

Texas School Finance Commission Testimony
Michael Amezquita, Chief Appraiser Bexar Appraisal District

Taxation must be fair for all taxpayers - the first sentence in Article 8 of our State's Constitution requires this to be true. My main points about fairness in the property tax system will focus on two things that the legislature has authority to address which I believe will create more fairness in the property tax system:

1. Sales Price Disclosure and the lack of the same in Texas.
2. The Equity Statutes in the Texas Property Tax Code Sections 41.43 (b)(3), and 42.26 (a)(3).

Why is sales price disclosure important to taxpayers? Market value is the standard or measuring stick used in ad valorem taxation. It provides a means for verifiability of the appropriateness of value levels on all taxable property in a given jurisdiction. In fact, the State Comptroller's office tests the level of values in every school district biennially to insure that the true wealth of each school district is relative to current market conditions in each study year. The Property Value Study (PVS) is required in the Government Code in Section 403.302 and it relies heavily on comparing sales prices of properties in every school district to the appraisal district's value for each selected parcel. The study validates or invalidates the appraisal district's value levels by category in each school district. The results of the study form the basis for each school district to receive a fair level of state funding according to the current Public Education funding formulas.

The Bexar Appraisal District has not had an agreement with the local Multiple Listing Service (MLS) for more than 10 years. I have polled many districts and determined there are several north Texas districts that do have access to MLS albeit may be through a licensed Realtor in their office. In many cases, the district is not a party to the

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contract with MLS or the local board of realtors. I also have discovered the following counties do not have access to MLS data - Travis, Williamson, Cameron, Atascosa, Bastrop, Mills, Hardeman, Mitchell, San Saba, McCulloch, Sutton, Schleicher, Shackelford, Presidio, or Brewster. Harris County doesn't have direct MLS access but they get their sales data from a third party vendor. There is a misconception that appraisal districts already have all of the sales that take place in the county and therefore sales disclosure is unnecessary.

The existence of sales price disclosure for all property would provide the public with the necessary tools to be able to verify that the appraisal district has valued all property at market value. It would also be a long missing tool in each appraisal district's tool box to accurately and equitably appraise all property in accordance with the requirements of law. Chapter 23.01 of the Texas Property Tax Code requires that all property be appraised at market value as of January 1. Our state's constitution requires that taxation be in proportion to a property's value. At every level of law, the appraisal district is required to appraise property at market value and the state Comptroller's PVS studies those values using sales information, yet sales price disclosure is not a legal requirement in Texas.

There has been discussion and commentary that the valuation of commercial property is dependent on the income approach and relies on cap rates, therefore sales disclosure is unnecessary for commercial property. Nothing could be further from the truth. Cap rates are derived from market evidence that involves the study of sales prices of properties whose income streams have been analyzed. Simply put, once a property's net operating income (NOI) has been determined, the

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cap rate is calculated by simply dividing the known NOI by the sale price which yields a market cap rate. For example: \$100,000.00 NOI divided by a \$1,000,000.00 sales price would yield an indicated cap rate of 10 percent. Ideally with sales disclosure, we would have known sales prices and NOIs of enough commercial properties to calculate typical cap rates for use in valuing other comparable properties.

Sales prices are utilized in the application of the cost approach as well. One of the acceptable methods of the valuation of land in the Uniform Standards of Professional Appraisal Practice is the comparable sales approach which compares recent land sales to the subject property. In calculating depreciation, the appraiser may look at market sales to determine the magnitude of a deficiency or detriment to a property. Market derived depreciation using sales prices measures and accounts for condition more accurately than any published depreciation tables available for use in appraisal.

Sales disclosure would also lead to development of a high confidence level about the validity of appraisal district values. Additionally, there would be higher confidence in the results of the Comptroller's PVS which ensures equity in the distribution of public education dollars to all school districts in the state.

The Law Requires that Taxation be Fair and Uniform; Equitable to all Taxpayers

The Constitution and the Texas Property Tax Code require equity in taxation. Unfortunately, statutes in the Tax Code [41.43(b)(3), and 42.26 (a)(3)] designed to promote equity actually create inequity among comparable properties and perpetuates disparate treatment

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between categories of properties within the appraisal roll. This disparate treatment is seen in that residential property remains appraised, and subsequently taxed, at values much closer to market value than do non-residential property.

When presented and subsequently passed in 1997, equity appeals were promoted as a means for homeowners to ensure that there was equity and uniformity among like properties and between neighbors. What we have now is an appeals mechanism whereby the best properties in any category of commercial property get to have their value adjusted to the median appraised value of a group of comparables. The law states that a protest shall be determined in favor of the protesting party unless it is established that "the appraised value of the property is equal to or less than the median appraised value of a reasonable number of comparable properties appropriately adjusted". In this case, a property could have just sold for \$500,000,000; the owner or agent would file an equity appeal at the Appraisal Review Board and or District Court; and have their value lowered to the median value of similar properties or potentially less. This oftentimes leads to the best commercial property in a particular category being placed on the appraisal roll for 50% or less of its sale price. The immediate result after this occurs is that all the properties that formerly were appraised below the subject now want an adjustment downward based on the fact that the best property is now being appraised below their level of value. This is referred to as the 'spiral down' effect of the equity statute. This has increased our litigation load and subsequent legal costs significantly over the past several years as well.

I don't believe the equity statute needs to be repealed, however; it should not give one category of property a pass on their fair share

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of taxes while not rendering the same effect for homeowners. In short I think the equity statute should be amended to include that the adjudicated value not be adjusted to be less than 90% of the finally determined market value. Chairman Cook accepted such a bill in the prior two sessions, but we were unable to find a senate sponsor.