

SUBJECT: Revising property value determination standards used by appraisers

COMMITTEE: Ways and Means — favorable, as amended

VOTE: 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Taylor, Villarreal

0 nays

1 absent — Peña

WITNESSES: For — Tony Comparin, Texas Association of Property Tax Professionals; Marc Ross, Texas Apartment Association; (*Registered, but did not testify*: Kathy Barber, Texas Retailers Association; Justin Bragiel, Texas Hotel and Lodging Association; John Brusniak, Brusniak / Blackwell; George Christian, Texas Taxpayers and Research Association; Jeff Crozier, Rural Rental Housing Association of Texas; Doug DuBois, Texas Petroleum Marketers and Convenience Store Association; Daniel Gonzalez, Texas Association of Realtors; Bill Hammond, Texas Association of Business; Chris Hughes, Total Services, Inc.; Cheryl Johnson and Sheryl Swift, Galveston County Tax Office; James LeBas, Texas Oil and Gas Association, Texas Chemical Council, Koch Companies, Association of Electric Companies of Texas; Julie W. Moore, Occidental Petroleum; Ned Muñoz, Texas Association of Builders; Royce Poinsett, Exxon Mobil; Jim Robinson, Texas Association of Appraisal Districts; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Donna Warndof, Texas Independent Producers and Royalty Owners Association)

Against — (*Registered, but did not testify*: Zoya Bozhko and Amy Sallusti, Geary Porter & Donovan, P.C.)

BACKGROUND: Under Tax Code, sec. 23.01(b), the market value of property is determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, those standards must comply with the Uniform Standards of Professional Appraisal Practice. The same or similar appraisal methods and techniques are used in appraising the same or similar kinds of property. However, each property must be appraised

based upon the individual characteristics that affect the property's market value.

Under Tax Code, sec. 23.013, the chief appraiser of a central appraisal district must use comparable sales data and shall adjust comparable sales to the subject property if the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property.

**DIGEST:** HB 3454 would amend Tax Code, sec. 23.01(b) to direct that each property be appraised based upon the individual characteristics that affect the property's market value. All available evidence that is specific to the value of the property would have to be taken into account in determining the property's market value.

HB 3454 would amend Tax Code, sec. 23.013 to direct that a sale of real property would not be considered to be a comparable sale unless the sale occurred within two years and was appropriately adjusted for changes in the market value over that period. Whether a property was comparable to the subject property would be based on similarities of location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

HB 3454, as amended, would amend Tax Code, sec. 23.24 to prevent a chief appraiser from separately appraising or taking into account any personal property valued as a portion of the income potential of real property. The market value of the real property would have to include the combined value of the real property and personal property.

This bill would take effect January 1, 2010.

**SUPPORTERS SAY:** HB 3454 would establish a bright line that would prevent the use of sales data more than two years old during the appraisal process. For a sale to be truly comparable, it should be close in time to the official date of the appraisal in order to reflect more accurately the prevailing market conditions. HB 3454 would ensure that stale sales would not be used in the appraisal process.

HB 3454, as amended, also would ensure that property owners were not double-taxed on personal property placed into real estate that increases the real estate's income generating capability and its taxable worth. This is often the case with furnished apartments, where the owner renders a list of the furnishings to the appraisal district in order to establish earnings potential. Some appraisal districts have used that data on furnishings to value the apartments on their income potential, then used that same data to amend and increase the owner's taxable personal property statements. HB 3454 would prevent this double taxation by forbidding an appraiser from separately appraising or taking into account any personal property that was valued as a portion of the income potential of real property.

OPPONENTS  
SAY:

A hard and fast rule of omitting comparable sales more than two years old would have a devastating impact on valuations of property in rural areas and other markets with relatively few comparable sales. In these types of markets, an appraiser often is required to consider a larger dataset to value properly a piece of property. This can mean going back more than two years to find a similar sale. Even in a strong real estate market, it is not uncommon for an appraiser to have to use sales data that is two or even three years old when valuing commercial or unusual property. In any appraisal process where data more than a year old is used, an appraiser normally makes an appropriate adjustment for the changes in market conditions that occurred between the time of the sale to the effective date of the appraisal. These adjustments, often called time adjustments, are necessary for sales data to reflect changing market conditions.

Older sales data might be preferable to a more recent sale of a property that does not otherwise share as many comparable characteristics. It is conceivable that market conditions two years ago actually were more similar to market conditions today than that of the intervening time period. A competent appraiser will chose the best comparable sales to use regardless of the extent of time adjustment or age of the sale.

The Uniform Standards of Professional Appraisal Practice (USPAP) require an appraiser to show a minimum of three years of sales history for a piece of property being appraised. It is somewhat contradictory to say that an appraiser may not consider the sales of comparable properties that are more than two years old. Trends in both can provide valuable insights. The Legislature should not adopt an arbitrary cutoff that would hurt the ability of appraisers to do their jobs accurately.

OTHER  
OPPONENTS  
SAY:

While it is true that the most current comparable sales often are the most accurate and useful, they are not always available. HB 3454 should include an exception to the hard two-year rule that would allow for the limited use of comparable sales older than two years when there are no comparable sales from less than two years ago.

NOTES:

The committee amendment would amend the Tax Code, sec. 23.24, to prevent a chief appraiser from separately appraising or taking into account any personal property valued as a portion of the income of real property, and the market value of the real property would include the combined value of the real property and personal property.