

The meeting was called to order at 9:00 a.m. in the Tax Commissioner's Conference room by Pat Albro, Chair of the Committee.

In attendance were: Pat Albro, designee of the Property Tax Administrator; Rob Ogden, representing the county assessors; and Lori Johnson private sector appraiser. In attendance by telephone was John Wiechman, representing the low income housing industry. Also from the Department of Revenue, Property Assessment Division, were Grace Willnerd acting as counsel for the Committee and Jim Koch acting as secretary.

Ms. Albro read the open meetings law provisions as applicable to the meeting.

Ms. Albro asked for public comments from others in attendance either in person or by telephone. In attendance were Mark Jenkins, commercial appraiser with Douglas County Assessor and Charles Chamberlin attorney with the Tax Equalization and Review Commission (TERC). In attendance by telephone were Mike Goodwillie, attorney for the Douglas County Assessor and Jackie Morehead, Chief Deputy Assessor for Sarpy County. There were no public comments at this time.

Ms. Albro opened the discussion by reading the responsibilities of the committee as set in LB 356. The primary discussion for this meeting was to decide on the form and format that the owners of rent-restricted housing projects would provide the information to the assessors and the Committee. The statute clearly states that the income approach is the most accurate indication of value for projects receiving IRC Section 42 low income housing tax credits and the Committee is to analyze the data, determine an appropriate capitalization rate (or rates as necessary) and report the capitalization rate to be used for determining taxable value.

The committee determined that the income and expense form provided by the Nebraska Investment Finance Authority (NIFA) would be sufficient to report the income and expenses. At some future date the form may be modified by the Committee, but given the short amount of time before reporting is required (October 1) the Committee determined to leave the form as provided by NIFA.

The Committee needs additional information to make a determination of the capitalization rate and would like the owners to provide the financing information regarding the tax credits awarded by NIFA, the amount financed through mortgages in addition to the term and interest rates for the mortgage, and any appraisal reports that may have been provided during the application and awarding of credits. Mr. Wiechman offered to provide the appraisal and tax credit information he had available through Midwest Housing Equity Group (MHEG) as a syndicator of the tax credits. A brief discussion on how this information would be provided followed. Additionally the committee is to be provided the land use restriction agreements for the projects.

Mr. Ogden made a motion to accept the NIFA spreadsheet (Real Estate Tax Calculation Template [Real Estate Tax Form.xls](#)) for the 2015 income and expense filing and requesting the additional information be provided. The motion was seconded by Ms. Johnson. Roll call vote: Ogden, Aye; Johnson, Aye; Wiechman, Aye; Albro, Aye. Nays: None.

Mark Jenkins stated that Douglas County has multiple parcel projects and the filing of a single income/expense statement makes it difficult to apportion value over the individual parcels.

Mr. Ogden agreed, but thought that would be a discussion the Committee might have going forward and that it would affect the individual assessors and not the creation of the capitalization rate.

In order to contact as many owners as possible, Grace Willnerd will draft a news release for the Department website and Ms. Albro will forward a note to NIFA for their assistance in assuring as many owners as possible are aware of the statutory reporting requirement for this year.

Ms. Albro asked for recommended dates for future meetings keeping in mind that the Committee was required to hold at least one November meeting and issue the determination and report by December 1.

The following dates were agreed to by the Committee:

November 5, 2015; meet at State Office Building to consider the data; all day from 9:00 a.m.

November 12, 2015; reserve this date for additional discussion if needed.

November 23, 2015; meet at State Office Building to adopt the report of the Committee.

Ms. Albro adjourned the meeting with unanimous consent.

The November 5, 2015, meeting was called to order at 9:00 a.m. in the Tax Commissioner's Conference room by Pat Albro, Chair of the Committee.

In attendance were: Pat Albro, designee of the Property Tax Administrator; Lori Johnson, private sector appraiser; Rob Ogden, representing the county assessors; and John Wiechmann, representing the low income housing industry. Also from the Department of Revenue, Property Assessment Division, were Jon Cannon counsel for the Committee and Jim Koch acting as secretary.

Ms. Albro read the open meetings law provisions as applicable to the meeting.

Ms. Albro asked for public comments from others in attendance either in person or by telephone. In attendance was Jack Baker, appraiser with Douglas County Assessor. After a delay in communications, Charlene Schwemmer, of Cass County, was in attendance by telephone. There were no public comments at this time.

The minutes of the September 17, 2015, meeting were read. After a brief discussion Rob moved to approve the minutes as read. John Wiechmann seconded the motion. Lori Johnson, aye; Rob Ogden, aye; John Wiechmann, aye; and, Pat Albro, aye. 4 ayes, no nays the motion passed.

Ms. Albro reported that the information the Department had received was entered into an Excel spreadsheet for further analysis. The income and expense form information, the mortgage information, and the information from the Land Use Restriction Agreement (LURA) summary page was entered, when provided, for each project reporting. Two hundred sixty-three projects forwarded at least some information for consideration. Not all of the information requested was provided and not all was provided in the expected format.

Mr. Ogden reminded the members that the law requires filing with the state and the county in order for the project to receive any consideration under the provision of the law. If a project had not filed in both places it was determined the assessor could use any professionally accepted mass appraisal method to determine actual value of the project property.

After seeing the amount of information received, members of the Committee agreed that they would like the opportunity to review the information on their own with the ability to sort through the data. Each member will be provided a copy of the Excel spreadsheet for review.

Mr. Wiechmann suggested the Committee decide on a formula for calculating the capitalization rate according to the law. The law anticipates the use of a 'band-of-investment' method with the equity portion weighting of 80% and the debt ratio of 20%. The first determination of the Committee will be whether the 80/20 apportionment is supported by the data collected.

Ms. Johnson explained the band-of-investment method for all to consider. The weighted rate is calculated as:

$$20\% \times \text{Mortgage rate} + 80\% \times \text{Equity rate} = \text{Weighted Rate.}$$

Mr. Wiechmann has information to share with the committee regarding the equity return rates for the projects he is familiar with. He may be able to share appraisal reports from the projects if he can get permission from the clients and/or the appraisers. The Committee agreed that this would be of interest and would be one more source to support an over-all rate that might be appealed to the Tax Equalization and Review Commission (TERC).

Ms. Albro provided two lists of projects that need further attention. The first list is of projects that did not appear to be projects subject to the law as they were not listed as 'tax credit' properties by Nebraska Investment Finance Authority (NIFA) or they were financed using bonding authority. Mr. Wiechmann said these 'bond' financed projects are subject to the same restrictions as Section 42 properties. Properties financed with these bonds receive a lesser amount of tax credits.

The second list was of the properties with fewer than five residential units. The Committee determined that if the project did not meet statutory requirements the information from those projects need not be considered when analyzing the data.

Ms. Albro will contact NIFA for determining the qualification of the first group of projects. The managers for the projects on the second list will be contacted to let them know they are not considered 'qualified projects' under the law. County assessors where those properties are located will also be contacted with this determination.

The Committee set the following goals for the November 12, 2015, meeting:

1. Review the shared information.
2. Determine whether a different relationship in debt and equity is supported.
3. Determine if there are trends that need to be recognized for different project locations.
4. Agree on the necessary data to be input into the 'band-of-investment' formula.

By meeting these goals the Committee should have a 'skeleton' for the report to assessors.

Mr. Ogden moved to recess the meeting until November 12, 2015. The motion was seconded by Ms. Johnson. The motion was unanimously approved.

The November 12, 2015, meeting was called to order at 9:05 a.m. in the Tax Commissioner's Conference room by Pat Albro, Chair of the Committee.

In attendance were: Pat Albro, designee of the Property Tax Administrator; Lori Johnson, private sector appraiser; Rob Ogden, representing the county assessors; and John Wiechmann, representing the low income housing industry. Also from the Department of Revenue, Property Assessment Division, were Jon Cannon counsel for the Committee and Jim Koch note taker.

Ms. Albro read the open meetings law provisions as applicable to the meeting.

Ms. Albro asked for public comments from others in attendance either in person or by telephone. Lori Huebner, of Cass County, was in attendance by telephone. There were no public comments at this time.

Ms. Albro discussed correspondence she has had since the last meeting. Jeff Hackerott, Madison county assessor, had information on a recent sale of a LIHTC property he was familiar with. He e-mailed the information to Rob Ogden.

The owner of a property with fewer than five living units agreed they did not meet the statutory definition of a project under 77-1333. They would work with their county assessor for equitable treatment.

The minutes of the November 5, 2015, meeting were read. After a brief discussion Rob moved to approve the minutes as read. Lori seconded the motion. Lori Johnson, aye; Rob Ogden, aye; John Wiechmann, aye; and, Pat Albro, aye. 4 ayes, no nays the motion passed.

Mr. Ogden remarked that much of the information he would have expected was lacking. In future years the Committee should provide a structured format for providing the required information.

Mr. Wiechmann and Ms. Johnson both provided analysis of the financial information provided by the rent-restricted housing project managers. In comparing the debt to equity portion, both found the actual ratio of debt-to-equity to be about 30% debt and 70% equity. The data showed the equity portion to be anywhere from 60% to 85% of the total reported costs of the project. Mr. Ogden moved to recognize a substantially different weighting of debt and equity than written in statute. The motion was to recognize a capital structure of 70% equity and 30% debt on a statewide basis. Ms. Johnson seconded the motion. Lori Johnson, aye; Rob Ogden, aye; John Wiechmann, aye; and, Pat Albro, aye. 4 ayes, no nays the motion passed.

The selection of the appropriate rate for debt was discussed. Projects that provided information typically provided the nominal interest rates for debt. For appraisal purposes it was decided that the mortgage constant should be calculated for use in the band-of-investment. [The mortgage constant is the total annual payments of principal and interest expressed as a percentage of the initial principal amount of the loan.]

Ms. Johnson's analysis would compare the remaining NOI after debt coverage to the equity portion to calculate a return on equity. Because the sample size was limited and the information indicated little or no NOI on the project a return on the equity portion could not be reliably calculated using this method.

Mr. Wiechmann agreed that this method would not be useful. He read in statute that, "The yield for equity shall be calculated using the data on investor returns gathered by committee." (See [Neb. Rev. Stat. § 77-1333 \(6\)](#).) He provided the equity return rates that his organization has determined for investors in the projects for which they have syndicated the tax credits.

Mr. Wiechmann provided the pretax investor return rates for thirteen limited liability partnerships representing 127 development projects with \$377,628,292 in funds. The average pre-tax return for those funds averaged 11.4%.

The Committee discussed the selection of an appropriate mortgage constant based upon the information available. There was general consensus that for the initial year the Committee would select a single mortgage constant to be used in the band-of-investment formula. There were indications of different rates in some more populated areas of the state, but not a large enough sampling to be considered, "substantially different." The data indicated a mortgage constant of 6.6% as being typical.

Mr. Wiechmann would like to present additional information for the Committee to consider, but was concerned that some of the information might be considered proprietary and sensitive to his organization. He was reassured that proprietary information would be considered confidential for use by the Committee and not subject to public records act. (See Neb. Rev. Stat. [§ 84-712.05 \(3\)](#).)

It was agreed that Mr. Wiechmann would recalculate the equity rates and share the data with Ms. Albro and the rest of the Committee for consideration at the next meeting. At that time a determination may be made to set the mortgage constant and the return on equity to be reported to county assessors.

Mr. Ogden moved to recess the meeting until November 23, 2015. The motion was seconded by Ms. Johnson. The motion was unanimously approved. The meeting recessed at 11:00 a.m.

The November 23, 2015, meeting was called to order at 9:05 a.m. in the Media Conference Room at the Department of Revenue by Pat Albro, Chair of the Committee.

In attendance were: Pat Albro, designee of the Property Tax Administrator; Lori Johnson, private sector appraiser; Rob Ogden, representing the county assessors; and John Wiechmann, representing the low income housing industry. Also from the Department of Revenue, Property Assessment Division, were Jon Cannon counsel for the Committee and Jim Koch note taker.

Ms. Albro read the open meetings law provisions as applicable to the meeting.

Ms. Albro asked for public comments from others in attendance either in person or by telephone. Lori Huebner, of Cass County, was in attendance by telephone. There were no public comments at this time.

The minutes of the November 12, 2015, were read. Rob Ogden moved to approve the minutes as read. John Wiechmann seconded the motion. Lori Johnson, aye; Rob Ogden, aye; John Wiechmann, aye; and, Pat Albro, aye. 4 ayes, no nays the motion passed.

Rob Ogden presented excerpts from an article that cautioned against the use of an internal rate of return in place of an equity return rate in the band of investment method to calculate an overall rate for assessing real property. Among the several questions this article raised, Mr. Ogden expressed concerns over the use of a 6.6% mortgage rate considering inconsistency in the reporting process this year. All agreed that more complete information than currently received should be expected for the projects. More specifically he was concerned that the loan term, the interest on the loan and other information was inconsistently reported. The information was unclear whether the loan was a construction loan, a bridge loan or whether it represented the permanent financing for the project.

The Committee members agree that by meeting early in the process better instruction can be provided to receive more consistent information for the next assessment cycle.

Ms. Johnson questioned the use of the equity return rate in the band of investment when the credit cannot be considered income to the property by law. As an appraiser she does not see this to be an appropriate comparison. She would suggest the band of investment show 100% debt with no equity and no return on equity in the formula.

Mr. Wiechmann pointed out that this is the limitation built in to the legislation. The band of investment should be 20% debt and 80% equity and that the, "yield for equity shall be calculated using the data on investor returns gathered by the committee."

The Committee discussed the Pre-tax and After-tax return information Mr. Wiechmann provided from Midwest Housing Equity Group. The after-tax return information for 15 and 20 years was determined to be relevant. Mr. Ogden thought the trend in the rates for the most recent years would support an equity rate of 6.5%.

Using those number Mr. Ogden suggested a band of investment formula of:

Mortgage Weight of	30% at	6.6% for a weighted rate of	.0198
Equity Weight of	70% at	6.5% for a weighted rate of	<u>.0455</u>
Total Overall Rate			.0653

Ms. Johnson used a three-year analysis which is common in appraisal. Based on her analysis the following investment formula was indicated:

Mortgage Weight of	30% at	6.6% for a weighted rate of	.0198
Equity Weight of	70% at	6.6% for a weighted rate of	<u>.0459</u>
Total Overall Rate			.0657

After a brief discussion, Rob Ogden moved the Committee recommendation to read:

Debt of	.30 at	6.6% for a weighted rate of	.0198
Equity of	.70 at	6.5% for a weighted rate of	<u>.0455</u>
Total Overall Rate			.0653

For a total of 6.53% rounded to 6.5% to be used statewide as an 'unloaded' rate. This motion was seconded by Ms. Johnson. All voted in favor of the motion. The motion passed.

Mr. Ogden moved to have Mr. Cannon prepare the "Report to Assessors" with the substantive information describing the determination of the overall rate. The report will provide direction on the income to be used and the need to recognize the local effective tax rate in the capitalization rate which is a recognized mass appraisal practice for tax purposes. The motion was seconded by Ms. Johnson. Albro, aye; Johnson, aye; Ogden, aye; and Wiechmann, aye. The motion carried.

The Committee will plan to meet Thursday, January 14, 2016, at 9:00 a.m. in the Department of Revenue. (A room will be determined later.)

Motion to adjourn was made by Mr. Wiechmann; seconded by Ms. Johnson. Albro, aye; Johnson, aye; Ogden, aye; and Wiechmann, aye. The motion carried.

The meeting adjourned at 10:30 a.m.