

Nick Jordan, Secretary
David N. Harper, Director

Sam Brownback, Governor

MEMORANDUM

TO: All County Appraisers

FROM: David Harper, Director

DATE: May 13, 2013

SUBJECT: Classification of Commercial Land Used as “Pad Sites”

Subject

A group of county appraisers asked to meet with the director of the division of property valuation (PVD) on the topic of the classification of “pad sites.” It became evident from the discussion that the treatment of these “pad sites” between counties is inconsistent. Most appraisers agreed that PVD needed to weigh-in on this subject to promote consistency statewide.

The basic questions that came out of the discussion centered on:

1. How should land that is actively and routinely used for commercial or industrial purposes be classified?
2. What size should be used to determine if a property is a mixed use property?

In the conversation the phrase “pad site” was often used. That phrase identified land that was highlighted by the county appraisers that may include but not be limited to:

- Wireless communication towers, broadcast towers and antenna and relay sites
- Wind-powered electricity generator sites (wind turbine sites)
- Electric transmission line structural towers
- Electric power substations
- Sites that support the production, storage or operations of an oil or gas leasehold
- Improved access roads

Conclusion

The short answer comes directly from *Directive # 99-038*, “**Real property with varying uses may be assigned more than one classification.**” In these specific cases, “pad sites” actively and routinely used for commercial or industrial purposes should be classified as commercial real property. *Directive #99-038* is very well done and worth your review concerning classification of mixed use properties.

Based on the directives in force on this topic and long standing application, the county appraiser shall:

- Recognize mixed use properties and appropriately classify each portion. (*Directive # 99-038*)
- Understand the definition of a mixed use parcel as; a parcel which is **not** distinctly and exclusively used for residential, multifamily, recreational, commercial, industrial or agricultural purposes, but a combination.
- Recognize mixed use whether the underlying land is owned or leased. (*Directive #92-011*)
- Apply the law of fixtures in determining whether leasehold improvements constitute real or personal property. Once such a determination has been made, the property shall be carried on either the real property roll or the personal property roll. (*Directive #92-011*)
- Not split out very small, transient, or trifling uses so integrated with the predominate use as to be indistinguishable.
- Not predetermine a “minimum” size for mixed use.

Discussion

Mixed Use and Size Review -

The basis for classification for property is the actual present-day use determined on the first day of January of each year. It has been long understood that county appraisers shall recognize mixed use properties and appropriately classify each portion.

A good definition of a mixed use property is; a parcel which is not distinctly and exclusively used or intended to be used for residential, multifamily, recreational, commercial, industrial or agricultural purposes, but a combination thereof. From examples communicated at the meeting, parcels classified as “land devoted to agricultural use” was not the exclusive use. Commercial activity, for example, on agricultural parcels would deserve a mixed use treatment. However, land with sheds, buildings, grain storage bins, etc. on parcels of land devoted to agricultural use when supporting the agricultural operation should be classified as land devoted to agricultural use.

It would be impractical for PVD, or for that matter the county, to determine a “minimum” size when considering a mixed use property. That was never contemplated in the past and for good reasons. Each occurrence needs to be handled case by case. Common sense would dictate that poles, towers, or sites with small and incidental foot prints should not be split out as a mixed use on a parcel. While a predetermined “minimum” size of a commercial use is not appropriate, it may be practical for a county appraiser to determine a uniform size for commercial land or site value. A good example of this would be to establish a uniform commercial use (land size) or site value based on the typical foot print of multiple wind turbine sites across the county. Uniformity and consistency in any mass appraisal system are fundamental.

Good instruction and guidance on what not to split off as a different classification would be; uses which are transient or incidental mixed uses that are so integrated with the predominate use as to be indistinguishable are not segregated for classification. Perhaps a good example of this would be an unimproved trail, vehicle track or unimproved road going to a lease (well, tower, etc.).

In conclusion, land which is actively and routinely used for commercial or industrial purposes should be classified as commercial real property.