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June 8, 2017

Sens. Alberta Darling & Howard Marklein
Wisconsin Senate

Reps. Dale Kooyenga & John Nygren
Wisconsin Assembly

Via E-mail

Re: COST's Opposition to Substandard Property Tax Valuation Proposals

Dear Senators Darling and Marklein, and Representatives Kooyenga and Nygren:

On behalf of the Council On State Taxation (COST), I am writing to express concern with S.B. 291 and S.B. 292, legislation that would inequitably subject certain types of business properties to artificially higher valuations compared to what the property would be valued using professionally accepted appraisal practices. As the 2017 Joint Committee on Finance completes its work on Wisconsin's biennial budget, it should reject incorporating the unfair real property valuation changes proposed in the above referenced legislation.

About COST

COST is a nonprofit trade association consisting of approximately 600 multistate corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST's members conduct a significant amount of business in Wisconsin and its membership seeks to continue to have business property in the State valued on a "full value which could ordinarily be obtained therefor at private sale."¹

Fair and Equitable Property Tax System

The COST Board of Directors has adopted a formal policy statement on Fair and Equitable Property Tax Systems.² That policy statement position is:

State and local property tax systems must be fairly administered and tax burdens equitably distributed among taxpayers. A property tax system that is inefficient or that disproportionately falls upon business is not equitable and will negatively impact a state's business tax climate.

¹ See Wisconsin Stat. § 70.32(1).

² COST's Policy Statements are available at: <http://www.cost.org/Page.aspx?id=3140>.

And specifically related to valuation methodology, the policy statement position is:

A statewide valuation methodology that is conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and updated on a regular basis to factor in changes in value, including depreciation and all forms of obsolescence, should be utilized.

COST is very concerned about the negative ramifications of S.B. 291 and S.B. 292 would have by altering Wisconsin's property tax law to bar appraisers, representing either side, from using nationally accepted appraisal practices to value business properties.

Concerns with S.B. 291 – Above-Market Rental Rates

In 2008, the Wisconsin Supreme Court correctly addressed the use of the income approach to value rental property and held that fee simple interest, upon which fair market value must be based, should reflect market lease rates, not actual contract rates, *see Walgreens Co. v. City of Madison* ([752 N.W. 2d 689](#)). Valuing and imposing a property tax on above-market rents subjects the property to taxation based on a financing value, not the fee simple interest value of the property which a willing buyer would pay. This proposed change to valuing above-market rents should be rejected for what it stands for—an unjust money grab by allowing local governments to overvalue property with above-market rents versus what the property would be valued for in the open market.

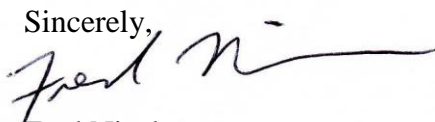
Concerns with S.B. 292 – Comparable Sales

Appraisers representing both the property owner and the government need to have full use of nationally accepted appraisal practices when valuing property to accurately ascertain its “full value” for property tax purposes. This legislation would unfairly restrict the use of the comparable sales approach if the property is vacant beyond a reasonable time or the seller places a deed restriction on how the property can be used by a purchaser. The impact a vacancy or deed restriction has on a comparable property are items that appraisers can address in their proposed valuations; it should not be dictated by unfair legislation limiting the use of the comparable sales approach.

Conclusion

COST believes the policies proposed in S.B. 291 and S.B. 292 should be rejected. This would also prevent potential challenges to the proposed changes under the State's uniformity clause. Please contact me with any questions regarding this testimony or COST's position in this area.

Sincerely,



Fred Nicely

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director