length transactions, sales involving trades, partial interests, land contracts, and incomplete or unbuilt community property may need to be excluded from analysis or be used with caution.

(1) Trades. In a trade, the buyer gives the seller one or more items of real or personal property as all or part of the full consideration. If the sale is a pure trade with the seller receiving no cash or securities, the sale should be excluded from analysis. If the sale involves both money and traded property, it may be possible to include the sale in the analysis if the value of traded property is stipulated, can be estimated with accuracy, or is small in comparison to the total consideration. However, transactions involving trades should be excluded from the analysis whenever possible, particularly when the value of the traded property appears substantial.

(2) Partial interests. A sale involving the conveyance of less than the full interest in a property should be excluded from the analysis unless several sales of partial interests in a single property take place at the same time and the sum of the partial interests equals the fee-simple interest. Then the sum of the sales prices of the partial interests can sometimes be assumed to indicate the sale price of the total property. Other times, however, the purchase of such partial interests is analagous to an assemblage in which a premium price may have been paid.

(3) Land contracts. Land contracts and other installment purchase arrangements in which title is not transferred until the contract is fulfilled require careful analysis. Deeds in fulfillment of a land contract often reflect market conditions several years in the past, and sales information that is too dated should be excluded from analysis. Sales data from land contracts may also reflect the value of the financing arrangements. In such instances, if the transaction is sufficiently recent, the sale price should be adjusted for financing (see 4.2.5.1).

(4) Incomplete or unbuilt community property. Sales of condominium units and of units in planned unit developments often include an interest in community property (e.g., golf courses, clubhouses, swimming pools) that may not be usuable or in existence on the date of sale or on the appraisal date. Sales of such properties should be examined to determine whether prices might be influenced by promises to add or complete community property at some later date. Sales prices influenced by such promises should either be excluded from the analysis or be adjusted to reflect only the value of property in existence on the date of sale.

4.2.4.3 *Sales Including Tangible Personal Property.* Sales should be screened to determine whether significant amounts of tangible personal property were included in the transaction. If a portion of the sale price is designated as being for personal property and if that amount appears reasonable and can be supported by other market data, it should be deducted from the sale price. If there is not allocation of the sale price, and if the value of personal property appears small in comparison to the total consideration (e.g., 3 to 5 percent of total value or within the range of acceptable appraisal error), the sale may be regarded as usable in assessment-ratio studies. If there is a significant amount of personal property, the sale should be excluded from analysis unless the value of the personal property can be accurately determined and subtracted from the nominal sale price. Personal property should never be assigned an arbitrary value such as a percentage of sale price. If an adjustment in the nominal sale price is contemplated, personal property items should be inventoried and appraised using accepted appraisal techniques.

In order to inventory personal property, it is necessary to decide whether the items in question should be classified as real or personal property. Such items as wall-to-wall carpeting, built-in appliances, and other fixtures should generally be regarded as real property.

4.2.4.4 *Sales of Properties Not Assessed.* Sales of cemetery lots and other properties not subject to assessment should be excluded from analysis.

4.2.5 *Adjusting Reported Sales Prices.* In addition to the adjustments that may be made in the case of sales involving trades, personal property, and the like, consideration should be given to adjusting reported sales prices in certain other circumstances. The rationale for most of these adjustments is that the value concept underlying the real property tax generally is market value, not investment value (i.e., the monetary value of a property to a particular investor), and not the value of the real property plus the value of certain seller-provided financial arrangements that benefit the purchaser. Whether the "cash-equivalency" adjustments should be made depends in part on whether the sale is needed in order to have a sufficient number of sales, in part on whether the adjusted sale price will be significantly different from the reported sale price, and in part on the ease with which the adjustments can be made. A failure to make these adjustments to sales that are included in the analysis will generally result in an overstatement of the market value of the properties in question.

If adjustments for more than one purpose are to be made, any such adjustments should be made in the following sequence:

(1) Adjustments that develop or isolate the *price* paid for taxable real property. Adjustments for the value of property taken in trade, involving the combination of partial interests, incomplete or unbuilt community property, and personal property (4.2.4.2 and 4.2.4.3), should be completed first in order to develop the *price* paid for taxable real property.

(2) Adjustments that convert the price to a better representation of the market value of the property on the date of sale. Adjustments for financing (4.2.5.1) and assumed leases (4.2.5.2) should be made next in order to convert the price to a better representation of the market value of the property on the date of sale.

(3) Adjustments for differences in market value levels between the date of sale and the date of analysis. Finally adjustments for time (3.7) should be made in order to estimate market values on the date of analysis.

Making adjustments in this sequence permits the analyst to identify more clearly the factors influencing sales prices.

"Cash-equivalency" and other adjustment procedures should be documented, and the adjustment factors supported by market data. These requirements imply an ongoing study of factors that affect market interest rates (e.g., risk of default, cost of money, inflation) and rents. Unsubstantiated adjustments will jeopardize the accept-

ordinarily be less than a year, and t will vary with the amount of computing and analytic support given each appraiser. In order to estimate the total number of appraisers required, the S's for each stratum and for each assessment district should be summed.

4.3.6 *Making the Appraisals.* Appraisals should be made using accepted appraisal techniques.[17] Using the best available appraisal techniques is essential if the appraisals are to be given credibility. In order to preserve independence, appraisers should not be supplied with copies of the assessor's appraisal work sheets, since the purpose of the appraisal is to make an *independent* value estimate, not audit or review the assessor's appraisal. Value estimates should be as of the appraisal date in question (ordinarily of the current assessment year) (4.5).

4.3.7 *Reviewing the Appraisals.* Appraisals should be reviewed by supervisory appraisers of the agency making them to ensure that the agency's standards are met. In addition, other interested parties (e.g., the assessor) should be afforded an opportunity to review the appraisals of properties in their jurisdictions and to submit information supporting different value conclusions. If a different value conclusion would materially affect assessment-ratio statistics, a procedure for resolving conflicts should be established (e.g., by an independent review body).

4.4 *Matching Sale Price or Appraisal Information with Assessment Information.* Sale price or appraisal information should be carefully matched with assessment information to ensure that there is an essential correspondence between the status of each property when it was sold or was appraised by the agency making the assessment-ratio study and the status of the property on the appraisal date. The purpose of the matching process is to avoid such mismatches as properties that were vacant parcels on the appraisal date but were improved parcels when they were sold, properties that were improved parcels when they were assessed but were vacant parcels when they were sold, properties that had partially finished improvements when they were sold but had completed improvements by the next appraisal date, and properties that were assessed as individual parcels but were purchased as part of an assemblage. However, minor physical changes in a property (e.g., a fresh coat of paint deterioration in a coat of paint, small accretions of dirt, growth in shrubs, and the like) should be disregarded.

The matching process involves the two distinct steps, a legal description match and a property characteristics match, although both may be performed at the same time.

4.4.1 *Legal Description Match.* For assessment-ratio study purposes, the legal description of the property when sold or appraised must match the legal description of the property on the appraisal date. In other words, if there is a split or division of a parcel after the appraisal date, a sale of any of the parts of the original parcel should not be used in the assessment-ratio study. On the other hand, sale of a parcel comprised of a group of separately described and assessed smaller parcels may be used in an assessment-ratio study by combining the assessed values of the smaller parcels. In jurisdictions in which parcel identifiers may be used on deeds in lieu of full legal descriptions, only parcel identifiers must match.

4.4.2 *Property Characteristics Match.* For assessment-ratio study purposes, the characteristics (e.g., physical characteristics, rights transferred, and permitted use) of a property when sold must match the characteristics of that same property on the appraisal date.

4.5 *Creation of a File for Analysis.* Sale price or independent appraisal information should be merged with assessment information to create a file for analysis if there is a match of legal descriptions and property characteristics. Each record should contain, at a minimum, a parcel identifier, an assessed value, a sale price or an independently-determined appraised value. With this information, an assessment ratio can be computed. If assessment-ratio study statistics are to be computed for more than one stratum, information on the characteristics used to define each stratum also must be included in the record. It is desirable to include in the assessment-ratio study file all the information normally found in a sale or property record file; and, with appropriate codes and screening procedures, a sales file can serve as an assessment-ratio study file.

17. Such as are embodied in International Association of Assessing Officers, *Property Assessment Valuation*, (Chicago, 1977) and *Improving Real Property Assessment*.

5. Presentation of Findings

The findings of an assessment-ratio study should be in sufficient detail to meet the needs of the users of the study. The credibility and usefulness of an assessment-ratio study will depend in large measure on the details provided and the clarity with which the findings are presented. Assessment-ratio data are frequently misused and misunderstood. Providing interpretive information will help reduce misuses and misunderstandings.

5.1 *Text.* A text describing the purpose of, the authority for (if applicable), and the methods used should accompany each assessment-ratio study. Whether the text should be incorporated in the report of the findings or be contained in a separate memorandum, report, or manual will depend primarily on the audience of the study. The text need not be a detailed procedural manual; rather it should contain definitions of key terms, including the statistics presented, and outline the major procedural steps in completing the study. In addition, limitations in the data should be acknowledged. Detailed procedural manuals should be available for inspection by concerned parties.

5.2 *Exhibits.* Tables and figures should be neatly laid out and clearly labelled.

5.3 *Analysis and Conclusions.* An objective statement of trends or patterns in assessment ratios revealed by the findings should be prepared. This statement might be included in a cover letter to interested parties.

6. Use of Findings

Users of assessment-ratio study findings should keep the following in mind:

(1) Findings should only be used in ways that are consistent with the purpose(s) for which the study was originally designed. It is inappropriate, for example, to use an assessment-ratio study that was designed to demonstrate the need for a reappraisal to criticize the quality of the appraisal program that produced the assessments.

(2) Judgment is always required in conducting an assessment-ratio study and in using the findings. Assessment-ratio studies reduce uncertainty about assessment accuracy by providing an objective basis for evaluating assessment level and assessment uniformity. The nature of real estate markets —each property being unique in some way and market participants being imperfectly informed and not ruthlessly rational—together with the statistical errors inherent in any sampling process, makes judgment essential in applying assessment-ratio study statistics.

7. Performance Standards

Each jurisdiction should adopt performance standards. The following standards are suggested for jurisdictions in which current market value is the legal basis for assess-

mean, median, or *mode.* (2) By extension, any or all such statistics. Some kinds of data, however, such as the weights of cars and trucks, have U-shaped or bimodal distributions, and in such circumstances the meaning of the measure of "central tendency" becomes unclear. This may happen in assessing when one tries to determine an aggregate assessment ratio for two or more classes of property.

class. An arbitrarily defined category into which observations may be put. For example, an assessor may establish quality classes into which buildings of various kinds of construction may be put, and categorize (or class) any particular building as B, C+5, and so on. Classes are also used in statistics to group numbers for further study. Assessment-sale price ratios may be put into the classes with intervals of 0.10 and boundaries on the five one-hundredths, for example, as follows: 0.850-0.949; 0.950-1.049; 1.050-1.149; and so on.

coefficient of concentration. The percentage of observations falling within a specified percentage (say 10 percent) of the measure of central tendency.

coefficient of dispersion (COD). The *average deviation* of a group of *assessment ratios*, taken around the *median, arithmetic mean,* or *weighted mean* ratio and expressed as a percentage of that measure. Calculation with respect to the median is preferred, and, when done, is synonymous with the old-fashioned term "Russell index." The formula for the coefficient of dispersion with respect to the median ($\widetilde{COD}$) is

$$\widetilde{COD} = \frac{100}{\widetilde{A/S}} \left(\frac{\sum_{i=1}^{n} \left| A_i/S_i - \widetilde{A/S} \right|}{n} \right)$$

Where $\widetilde{A/S}$ is the median assessment ratio, A_i/S_i is the assessment ratio for property i, and n is the number of ratios. (See appendix 1.)

The coefficient of dispersion with respect to the mean ($\overline{COD}$) or with respect to the weighted mean ($\overline{COD}_W$) is computed analogously.

coefficient of variation. (CV) The *standard deviation* expressed as a percentage of the mean. The formula for the coefficient of variation (CV) is

$$CV = \frac{100}{\overline{A/S}} \sqrt{\frac{\sum_{i=1}^{n} (A_i/S_i - \overline{A/S})^2}{n-1}}$$

where $\overline{A/S}$ is the mean assessment ratio, and the other terms in the equation are the same as defined for the *coefficient of dispersion.* (See Appendix 1.)

confidence interval. For a given *confidence level,* the interval within which the population parameter (e.g., the true assessment ratio) will lie relative to the sample statistic (e.g., the median, weighted mean, or mean assessment ratio), assuming that the sample was randomly selected and, with respect to the sample mean, that the sample estimates are normally distributed (a dangerous assumption in the case of assessment ratios).

A confidence interval about the median assessment ratio can be constructed as follows. Let the sample observations for a random sample of n properties have assessment ratios that are denoted by A/S_1, A/S_2, ..., A/S_n; and let these sample ratios be ordered and denoted by $A/S_{(1)} \leq A/S_{(2)} \leq \cdots \leq A/S_{(n)}$ where $A/S_{(1)}$ is the ratio having smallest numerical value in the sample and $A/S_{(n)}$ is the ratio which is largest in numerical value in the sample. Then the ith largest ratio $A/S_{(i)}$ is called the ith sample order statistic.

The probability that any observed ratio in the random sample will be numerically less than the population median ratio (M) is [illegible] by definition of the median. Therefore

$$P(A/S_{(r)} < m < A/S_{(s)}) = 2^{-n} \sum_{i=1}^{s-1} \binom{n}{i} = 1 - \alpha \qquad (1)$$

where $s > r$.

Thus, the interval $[A/S_{(r)}, A/S_{(s)}]$ forms a two-sided confidence interval for the population median ratio (M) with confidence coefficient $1-\alpha$. That is, it can be stated, with $100(1-\alpha)$ percent confidence that the interval $[A/S_{(r)}, A/S_{(s)}]$ covers the true population median ratio.[19]

The optimal choice of the sample ordered ratios $A/S_{(r)}$ and $A/S_{(s)}$ for given sample size n and specified confidence coefficient $1-\alpha$, is those two ratios that are closest together, i.e. $A/S_{(s)} - A/S_{(r)}$ is at its minimum value and still satisfies equation (1).

Because the sample median m or $\widetilde{A/S}$ has its probability distribution approach that of a normal distribution having expected value M and variance $1/4f^2M$ for sufficiently large n, a practical method of choosing $A/S_{(r)}$ and $A/S_{(s)}$ is to take them to be symmetrically ordered about the sample median m $(\widetilde{A/S})$. This can be accomplished by setting

$$\left.\begin{aligned} r &= \frac{n+1}{2} - j = \frac{n+1-2j}{2} \qquad (2) \\ s &= \frac{n+1}{2} + j = \frac{n+1+2j}{2} \qquad (3) \end{aligned}\right\} \text{ for n odd } \left(j = 1,2,\ldots,\frac{n-1}{2}\right)$$

and

$$\left.\begin{aligned} r &= \frac{n}{2} - j = \frac{n-2j}{2} \qquad (4) \\ s &= \frac{n}{2} + 1 + j = \frac{n+2+2j}{2} \qquad (5) \end{aligned}\right\} \text{ for n even } \left(j = 1,2,\ldots,\frac{n-2}{2}\right)$$

A practical method for determining the value of j in equations (2), (3), (4), or (5), is to use a normal approximation to the probability given in (1). For equations (2) and (3) this gives

$j = CEIL[(\sqrt{n}Z_{\alpha/2}/2]$ for n odd

and for equations (4) and (5)

$j = CEIL[(\sqrt{n}Z_{\alpha/2} - 1)/2]$ for n even,

where CEIL [ ] means the nearest integer to [ ],which exceeds [ ], and $Z_{\alpha/2}$ is that value of the standard normal distribution which has probably $\alpha/2$ of being exceeded. (See Appendix 1.)

A confidence interval about the weighted mean assessment ratio can be constructed as follows:

$$CI_u = \overline{A}/\overline{S} + Z_{\alpha/2} \sqrt{\frac{\overline{A}/\overline{S}(1-\overline{A}/\overline{S})}{n}}$$

and

$$CI_l = \overline{A}/\overline{S} - Z_{\alpha/2} \sqrt{\frac{\overline{A}/\overline{S}(1-\overline{A}/\overline{S})}{n}}$$

where CI_u is the upper limit of the confidence interval, CI_l is the lower limit of the confidence interval, $\overline{A}/\overline{S}$ is the weighted mean assessment ratio, $Z_{\alpha/2}$ is the standard

---

19. This confidence interval for the median was furnished to IAAO by A.R. Manson and was proposed by W.R. Thompson in 1936, "On Confidence Ranges for the Median and Other Expectation Distributions for Populations of Unknown Distribution Form," *Annals of Mathematical Statistics,* Volume 7, p. 122. It has subsequently been published in many statistical texts such as in Kendall and Stuart, Volume 2, *The Advanced Theory of Statistics;* in Sarhan and Greenburg, *Contributions to Order Statistics;* etc. See also Harry A. Green, "Establishing Confidence Intervals for Median Assessment-Sales Ratios" (unpublished paper, 1980).

quarter(s) of the number of observations have a value less than the value of the quartile of interest. The *median* is the second quartile. For example, for the integers from 1 to 100, 25 is the first quartile, 50 the second,and 75 the third.

random sample. A sample generated by a process that is designed to ensure that each item in a population has an equal probability of being included in the sample or to give each possible combination of *n* items in the population the same chance of being the sample actually drawn.

range. The maximum value minus the minimum value a variable has assumed or may assume.

regressivity. See **assessment regressivity.**

regressivity index. See **price-related differential.**

sale price. The price for which a property was sold.

sales-ratio study. *Assessment-sale price ratio study* or *assessment-ratio study* is preferred.

sample. A set of observations selected from a population. The number of observations in a sample is usually much smaller than the number of observations in the population. If the sample was randomly selected, basic concepts of probability can be applied.

scatter diagram or **scatter plot.** A graphic means of depicting the relationship or correlation between two variables by plotting one variable on a vertical axis and the other variable on a horizontal axis.

schematic plot. A graphic means of depicting the distribution of a variable by plotting on a vertical axis (the horizontal axis has no scale) the *median* (the second *quartile),* the first quartile, the third quartile, and certain other more extreme values of the variable.

skewed. The quality of a frequency distribution that makes it asymmetrical; distributions with longer tails on the right than on the left are said to be skewed to the right or to have positive skewness.

standard deviation. The statistic calculated from a set of numbers by subtracting each value from the mean and squaring each of the remainders, adding together all the squares, dividing the sum by the number that is one less than the number of values being analyzed, and taking the square root of the result. It is the single most widely used measure of dispersion for symmetric frequency distributions in statistics, but it should be used cautiously in analyses of assessment performance, since frequency distributions of assessment-ratio data generally are not symmetrical. The formula for the standard deviation is

$$s = \sqrt{\left[\frac{\sum_{i=1}^{n} (A/S - \overline{A/S})^2}{n-1}\right]}$$

where s is the standard deviation, and the other terms are as defined previously. (See Appendix 1.)

standard error of the mean. The standard deviation of sample means. Used to measure the precision of the sample estimate (e.g., of the mean assessment ratio of a sample of properties) exclusive of any errors or bias. The formula for the standard error of the mean, when the standard deviation of the population is unknown and when the sample is a small part of the population is

$$s_{\bar{x}} = S/\sqrt{n}$$

where $s_{\bar{x}}$ is the standard error of the mean, s is the standard deviation of the sample, and n is the number of observations in the sample.

stratify. To divide, for purposes of analysis, a sample of observations into two or more subsets according to some criterion or set of criteria.

stratum, strata (pl.). A *class* or subset that results from stratification.

time-adjusted sale price. The price for which a property was sold at some given time, adjusted for the effects of price changes reflected in the market between the date of sale and the date of analysis.

value. (1) Any number between negative infinity and positive infinity. (2) The monetary worth of something.

weighted mean; weighted average. An average in which each observation is not weighted equally before summing the values and dividing by their number. The most commonly used weighting method in assessment is weighting by value. For example, two assessment ratios of 2/5 and 40/50 have unweighted average of 0.6 = (0.4 + 0.8)/2 and have a weighted average of 0.76 = (40+2)/(50+5).

9. Selected References

9.1 *Assessment-Ratio Studies.*

(1) *Analyzing Assessment Equity.* Studies in Property Taxation. Chicago: International Association of Assessing Officers, 1977.

(2) Doering, Werner W. "Assessment Ratio Studies: Design and Use." In *International Property Assessment Administration,* vol. 4. Chicago: International Association of Assessing Officers, 1972.

(3) International Association of Assessing Officers. *Improving Real Property Assessment: A Reference Manual.* Chicago: International Association of Assessing Officers, 1978.

(4) International Association of Assessing Officers. Research and Technical Services Department. *Assessment Sales Ratio Studies.* Bibliographic Series. Chicago: International Association of Assessing Officers, 1977.

(5) Knapp, William B. "Assessment/Sales Ratio Studies in Detroit." In *International Property Assessment Administration,* vol. 5. Chicago: International Association of Assessing Officers, 1973.

(6) National Association of Tax Administrators. Committee on Sales Ratio Data. Report of the Committee. *Guide for Assessment-Sales Ratio Studies.* Chicago: Federation of Tax Administrators, 1954.

(7) Rackham, John B. "Design and Use of Assessment Ratio Studies by Local Assessors." In *International Property Assessment Administration,* vol. 4. Chicago: International Association of Assessing Officers, 1972.

(8) U.S. Bureau of the Census. *State and Local Ratio Studies, Property Tax Assessment, and the Transfer Taxes.* Series GSS No. 99. Washington, DC.: U.S. Government Printing Office, 1980.

9.2 *Statistics.*

(1) Cochran, William G. *Sampling Techniques.* 2d. ed. New York: John Wiley & Sons, Inc., 1963.

(2) Conover, W.J. *Practical Nonparametric Statistics.* New York: John Wiley & Sons, Inc., 1971.

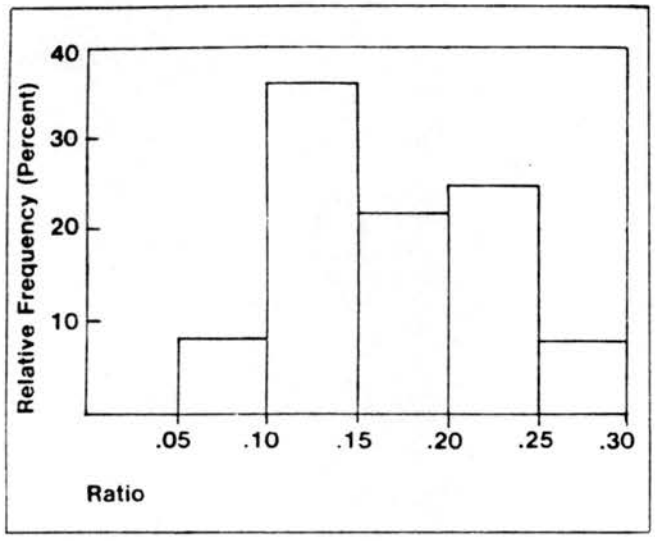
(3) Mendenhall, William and Reinmuth, James E. *Statistics for Management and Economics.* Belmont, California: Duxbury Press, 1971.

(4) Siegel, Sidney. *Nonparametric Statistics: For the Behavorial Sciences.* New York: McGraw-Hill Book Company, 1956.

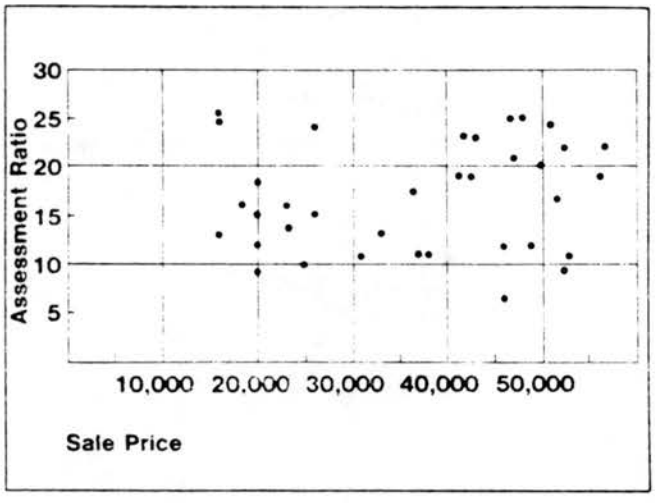
(5) Spurr, William A. and Bonini, Charles P. *Statistical Analysis for Business Decisions.* Rev. ed. Homewood, Illinois: Richard D. Irwin, Inc., 1973.

(6) Wallis, W. Allen and Roberts, Harry V. *Statistics: A New Approach.* New York: The Free Press, 1956.

A standardized histogram, in which frequencies are expressed as percentages, is shown below:



Other forms of displays, such as the scatter plot below in which assessment ratios are plotted against sales prices, can reveal information about the pattern of assessment equity.



3. *Measures of central tendency.* The median assessment ratio ($\widetilde{A/S}$) is the middle assessment ratio when the ratios are arrayed in order of magnitude. When there is an even number of ratios, the median, by convention, is the average of the two middle-most ratios (e.g., the eighteenth and nineteenth ratios). In the present example, the median assessment ratio is

$$\widetilde{A/S} = \frac{.1589 + .1650}{2} = .1619.$$

The weighted mean assessment ratio is the sum of the assessed values (column 3) divided by the sum of the sales prices (column 4), or

$$\overline{A}/\overline{S} = \frac{\$226,690}{\$1,321,540} = .1715.$$

The mean assessment ratio is the sum of the individual ratios (column 5) divided by the number of observations, or

$$\overline{A/S} = \frac{6.0721}{36} = .1687$$

4. *Measures of variability.* The coefficient of dispersion with respect to the median ($\widetilde{COD}$) is the average absolute deviation from the median assessment ratio (column 7) divided by the median assessment ratio and multiplied by 100 to express it in percentage terms, or

$$\widetilde{COD} = \frac{100}{.1619}\left(\frac{1.7389}{36}\right) = 29.83$$

The coefficient of variation (CV) is the standard deviation—the square root of the sum of the squared deviations about the mean (column 9) divided by the number of observations less one—divided by the mean assessment ratio and multiplied by 100, or

$$CV = \frac{100}{.1687}\sqrt{\left(\frac{.1083}{36-1}\right)} = 32.97$$

5. *Meaures of reliability.* A 95 percent interval for the true median assessment can be calculated as follows:

$$.95 = 1-\alpha .$$

Then $\alpha = 0.05$, $\alpha/2 = 0.025$, and $Z_{0.025} = 1.96$. Therefore, since n is even (36).

$$j = CEIL[(\sqrt{36} \cdot 1.96 - 1)/2]$$
$$= CEIL\,[(6 \cdot 1.96 - 1)/2]$$
$$= CEIL\,[(10.76/2]$$
$$= CEIL\,[\,5.38\,] = 6$$

Therefore,

$$r = \frac{36-2(6)}{2} = 12$$

$$S = \frac{36+2+2(6)}{2} = 25$$

and therefore the confidence interval for the true median assesment ratio is from the twelfth largest assessment ratio (.1282) to the twenty-fifth largest assessment ratio (.2000), i.e., (.1282, .2000).

A 95 percent confidence interval about the weighted mean assessment ratio is

$$CI_u = .1715 + 1.96\sqrt{\frac{.1715(1-.1715)}{36}}$$
$$= .1715 + 1.96\,(.0624)$$
$$= .2938$$

and

$$CI_l = .1715 - 1.96\sqrt{\frac{.1715(1-.1715)}{36}}$$
$$= .0492$$

(It might be noted that this confidence interval is broader than the range of assessment ratios in the sample.)

FIGURE 5. SAMPLE SIZE REQUIRED TO ACHIEVE DESIRED LEVEL OF ACCURACY IN ESTIMATING THE MEDIAN RATIO WHEN $e^{2\tilde{Y}_v\tilde{Y}_v^2}=0.125$

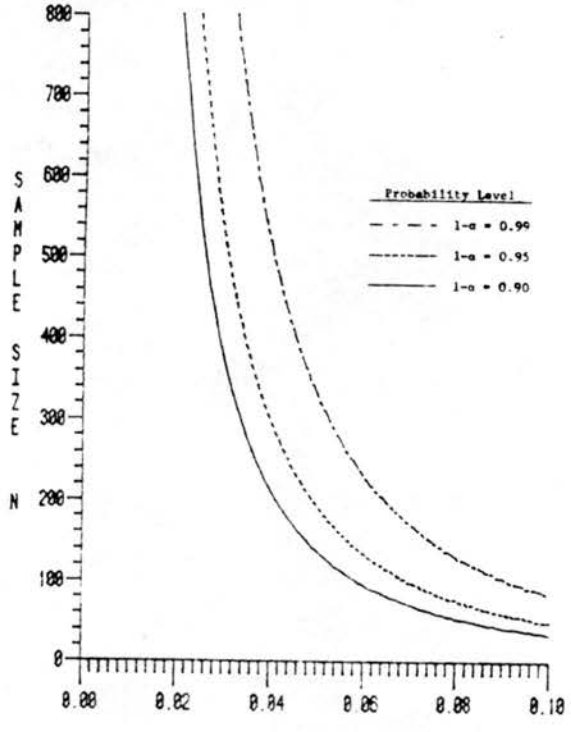


FIGURE 6. SAMPLE SIZE REQUIRED TO ACHIEVE DESIRED LEVEL OF ACCURACY IN ESTIMATING THE MEDIAN RATIO WHEN $e^{2\tilde{Y}_v\tilde{Y}_v^2}=0.150$

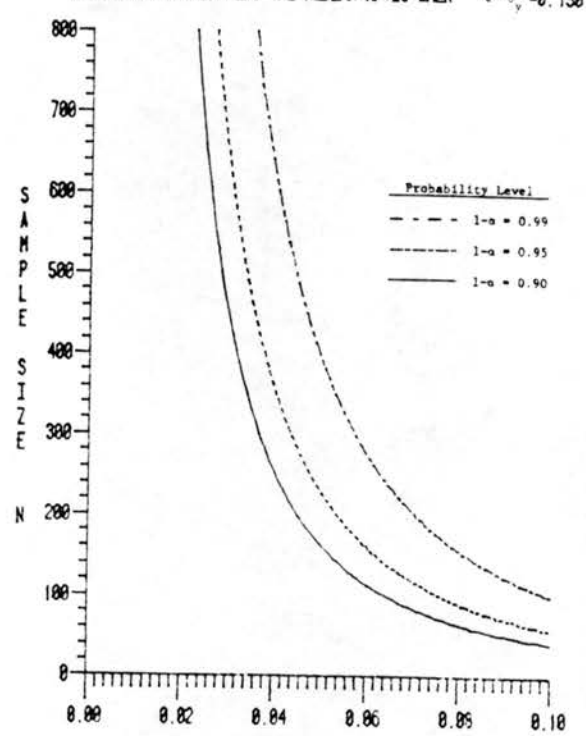


FIGURE 7. SAMPLE SIZE REQUIRED TO ACHIEVE DESIRED LEVEL OF ACCURACY IN ESTIMATING THE MEDIAN RATIO WHEN $e^{2\tilde{Y}_v\tilde{Y}_v^2}=0.175$

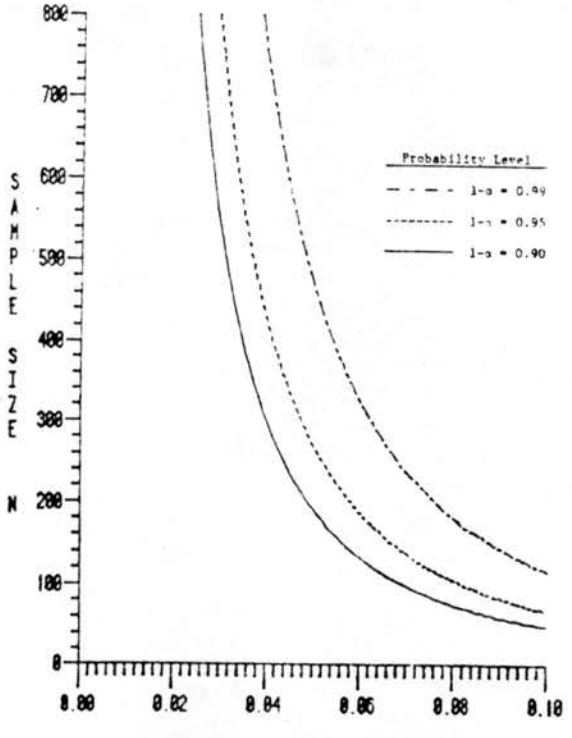
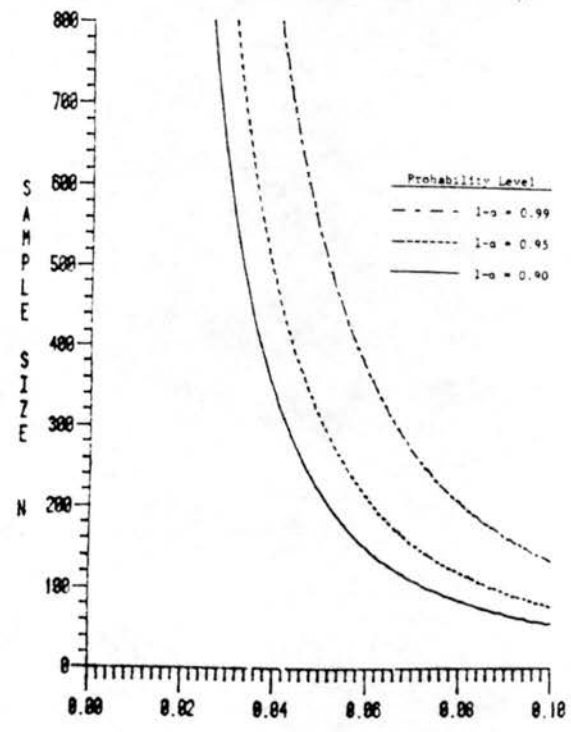
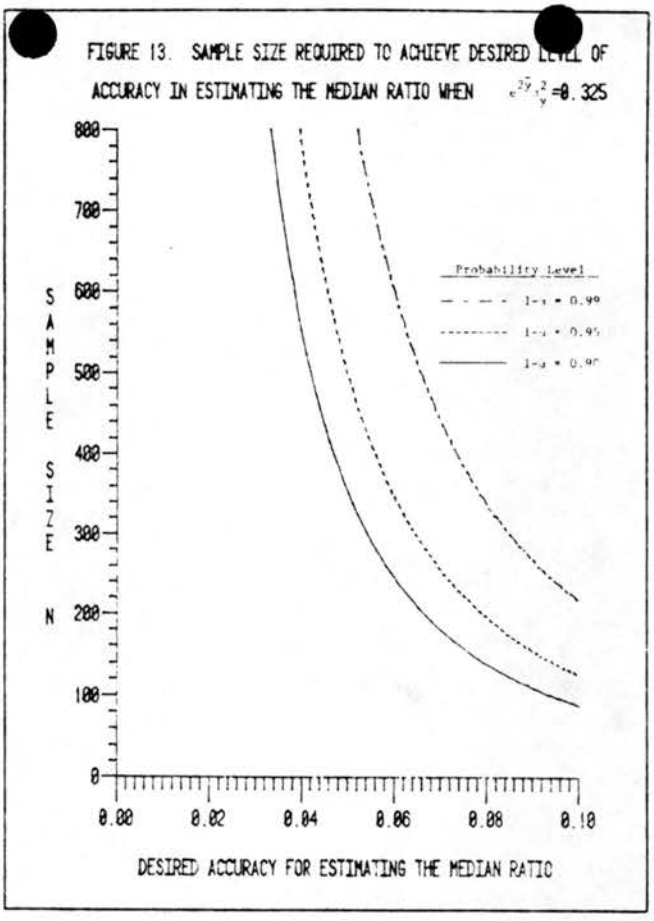


FIGURE 8. SAMPLE SIZE REQUIRED TO ACHIEVE DESIRED LEVEL OF ACCURACY IN ESTIMATING THE MEDIAN RATIO WHEN $e^{2\tilde{Y}_v\tilde{Y}_v^2}=0.200$





Appendix 3

Model Sale Confirmation Questionnaire

Below and on following pages are general models of a cover letter, a set of explanations, and a sale confirmation questionnaire. These models are intended to help assessing officers design sale confirmation questionnaires for their own uses. When designing a sale confirmation questionnaire, attention should be paid to such concerns as (1) the purpose of the sales data collection program; (2) applicable legal requirements; (3) regional differences in terminology; (4) whether the form is to serve as a data entry document, in which case the questions should be in a "check-off" form whenever possible; and (5) the provision of adequate space for respondents to answer questions.

Many of the questions contained in this model questionnaire can also be used in a real property transfer affidavit.

Sale Confirmation Questionnaire — Cover Letter

[ ]

[ ]

Dear Property Owner:

The laws of [jurisdiction] require that the [name of assessment agency] conduct studies each year of the relationships between assessed values and current market values of real property. See [statutory citation] . To accomplish this, it is necessary to gather statistical information about sales of real property from assessment and deed records in each [county or other jurisdiction].

Our records indicate that you recently purchased the property indicated below:

[ ]
[ ]

In order to ensure that we have correct information about the description of this property, and the circumstances of the sale of it, we respectfully request that you complete the enclosed questionnaire and return it to us within thirty days, using the addressed, postage-paid envelope provided.

Your cooperation in furnishing the needed information will help ensure that the property tax is equitably administered and that [state/provincial] aid for [purpose, e.g., local schools] is fairly distributed. If you have any questions about the questionnaire or its use, please do not hesitate to call [name of assessment agency] at [telephone number].

Very truly yours,

SEE INSTRUCTIONS

[Name and title of assessing officer]

Sale Confirmation Questionnaire — Explanation

Why is the information needed? - Sales of real estate are used as one factor in assessing property for taxation. [name(s) of assessment agencies(y)] collect(s) and study(ies) property sales for this purpose. Sales are also used to measure uniformity of assessments to ensure that all taxpayers pay only their fair share of property taxes. The use of sales for these purposes has been tested in the courts.

How will the information be used? - Trained appraisers will consider the selling price of your property and the selling price of similar properties to determine the assessed value for many properties. Present day building construction costs, income and expenses (if the property being appraised produces income), age of the buildings, location, etc., will also be considered.

Will my taxes be raised if I answer this questionnaire? - Not because you answered the questionnaire. Property tax increases are caused by increasing costs of operating schools, cities, water districts, fire districts, and the many other public services supported by the property tax. Accurate sales information makes possible accurate assessments. The property tax load is more evenly distributed under present laws when all assessments are based on current market value.

Why are so many questions asked about my property? - Selling prices of property often include more than just the land and buildings. Many sales prices include furniture, machinery, livestock, and farm crops. The value of these items is deducted from the total selling price when the sale is studied by the appraisers. The figure they work with is the total amount paid for land and buildings. The information about the circumstances of the sale is needed to help the appraisers group similar properties for study. For example, the selling price of a farm purchased for subdivision or as an industrial site would not be used to measure farm values.

(c) Describe any personal property items included in the total sale price (excluding fixtures such as wall-to-wall carpeting, built-in appliances, and custom draperies) and give an estimate of their value.

Description:_____ Estimated value: $_____

(d) Was a trade of property involved in this sale? _____

If yes, describe the traded property and give an estimate of its value.

Description:_____ Estimated value: $_____

(e) If any unpaid taxes or assessments were assumed by the buyer, please identify them, indicate the amounts involved, and indicate whether they are included in the total sale price (above) or excluded.

Description:_____ Amount: $_____

_____Included _____Excluded

9. Date price was agreed upon:_____

10. Source of financing: _____, assumed seller's financing,_____ _____lending institution, _____seller provided financing, _____other
If other, describe_____

11. Type of deed (e.g., warranty, quit claim):_____

12. Is this a sale between relatives?_____If yes, give relationship:_____
Is this a sale between related businesses?_____If yes, give relationship:_____

13. Is this a sale of convenience (e.g., to correct defects in title, etc.)?_____

14. Was the seller compelled to sell this property?_____If yes, explain:_____

15. Was the buyer compelled to buy this property?_____If yes, explain:_____

16. Is this a sale in fulfillment of a land contract?_____If yes, give the month and year the contract originated._____

17. Do you consider the total sale price to be the market value of the real estate on the date of sale?_____If no, explain:_____

signature

_____ Date:_____

Name:_____

Address:_____

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF A NEW RULE OF THE
DEPARTMENT OF REVENUE RELATING
TO CERTIFICATE OF REAL ESTATE VALUE
(MINNESOTA RULES, PARTS 8110.0100,
8110.0200, 8110.0300, 8110.0400)

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Dorothy A. McClung, Director of Legal Research, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below. No Exceptions

Dorothy A McClung

DOROTHY A. MCCLUNG
Director of Legal Research
Department of Revenue

Dated: Aug 30, 1984

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE RELATING TO CERTIFICATE OF REAL ESTATE VALUE (MINNESOTA RULES, PARTS 8110.0100, 8110.0200, 8110.0300, 8110.0400)

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

DOROTHY A. McCLUNG, being first duly sworn, deposes and says:

That on the 30 day of August, 1984, in the City of Saint Paul, County of Ramsey, State of Minnesota, s he served the attached Notice of Submission to the Attorney General by depositing in the (State of Minnesota Central Mail System for United States mailing ~~(or) United States mail)~~ at said City of Saint Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Dorothy A McClung

Subscribed and sworn to before me this 30th day of August, 1984.

Diane C. Walsh

DIANE C. WALSH
NOTARY PUBLIC - MINNESOTA
My Commission Expires July 27, 1985
RAMSEY COUNTY

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF A NEW RULE OF THE
DEPARTMENT OF REVENUE RELATING
TO CERTIFICATE OF REAL ESTATE VALUE
(MINNESOTA RULES, PARTS 8110.0100,
8110.0200, 8110.0300, 8110.0400)

NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, sections 14.05 to 14.36:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, August 30, 1984, for review as to form and legality. Pursuant to part 2000.1000, the Attorney General will not approve the rules for at least 20 calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that Office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after (the hearing/publication in the State Register) and before submission to the Attorney General, you may contact Dorothy A. McClung.

Dorothy A. McClung

DOROTHY A. MCCLUNG
Department of Revenue

To: Marty
Date: 9/14/84
Re: Revenue — Certificate of Real Estate Value

Compliance with Minn. Stat. § 14.115

These rules govern all buyers of real property. Obviously, small businesses as buyers of real property are directly affected by these Rules. The SONR can be said to address that affect in accordance with § 14.115, subd 2. but there appears to be no compliance with the notice or other requirements of § 14.115, subd 4.

However, the ALJ has not commented adversely on this lack of compliance.