

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, JULY 25, 2018 - amended agenda

4:00 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider approval of Budget Adjustment for the 2018 Adult Community Corrections Grant in the Amount of \$5,610.48;
- (c) Consider approval of Budget Adjustment for the 2018 Juvenile KDOC Grant Amount TBD when we receive The Children's Shelter Information; and
- (d) Approve of FY 2019 Community Corrections Grant Funds Revised Budget Summary and Budget Narrative due to Adult Community Corrections FY 2019 budget cut in the amount of \$9,891.09.

REGULAR AGENDA

- (2) Consider approval of real property disaster relief pursuant to K.S.A. 79-1613 (Steve Miles)
- (3) Executive Session for the purpose of consultation with County Counselor on matters, which would be deemed, privileged under the attorney-client relationship. The justification is to maintain attorney client privilege on a matter involving Douglas County.
- (4) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- (c) Board of Zoning Appeals (1) positions 10/17
- (d) Building Code of Appeals Board (2) positions 12/16
- (e) Community Corrections Advisory Board (1) position
- (f) JAAA Advisory Council (2) position
- (g) JAAA Board of Directors (1) position
- (h) Douglas County Emergency Management Board (1) position
- (c) Public Comment
- (d) Miscellaneous
- (5) Adjourn

WEDNESDAY, AUGUST 1, 2018

WEDNESDAY, AUGUST 8, 2018

6:00 p.m.

-Public Hearing to receive public comment on the 2019 Budget and consider approval of a County resolution expressing the property taxation policy of the Douglas County Commission with respect to financing the annual budget for 2019.

-Consider approving a Comprehensive Plan Amendment, CPA-18-00168, to Horizon 2020, Chapter 8, Transportation. (PC Item 4; approved 9-1 on 6/28/18) (Jeff Crick)

-Appeal of Administrative Approval of a Certificate of Survey, CSU-18-00011, for a cluster development in the urban growth area of the City of Lawrence, for approximately 76.86 acres located in the Northeast Quarter of Section 30, Township 13 South, Range 20 East; in the southwest corner of intersection of E. 1500 and N. 1100 Roads. (Mary Miller is the Planner)

WEDNESDAY, AUGUST 15, 2018

-Commission discussion on funding mechanism for mental health initiative

THURSDAY, AUGUST 16, 2018

-9:00 a.m. Election Canvass

WEDNESDAY, AUGUST 22, 2018

-Consider approval of ballot language on behavioral health initiative for November election.

WEDNESDAY, AUGUST 29, 2018 – cancelled

WEDNESDAY, SEPTEMBER 5, 2018

-Proclamation for First Responder Appreciation Week

WEDNESDAY, SEPTEMBER 12, 2018

-Tobacco 21 featuring youth from the Boys & Girls Club of Lawrence

***Note:** The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and/or 6:00 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

From: [AD - Weinaug, Craig](#)
To: [CJSYS - Weigand, Pam](#); [AD - Crabtree, Robin](#)
Cc: [County Commission](#); [ADS - Plinsky, Sarah](#)
Subject: RE: BOCC Meeting July 25th
Date: Monday, July 23, 2018 8:37:30 AM

Robin:

Please send out an amended agenda for Wednesday, adding these items as consent items. Work out details with Pam.

Craig

From: CJSYS - Weigand, Pam
Sent: Friday, July 20, 2018 4:36 PM
To: AD - Weinaug, Craig <weinaug@douglascountyks.org>
Subject: BOCC Meeting July 25th

Craig,

I have three KDOC housekeeping items that I need to walk on at the July 25th BOCC meeting. I had intended to put them on the agenda, however, I lost track of the July BOCC schedule. We are still waiting on information from The Children's Shelter on year end expenses for the Intake and Assessment grant which I hope to have before the meeting. The 3 items I need Board approval on are:

Budget Adjustment for the 2018 Adult Community Corrections Grant in the Amount of \$5,610.48

Budget Adjustment for the 2018 Juvenile KDOC Grant Amount TBD when we receive The Children's Shelter Information.

The budget adjustments require BOCC approval if the adjustment is more than \$5000 dollars.

Approve FY 2019 Community Corrections Grant Funds Revised Budget Summary and Budget Narrative due to Adult Community Corrections FY 2019 budget cut in the amount of \$9,891.09.

We reduced operations expenses and plan to use program fees to cover the cost of the operating expenses that were eliminated as a result of the budget cut. If expenses exceed program fees collected we will reduce the amount of employee benefits that we reimburse to Douglas County to cover the cost.

The 3 items outlined above were reviewed and approved by the Advisory Board on July 10, 2018.

Sorry for the late request.

Thanks

Pam

Pam D. Weigand
Director
Douglas County Criminal Justice Services
330 Industrial Lane
Lawrence, KS 66044
Work: 785-331-1311
Fax: 785-331-1304

Memo

To: Douglas County Commissioners: Nancy Thellman, Mike Gaughan, Michelle Derusseau
From: Steven Miles
cc: Crag Weinaug, County Administrator
Date: July 9, 2018
Re: Real Property Relief pursuant to K.S.A. 79-1613

The Kansas Legislature made a change to K.S.A. 79-1613 that became effective July 1, 2014 whereby anyone who has experienced a substantial loss due to a natural disaster such as an earthquake, flood, tornado, fire or storm may make application to the board of county commissioners for an abatement or credit of property taxes levied against such property. Due to the wording of this change in the statute, it has been misconstrued until the meaning was clarified by the Property Valuation Division of the Kansas Department of Revenue.

Recently, a request has been made for an abatement or credit of taxes pursuant to K.S.A. 79-1613 – "Homestead destroyed by natural disaster; abatement of tax" – by Clark A. Sexton.

The subject property is PIN 023-067-35-0-30-03-017.00-0, situs address 1209 Lawrence Ave., Lawrence, KS 66049. It was substantially destroyed by a fire on November 29, 2017.

The property was valued by the Douglas County Appraiser for the tax year 2017 at \$183,500 and \$2,839.64 in taxes were levied on the property in November 2017.

Currently, work is in progress to restore the property to its previous condition. An itemized list of the damage from the homeowner's insurance company, American Family Insurance Group, lists the depreciated total damage claim at \$153,766.61. A contract has been entered into for the repairs at \$211,510.06.

K.S.A. 79-1613 states (1) "Destroyed or substantially destroyed" means damage of any origin sustained by a homestead as the direct result of: (A) an earthquake, flood, tornado, fire or storm; or (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before damaged condition would equal or **exceed 50% of the market value of the structure** before the damage occurred. (emphasis added).

(2) "Homestead" means the dwelling, or any part thereof, ..., which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes,...

The statute goes on to indicate in section (d) that a determination may be made by the board of county commissioners that an owner is entitled to an abatement of **all or any portion** (emphasis added) of the property taxes.

The facts and documentation presented in the application indicate that the restoration cost would exceed 50% of the market value of the structure and the land directly associated with the dwelling.

Because the fire event occurred on November 29, 2017, it would be proper to pro-rate the relief granted. Therefore, I have indicated in the Appraiser's Determination document such a scenario. I have determined that the value would be reduced to \$55,080 in its damaged condition and needing repaired by either the present owners or a new owner. Therefore, the owners would be entitled to an abatement or credit of \$177.05 after proration.

Respectfully submitted by Steven Miles, Douglas County Appraiser

Attachments: K.S.A. 79-1613, Appraiser's Determination report

**APPRAISER'S DETERMINATION OF NEW MARKET VALUE
FOR DESTROYED PROPERTY**

PIN: 023-067-35-0-30-03-017.00-0

Date of Destruction: 11/29/2017

1. Appraised value of property prior to destruction	<u>\$183,500</u>
2. Fair market value of remaining property (after)	<u>\$55,080</u>
3. Total amount of reduction (line 1 - line 2)	<u>\$128,420</u>
4. Appraised value for the year of destruction (same as line 2)	<u>\$55,080</u>

I hereby certify my determination of the appraised value for the tax year is as shown on line 4. The tax year is the year in which the destruction occurred.

July 9, 2018
Date


Appraiser

July 10, 2018
Date sent to Owner

Notice to Owner

If you disagree with the appraiser's determination of value, you must appeal the amount of reduction to the county commission.

**TREASURER'S CALCULATION FOR AMOUNT OF TAXES TO BE
ABATED OR CREDITED FOR THE YEAR OF DESTRUCTION**

(Does not apply to property damaged or destroyed voluntarily)

5. Total amount of reduction in value (line 3)	<u>\$128,420</u>
a. Level of assessment	<u>11.50%</u>
b. Assessed Value of reduction (line 5 X line 5a)	<u>\$14,768</u>
c. Mill levy (per \$1,000 of assessed value) in tax year destruction occurred	<u>136.747</u>
6. Amount of tax on value reduction ((line 5b X line 5c)/1,000)	<u>\$2,019.52</u>
7. Daily rate of tax on value reduction (line 6 / 365 days)	<u>\$5.53</u>
8. Number of days remaining in the tax year	<u>32</u>
9. Amount of abatement or credit (line 7 X line 8)	<u>\$177.05</u>

**Douglas County Commissioners
Disaster Relief Determination for:**

Property address / parcel i.d. / ref number: 023-067-35-0-30-03-017.00-0

Applicant (Property owner/taxpayer—nontransferable): Clark A. Sexton

Douglas County Commissioners' summary of inquiry and findings:

Check Yes or No for each question.

Was the structure destroyed or substantially destroyed a homestead? ☒ YES ☐ NO
(Homestead means dwelling, owned or rented, which is occupied as a residence and the home site land.)

Was the homestead destroyed or substantially destroyed by **earthquake, fire, flood, storm or tornado, and/or** was the destructive event declared a disaster by the governor of Kansas? ☒ YES ☐ NO

Was the homestead destroyed or substantially destroyed? ☒ YES ☐ NO
(Destroyed or substantially destroyed means the cost of restoring the homestead to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.)

(If any above are "NO", no tax abatement or credit can be granted.)

Based on the date of this event, check the appropriate tax treatment:

☐ **Abatement:** This event occurred after January 1 but prior to August 15.

☒ **Credit:** This event occurred on or after August 15 but prior to January 1 of the next year.
The credit can be applied to the property tax of the owner over the next three years.)

Documentation provided:

☐ Written estimate of repairs or rebuilding costs by a licensed contractor.

☒ Deed of ownership (available at Register of Deeds Office), a copy of contract if buying on contract or title of manufactured home

☒ Photos

☒ Other: Insurance Claim estimator, construction contract

IT IS THEREFORE ORDERED, based on the above information, the Board of County Commissioners of Douglas County grant:

☐ No abatement or credit will be granted.

☒ Abatement / credit of ____% or \$ 177.05 of the property tax for tax year 2017 of the parcel i.d. / ref number: 023-067-35-0-30-03-017.00-0.

IT IS FURTHER ORDERED the county clerk and the county treasurer shall correct their records in accordance with the county commissioners' order.

IT IS SO ORDERED, this ____ day of _____, 20____.

_____, County Commissioner

_____, County Commissioner

_____, County Commissioner

REAL PROPERTY RELIEF APPLICATION

2017 TAX YEAR

RETURN TO:

DOUGLAS COUNTY APPRAISER'S OFFICE

1100 MASS ST STE 1

LAWRENCE KS 66044

OFFICE #785-832-5133

(K.S.A. 2016 Supp. 79-1613)

The following property owner(s) are making application to the county commissioners for property tax abatement, all or partial, or a credit against property taxes payable by the applicant over the next three (3) years. The county commissioners may issue an order granting relief, if any, subject to budgetary restraints of the county or taxing subdivision arising from the destructive event.

Information on Property

Owner of Record (please print): Clark Alan Sexton

Taxpayer - If different than owner (please print): _____

Date Damage Occurred (month/day/year): 11-29-2017

Location of Property Destroyed (Property address / parcel i.d. / ref number):

1209 Lawrence Ave, Lawrence, KS 66049 - R6708

Mailing Address (please print):

702 6th St, Brookings, SD 57006

Daytime telephone number: 913-226-8846

Other telephone number: _____

Information on Loss

Select Homestead Type:

- ☒ Single Family
- ☐ Multi-family
- ☐ Manufactured (Mobile) Home
- ☐ Multi-Purpose Residential

Loss Type:

Was this event declared a disaster by the governor of Kansas?

☐ YES

☒ NO

If NO above, select the cause of damage (must be one of the following):

- ☐ Earthquake
- ☒ Fire
- ☐ Flood
- ☐ Storm
- ☐ Tornado

Include Following with Application:

1. Written estimate of repairs or rebuilding costs by a licensed contractor or construction engineer.
2. Deed of ownership (available at Register of Deeds Office), a copy of contract if buying on contract or title of manufactured home
3. Photos documenting the damage or destruction.

Sign and Date:

Applicant Signature: Clark Alan Sexton

Date: 4-9-2018

334265

Commerce Title
060004

Warranty Deed
Statutory Form

Donald Matthew Jordan and Carrie Jordan

husband and wife

Convey(s) and Warrant(s) to

Clark Alan Sexton

His heirs, successors and assigns

ALL OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN DOUGLAS COUNTY, KANSAS

Lot 17, Block 2, in Orchards No. 4 Subdivision, a subdivision in the City of Lawrence,
Douglas County, Kansas.

SUBJECT TO: Easements, restrictions and reservations of record, if any.
FOR THE SUM OF: One Dollar and other valuable consideration.

Dated: 01 / 09 / 06

X *DMJ*
Donald Matthew Jordan

X *Carrie Jordan*
Carrie Jordan

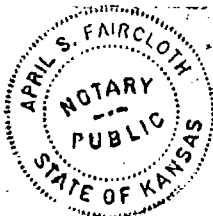
STATE OF KANSAS, DOUGLAS COUNTY, ss:

The foregoing Instrument was acknowledged before me this 9 day of January, 2006,
by Donald Matthew Jordan and Carrie Jordan, husband and wife.

My appointment expires:

8/14/08

Carrie S. Dancette
Notary Public



Entered in Transfer Record in my office this

17th day of Jan, A.D. 2006

[Signature] County Clerk
MM

Index ✓ Numerical Index 014010
No. 334265 Book 1000 Page 3444
State of Kansas, Douglas County, SS.
Recorded in Book 1000 Page(s): 3444 - 3444
Filed Jan 13, 2006 4:11 PM Fees \$8.00
Register of Deeds

Kay Pearson



Memo

To: Douglas County Commissioners: Nancy Thellman, Mike Gaughan, Michelle Derusseau
From: Steven Miles
cc: Crag Weinaug, County Administrator
Date: July 9, 2018
Re: Real Property Relief pursuant to K.S.A. 79-1613

The Kansas Legislature made a change to K.S.A. 79-1613 that became effective July 1, 2014 whereby anyone who has experienced a substantial loss due to a natural disaster such as an earthquake, flood, tornado, fire or storm may make application to the board of county commissioners for an abatement or credit of property taxes levied against such property. Due to the wording of this change in the statute, it has been misconstrued until the meaning was clarified by the Property Valuation Division of the Kansas Department of Revenue.

Recently, a request has been made for an abatement or credit of taxes pursuant to K.S.A. 79-1613 – “Homestead destroyed by natural disaster; abatement of tax” – by August J. and Chala J. LaRocca.

The subject property is PIN 023-067-26-0-30-06-006.00-0, situs address 3300 Riverview Road, Lawrence, KS. It was substantially destroyed by a fire on October 14, 2017.

The property was valued by the Douglas County Appraiser for the tax year 2017 at \$302,000 and \$4,703.24 in taxes were levied on the property in November 2017.

Currently, work is in progress to restore the property to its previous condition. An itemized list of the materials and repair services from Paul Davis Restoration estimates the cost to put the property back into the condition before the fire to be \$237,726.43.

K.S.A. 79-1613 states (1) “Destroyed or substantially destroyed” means damage of any origin sustained by a homestead as the direct result of: (A) an earthquake, flood, tornado, fire or storm; or (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before damaged condition would equal or **exceed 50% of the market value of the structure** before the damage occurred. (emphasis added).

(2) “Homestead” means the dwelling, or any part thereof, ..., which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes,...

The statute goes on to indicate in section (d) that a determination may be made by the board of county commissioners that an owner is entitled to an abatement of **all or any portion** (emphasis added) of the property taxes.

The facts and documentation presented in the application indicate that the restoration cost would exceed 50% of the market value of the structure and the land directly associated with the dwelling.

Because the fire event occurred on October 14, 2017, it would be proper to pro-rate the relief granted. Therefore, I have indicated in the Appraiser's Determination document such a scenario. I have determined that the value would be reduced to \$40,000 in its damaged condition and needing repaired by either the present owners or a new owner. Therefore, the owners would be entitled to an abatement or credit of \$880.48 after proration.

Respectfully submitted by Steven Miles, Douglas County Appraiser

Attachments: K.S.A. 79-1613, Appraiser's Determination report

**APPRAISER'S DETERMINATION OF NEW MARKET VALUE
FOR DESTROYED PROPERTY**

PIN: 023-067-26-0-30-06-006.00-0

Date of Destruction: 10/14/2017

- | | |
|---|-----------|
| 1. Appraised value of property prior to destruction | \$302,000 |
| 2. Fair market value of remaining property (after) | \$40,000 |
| 3. Total amount of reduction (line 1 - line 2) | \$262,000 |
| 4. Appraised value for the year of destruction (same as line 2) | \$40,000 |

I hereby certify my determination of the appraised value for the tax year is as shown on line 4. The tax year is the year in which the destruction occurred.

July 9, 2018
Date

SM
Appraiser

July 10, 2018
Date sent to Owner

Notice to Owner

If you disagree with the appraiser's determination of value, you must appeal the amount of reduction to the county commission.

**TREASURER'S CALCULATION FOR AMOUNT OF TAXES TO BE
ABATED OR CREDITED FOR THE YEAR OF DESTRUCTION**

(Does not apply to property damaged or destroyed voluntarily)

- | | |
|--|------------|
| 5. Total amount of reduction in value (line 3) | \$262,000 |
| a. Level of assessment | 11.50% |
| b. Assessed Value of reduction (line 5 X line 5a) | \$30,130 |
| c. Mill levy (per \$1,000 of assessed value)
in tax year destruction occurred | 136.747 |
| 6. Amount of tax on value reduction ((line 5b X line 5c)/1,000) | \$4,120.19 |
| 7. Daily rate of tax on value reduction (line 6 / 365 days) | \$11.29 |
| 8. Number of days remaining in the tax year | 78 |
| 9. Amount of abatement or credit (line 7 X line 8) | \$880.48 |

79-1613. Homestead destroyed or substantially destroyed by natural disaster; abatement of tax. (a) As used in this section:

(1) "Destroyed or substantially destroyed" means damage of any origin sustained by a homestead as the direct result of: (A) An earthquake, flood, tornado, fire or storm; or (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(2) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(3) "Public or private buyout" means any buyout from a local, state or federal governmental entity or any nongovernmental entity, including, but not limited to, an individual, foundation, trust, association, corporation, limited liability company or partnership.

(b) The owner of any homestead listed and assessed for property taxation purposes which was destroyed or substantially destroyed due to an earthquake, flood, tornado, fire, storm, or other event or occurrence which the governor of the state of Kansas has declared a disaster may make application to the board of county commissioners of the county in which such property is located for the abatement of property taxes levied upon such homestead or for a credit against property taxes payable by such owner, as permitted by this section.

(1) If such homestead has been so destroyed or substantially destroyed after January 1 of a particular year but prior to August 15 of such year, the owner of such homestead may make application to such board of county commissioners for the abatement of property taxes levied upon such homestead, or if such property taxes have been paid or partially paid, may make application for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(2) If such homestead has been so destroyed or substantially destroyed on or after August 15 of a particular year but prior to January 1 of the next succeeding year, the owner of such homestead may make application to such board of county commissioners for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(c) An application for relief as permitted by subsection (b) may be made for abatement of property taxes assessed but not yet paid, or for a grant of a credit for assessed property taxes paid or for both, as the case may be, and may be made on or before December 20 of the year next succeeding the year for which such taxes have been assessed.

(d) Upon receipt of any such application, subject to budgetary restraints of the county or taxing subdivision arising from the event or occurrence declared a disaster by the governor, the board of county commissioners shall inquire into and make findings regarding, among other things, whether the property is a homestead, as defined in subsection (a), whether the homestead was destroyed or substantially destroyed, as defined in subsection (a) and the assessed valuation thereof. If it is determined that an owner of such homestead is entitled to an abatement of all or any portion of the property taxes levied against such homestead or is entitled to a credit against property taxes payable by such owner in any or all of the next succeeding three years, the board may issue an order so providing.

(e) The county clerk and county treasurer shall in each case of abatement or credit correct their records in accordance therewith and the county clerk shall notify the governing body of any taxing district affected thereby.

(f) The provisions of this section shall be applicable to all taxable years commencing after December 31, 2011, and all taxable years thereafter.

History: L. 2013, ch. 135, § 8; L. 2014, ch. 81, § 3; July 1.

http://www.ksrevisor.org/statutes/chapters/ch79/079_016_0013.html 8/2/2017

**Douglas County Commissioners
Disaster Relief Determination for:**

Property address / parcel i.d. / ref number: 023-067-26-0-30-06-006.00-0

Applicant (Property owner/taxpayer—nontransferable): August J and Chala J Larocca

Douglas County Commissioners' summary of inquiry and findings:

Check Yes or No for each question.

Was the structure destroyed or substantially destroyed a homestead? ☒ YES ☐ NO
(Homestead means dwelling, owned or rented, which is occupied as a residence and the home site land.)

Was the homestead destroyed or substantially destroyed by **earthquake, fire, flood, storm or tornado, and/or** was the destructive event declared a disaster by the governor of Kansas? ☒ YES ☐ NO

Was the homestead destroyed or substantially destroyed? ☒ YES ☐ NO
(Destroyed or substantially destroyed means the cost of restoring the homestead to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.)

(If any above are "NO", no tax abatement or credit can be granted.)

Based on the date of this event, check the appropriate tax treatment:

☐ **Abatement:** This event occurred after January 1 but prior to August 15.

☒ **Credit:** This event occurred on or after August 15 but prior to January 1 of the next year.
The credit can be applied to the property tax of the owner over the next three years.)

Documentation provided:

- ☒ Written estimate of repairs or rebuilding costs by a licensed contractor.
- ☒ Deed of ownership (available at Register of Deeds Office), a copy of contract if buying on contract or title of manufactured home
- ☒ Photos
- ☒ Other: Restoration estimate

IT IS THEREFORE ORDERED, based on the above information, the Board of County Commissioners of Douglas County grant:

- ☐ No abatement or credit will be granted.
- ☒ Abatement / credit of ____% or \$ 880.48 of the property tax for tax year 2017 of the parcel i.d. / ref number: 023-067-26-0-30-06-006.00-0.

IT IS FURTHER ORDERED the county clerk and the county treasurer shall correct their records in accordance with the county commissioners' order.

IT IS SO ORDERED, this ____ day of _____, 20____.

_____, County Commissioner

_____, County Commissioner

_____, County Commissioner

Memo

To: Douglas County Commissioners: Nancy Thellman, Mike Gaughan, Michelle Derusseau
From: Steven Miles
cc: Crag Weinaug, County Administrator
Date: July 9, 2018
Re: Real Property Relief pursuant to K.S.A. 79-1613

The Kansas Legislature made a change to K.S.A. 79-1613 that became effective July 1, 2014 whereby anyone who has experienced a substantial loss due to a natural disaster such as an earthquake, flood, tornado, fire or storm may make application to the board of county commissioners for an abatement or credit of property taxes levied against such property. Due to the wording of this change in the statute, it has been misconstrued until the meaning was clarified by the Property Valuation Division of the Kansas Department of Revenue.

Recently, a request has been made for an abatement or credit of taxes pursuant to K.S.A. 79-1613 – “Homestead destroyed by natural disaster; abatement of tax” – by James V and Gayla B Bieker.

The subject property is PIN 023-112-10-0-10-10-013.00-0, situs address 3432 Chance Lane, Lawrence, KS. It was substantially destroyed by a fire on August 13, 2017.

The property was valued by the Douglas County Appraiser for the tax year 2017 at \$96,800 and \$1,476.26 in taxes were levied on the property in November 2017.

Currently, work is in progress to restore the property to its previous condition. An itemized list of the materials and repair services from Lititz Mutual Insurance Company estimates the cost to put the property back into the condition before the fire to be \$54,004.03.

K.S.A. 79-1613 states (1) “Destroyed or substantially destroyed” means damage of any origin sustained by a homestead as the direct result of: (A) an earthquake, flood, tornado, fire or storm; or (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before damaged condition would equal or **exceed 50% of the market value of the structure** before the damage occurred. (emphasis added).

(2) “Homestead” means the dwelling, or any part thereof, ..., which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes,...

The statute goes on to indicate in section (d) that a determination may be made by the board of county commissioners that an owner is entitled to an abatement of **all or any portion** (emphasis added) of the property taxes.

The facts and documentation presented in the application indicate that the restoration cost would exceed 50% of the market value of the structure and the land directly associated with the dwelling.

Because the fire event occurred on August 13, 2017, it would be proper to pro-rate the relief granted. Therefore, I have indicated in the Appraiser's Determination document such a scenario. I have determined that the value would be reduced to \$44,350 in its damaged condition and needing repaired by either the present owners or a new owner. Therefore, the owners would be entitled to an abatement or credit of \$316.37 after proration.

Respectfully submitted by Steven Miles, Douglas County Appraiser

Attachments: K.S.A. 79-1613, Appraiser's Determination report

**APPRAISER'S DETERMINATION OF NEW MARKET VALUE
FOR DESTROYED PROPERTY**

PIN: 023-112-10-0-10-10-013.00-0

Date of
Destruction:

8/13/2017

1. Appraised value of property prior to destruction	<u>\$96,800</u>
2. Fair market value of remaining property (after)	<u>\$44,350</u>
3. Total amount of reduction (line 1 - line 2)	<u>\$52,450</u>
4. Appraised value for the year of destruction (same as line 2)	<u>\$44,350</u>

I hereby certify my determination of the appraised value for the tax year is as shown on line 4.
The tax year is the year in which the destruction occurred.

Date

Appraiser

Date sent to Owner

Notice to Owner

If you disagree with the appraiser's determination of value, you must appeal the amount of reduction to the county commission.

**TREASURER'S CALCULATION FOR AMOUNT OF TAXES TO BE
ABATED OR CREDITED FOR THE YEAR OF DESTRUCTION**

(Does not apply to property damaged or destroyed voluntarily)

5. Total amount of reduction in value (line 3)	<u>\$52,450</u>
a. Level of assessment	<u>11.50%</u>
b. Assessed Value of reduction (line 5 X line 5a)	<u>\$6,032</u>
c. Mill levy (per \$1,000 of assessed value) in tax year destruction occurred	<u>136.747</u>
6. Amount of tax on value reduction ((line 5b X line 5c)/1,000)	<u>\$824.82</u>
7. Daily rate of tax on value reduction (line 6 / 365 days)	<u>\$2.26</u>
8. Number of days remaining in the tax year	<u>140</u>
9. Amount of abatement or credit (line 7 X line 8)	<u>\$316.37</u>

79-1613. Homestead destroyed or substantially destroyed by natural disaster; abatement of tax. (a) As used in this section:

(1) "Destroyed or substantially destroyed" means damage of any origin sustained by a homestead as the direct result of: (A) An earthquake, flood, tornado, fire or storm; or (B) an event or occurrence which the governor of the state of Kansas has declared a disaster, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(2) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(3) "Public or private buyout" means any buyout from a local, state or federal governmental entity or any nongovernmental entity, including, but not limited to, an individual, foundation, trust, association, corporation, limited liability company or partnership.

(b) The owner of any homestead listed and assessed for property taxation purposes which was destroyed or substantially destroyed due to an earthquake, flood, tornado, fire, storm, or other event or occurrence which the governor of the state of Kansas has declared a disaster may make application to the board of county commissioners of the county in which such property is located for the abatement of property taxes levied upon such homestead or for a credit against property taxes payable by such owner, as permitted by this section.

(1) If such homestead has been so destroyed or substantially destroyed after January 1 of a particular year but prior to August 15 of such year, the owner of such homestead may make application to such board of county commissioners for the abatement of property taxes levied upon such homestead, or if such property taxes have been paid or partially paid, may make application for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(2) If such homestead has been so destroyed or substantially destroyed on or after August 15 of a particular year but prior to January 1 of the next succeeding year, the owner of such homestead may make application to such board of county commissioners for the granting of a credit against property taxes payable by such owner during any or all of the next succeeding three taxable years.

(c) An application for relief as permitted by subsection (b) may be made for abatement of property taxes assessed but not yet paid, or for a grant of a credit for assessed property taxes paid or for both, as the case may be, and may be made on or before December 20 of the year next succeeding the year for which such taxes have been assessed.

(d) Upon receipt of any such application, subject to budgetary restraints of the county or taxing subdivision arising from the event or occurrence declared a disaster by the governor, the board of county commissioners shall inquire into and make findings regarding, among other things, whether the property is a homestead, as defined in subsection (a), whether the homestead was destroyed or substantially destroyed, as defined in subsection (a) and the assessed valuation thereof. If it is determined that an owner of such homestead is entitled to an abatement of all or any portion of the property taxes levied against such homestead or is entitled to a credit against property taxes payable by such owner in any or all of the next succeeding three years, the board may issue an order so providing.

(e) The county clerk and county treasurer shall in each case of abatement or credit correct their records in accordance therewith and the county clerk shall notify the governing body of any taxing district affected thereby.

(f) The provisions of this section shall be applicable to all taxable years commencing after December 31, 2011, and all taxable years thereafter.

History: L. 2013, ch. 135, § 8; L. 2014, ch. 81, § 3; July 1.

http://www.ksrevisor.org/statutes/chapters/ch79/079_016_0013.html 8/2/2017

**Douglas County Commissioners
Disaster Relief Determination for:**

Property address / parcel i.d. / ref number: 023-112-10-0-10-10-013.00-0

Applicant (Property owner/taxpayer—nontransferable): James V. and Gayla B. Bieker

Douglas County Commissioners' summary of inquiry and findings:

Check Yes or No for each question.

Was the structure destroyed or substantially destroyed a homestead? ☒ YES ☐ NO
(Homestead means dwelling, owned or rented, which is occupied as a residence and the home site land.)

Was the homestead destroyed or substantially destroyed by **earthquake, fire, flood, storm or tornado, and/or** was the destructive event declared a disaster by the governor of Kansas? ☒ YES ☐ NO

Was the homestead destroyed or substantially destroyed? ☒ YES ☐ NO
(Destroyed or substantially destroyed means the cost of restoring the homestead to it's before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.)

(If any above are "NO", no tax abatement or credit can be granted.)

Based on the date of this event, check the appropriate tax treatment:

☒ **Abatement:** This event occurred after January 1 but prior to August 15.

☐ **Credit:** This event occurred on or after August 15 but prior to January 1 of the next year.
The credit can be applied to the property tax of the owner over the next three years.)

Documentation provided:

- ☐ Written estimate of repairs or rebuilding costs by a licensed contractor.
- ☒ Deed of ownership (available at Register of Deeds Office), a copy of contract if buying on contract or title of manufactured home
- ☐ Photos
- ☒ Other: Insurance claim estimate

IT IS THEREFORE ORDERED, based on the above information, the Board of County Commissioners of Douglas County grant:

☐ No abatement or credit will be granted.

☒ Abatement / credit of ____% or \$ 316.37 of the property tax for tax year 2017 of the parcel i.d. / ref number: 023-112-10-0-10-10-013.00-0.

IT IS FURTHER ORDERED the county clerk and the county treasurer shall correct their records in accordance with the county commissioners' order.

IT IS SO ORDERED, this ____ day of _____, 20____.

_____, County Commissioner

_____, County Commissioner

_____, County Commissioner

REAL PROPERTY RELIEF APPLICATION

2017 TAX YEAR

RETURN TO:

DOUGLAS COUNTY APPRAISER'S OFFICE

1100 MASS ST STE 1

LAWRENCE KS 66044

OFFICE #785-832-5133

RECEIVED

MAY 15 2018

*Douglas County
Appraisers Office*

(K.S.A. 2016 Supp. 79-1613)

The following property owner(s) are making application to the county commissioners for property tax abatement, all or partial, or a credit against property taxes payable by the applicant over the next three (3) years. The county commissioners may issue an order granting relief, if any, subject to budgetary restraints of the county or taxing subdivision arising from the destructive event.

Information on Property

Owner of Record (please print): James & Gayla Bieker

Taxpayer - if different than owner (please print): ~~James & Gayla Bieker~~

Date Damage Occurred (month/day/year): 8-13-17

Location of Property Destroyed (Property address / parcel i.d. / ref number):

10 Cross Creek Add BIK 2 Lt 9 R31499

Mailing Address (please print):

3432 Chance LN

Daytime telephone number: 785-840-5746

Other telephone number: _____

Information on Loss

Select Homestead Type:

- ☒ Single Family
- ☐ Multi-family
- ☐ Manufactured (Mobile) Home
- ☐ Multi-Purpose Residential

Loss Type:

Was this event declared a disaster by the governor of Kansas?

☐ YES

☒ NO

If NO above, select the cause of damage (must be one of the following):

- ☐ Earthquake
- ☒ Fire
- ☐ Flood
- ☐ Storm
- ☐ Tornado

Include Following with Application:

1. Written estimate of repairs or rebuilding costs by a licensed contractor or construction engineer.
2. Deed of ownership (available at Register of Deeds Office), a copy of contract if buying on contract or title of manufactured home
3. Photos documenting the damage or destruction. on request

Sign and Date:

Applicant Signature: Gayla Bieker

Date: 5-14-18

DOUGLAS COUNTY TITLE CO.

156275

194734

Entered in Transfer Record in my office this
5th day of March, A.D. 2001
Patty Gammage County Clerk

Index ☒ Numerical Index 015490
 No. 194734 Book 700 Page 1021
 State of Kansas, Douglas County, SS.
 Recorded in Book 700 Page(s): 1021 - 1021
 Filed Mar 2, 2001 4:21 PM Fees \$6.00
 Register of Deeds

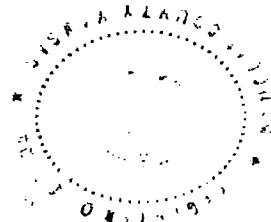
KANSAS WARRANTY DEED

(JOINT TENANCY)

THIS INDENTURE, Made on the 2 day of March, 2001 by and between Jerry Carbrey and Laura Carbrey, husband and wife of the County of Douglas, State of Kansas, herein called the grantor whether one or more, and James V. Bleker and Gayla B. Bleker of the County of Douglas, State of Kansas, herein called the grantee whether one or more.

WITNESSED: THAT SAID GRANTOR, in consideration of the sum of One Dollar and other valuable consideration the receipt of which is hereby acknowledged, does by these presents, Grant, Bargain, Sell and Convey unto the said grantee, and the survivor of them, as joint tenants, and not as tenants in common, all the following described real estate, situated in the County of Douglas and State of Kansas, to-wit:

Lot 9, in Block 2, in Cross Creek Addition, an Addition to the City of Lawrence, as shown by the recorded plat thereof, in Douglas County, Kansas.



SUBJECT TO covenants, conditions, easements, restrictions and reservations of record, if any.

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining forever. And said grantor for his heirs, executors or administrators, does hereby covenant, promise and agree to and with said grantee, that at the delivery of these presents he is lawfully seized in his own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted and described premises, with the appurtenances, that the same are free, clear, discharged and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and incumbrances, of what nature or kind soever: except as hereinbefore stated, and except for the lien of taxes, both general and special, not now due and payable.

AND that he will warrant and forever defend the same unto the said grantee, his assigns, and the heirs and assigns of the survivor of them, against said grantor, his heirs, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

WORDS and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

IN WITNESS WHEREOF, The said grantor has hereunto set his hand and seal the day and year above written.

Jerome P. Carbrey
 Jerry Carbrey
Laura Carbrey
 Laura Carbrey

STATE OF KANSAS
 COUNTY OF DOUGLAS

On this 2nd day of March, 2001 before me, the undersigned, a Notary Public, personally appeared Jerry Carbrey and Laura Carbrey, husband and wife to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Witness my hand and notarial seal subscribed and affixed in said County and State, the day and year first above written.



James S. Davcloth
 Notary Public in and for said County and State

DGCAMA Property Record Card

Parcel ID: 023-112-10-0-10-10-013.00-0

Quick Ref: R31499

Tax Year: 2017

Run Date: 2/21/2018 1:57:15 PM

OWNER NAME AND MAILING ADDRESS

BIEKER JAMES V
BIEKER GAYLA B
1126 E 1550 RD
LAWRENCE, KS 66046

PROPERTY SITUS ADDRESS

3432 CHANCE LN
KS

LAND BASED CLASSIFICATION SYSTEM

Function: 1101 Single family re: Sfx:
Activity: 1100 Household activities
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: R Residential - R
Living Units: 1
Zoning: RS7
Neighborhood: 633.0 633.0
Economic Adj. Factor:
Map / Routing: P01 / U17001-10
Tax Unit Group: 000041-000041



Image Date: 01/09/2018

PROPERTY FACTORS

Topography: Level - 1, Swampy - 7
Utilities: Well
Access: Paved Road
Fronting: Secondary Artery
Location: Neighborhood or Spot
Parking Type: Off Street
Parking Quantity: Adequate
Parking Proximity: On Site
Parking Covered:
Parking Uncovered:

TRACT DESCRIPTION

NP 6-28-95 FROM U17001 14273SF CROSS
CREEK ADD BLK 2 LT 9 47.3 X 182.8(l)

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
12/27/2016	2:11 PM	FR	FR	371		
12/30/2015	10:00 AM	FR	FR	371		
08/20/2015	2:23 PM	5	DM	371		

SALES INFORMATION

Date	Type	Sale Amount	Src	Validity	Inst Type	COV
03/01/2001	2	57,500	8	0		030965
10/01/1997	2	48,000	8	0		021171
08/01/1994	2	110,000	8	3		013091

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
999	111	FIRE	08/11/2017	O	10

RECENT APPEAL HISTORY

Tax Year	Hearing Date	Appeal Level	Case Number	Status	Final Action	Results Code	Hearing Value
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2017 APPRAISED VALUE

Cls	Land	Building	Total
R	40,000	56,800	96,800

2016 APPRAISED VALUE

Cls	Land	Building	Total
R	34,970	61,730	96,700

Total	40,000	56,800	96,800	Total	34,970	61,730	96,700
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PARCEL COMMENTS

Prop-NC: Gross Rent; Prop-Com: GM-00650TPC-100000000; Val-Com: 17 adj comp #1

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Soft	1-Primary Site	14.273											6.05	10,000.00	4.00	0.00	0.00	40,000

Total Market Land Value 40,000

DGCAMA Property Record Card

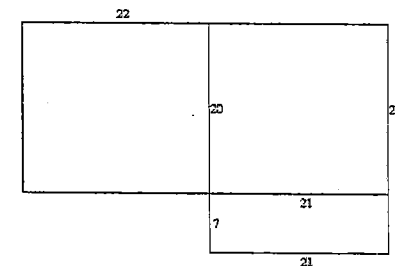
Parcel ID: 023-112-10-0-10-10-013.00-0

Quick Ref: R31499

Tax Year: 2017

Run Date: 2/21/2018 1:57:15 PM

DWELLING INFORMATION			COMP SALES INFORMATION			IMPROVEMENT COST SUMMARY				
Res Type:	1-Single-family Residence		Arch Style:	09-Old Style		Dwelling RCN:	90,360			
Quality:	2.67-Average-		Bsmt Type:	2-Crawl		Percent Good:	60			
Year Blt:	1920	Est: Yes	Total Rooms:	4	Bedrooms:	3	Mkt Adj:	100	Eco Adj:	100
Eff Year:			Family Rooms:			Building Value:	54,210			
MS Style:	5-1 1/2 Story Finished		Full Baths:	1	Half Baths:					
LBCSStruct:	1110-Detached SFR unit		Garage Cap:			Other Improvement RCN:	0			
No. of Units:			Foundation:	Block - 3		Other Improvement Value:	0			
						CALCULATED VALUES				
Total Living Area:						Cost Land:	40,000			
Calculated Area:	937					Cost Building:	54,210			
Main Floor Living Area:	860					Cost Total:	94,210			
Upper Floor Living Area Pct:	9					Income Value:	0			
CDU:	AV-					Market Value:	94,000			
Phys/Func/Econ:	AV / /					MRA Value:	99,000			
Ovr Pct Gd/Rsn:						FINAL VALUES				
Remodel:						Value Method:	OVR			
Percent Complete:						Land Value:	40,000			
Assessment Class:						Building Value:	56,800			
MU Cls/Pct:						Final Value:	96,800			
						Prior Value:	96,700			



BUILDING COMMENTS
DwellCDU: CDU Rsn: FA; DwellCom: A1-10 0440sf, A2-32 0147sf

SKETCH VECTORS
A0CU20X21A1CL22X20A2CR21X7 H

DWELLING COMPONENTS				
Code	Units	Pct	Quality	Year
102-Frame, Metal or Vinyl Siding		100		
208-Composition Shingle		100		
351-Warmed & Cooled Air		100		
402-Automatic Floor Cover Allowance				
601-Plumbing Fixtures (#)	5			
602-Plumbing Rough-ins (#)	1			
621-Slab on Grade (% or SF)	517			
622-Raised Subfloor (% or SF)	420			
903-Wood Deck (SF)	182			
903-Wood Deck (SF)	169			
904-Slab Porch (SF) with Roof	147			
1618-Paving, Concrete w/Base (SF)	252			