The TTARA flier: “The Phony $5 Billion”

Large corporate interests and commercial property holders fund the Texas Taxpayers and Research Association (TTARA). Their flier is loaded with feel good language that actually claims to protect the very homeowners and small business owner that are being harmed by Equal & Uniform (E&U) abuses by large corporations. They are not offering any solutions. This is just a weak effort to discredit the idea that folks are cheating the system.

When originally passed, the equity appeals statute was part of the 1997 Taxpayers bill of rights. In fact, the bill was sold to the legislature as a homeowner protection measure to insure similarly situated and appointed homes were valued equitably with their neighbors. Generally, in neighborhood developments this is not an issue, as comparably priced homes tend to exists in the same market areas.

Since its inception, the equity statues have been expanded every year for the last two decades. It now applies to all forms of realty and personal property.

The TTARA flier has statements that are very misleading!

- **“In fact, E&U (Equal & Uniform) is the most cost-effective remedy that all taxpayers have to ensure they are fairly taxed. The real losers if E&U statutes are repealed would be Texas homeowners, as residential properties are responsible for 2/3 of all value protests.”**

The truth is the residential property owners get very little relief in comparison to the commercial properties. In most appraisal districts, reductions on values using E&U is **insignificant** on residential properties. The vast majority of reductions for E&U reductions are on apartments, commercial and industrial properties.

- **“The law sets basic standards for E&U protests. The selection of comparable properties must comply with generally accepted appraisal methods and techniques.”**

The law exists, but there are no standards. There are three approaches to value defined by the Texas Tax Code: Market, Income and Cost. All three have written standards. Where are the standards to E&U appraisal? There are no standards for E&U protests.

The Tax Code was updated with “(f) The selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of

property by any person under Section 41.43(b)(3) or 42.26(a)(3) must be based on the application of generally accepted appraisal methods and techniques. Adjustments must be based on recognized methods and techniques that are necessary to produce a credible opinion." This sounds good but again there is not any standards for an E&U appraisal. If you note that under Section 41.43(b) (3) which uses a very open statement with no standards on what is a reasonable number of comparable properties, what is to be considered comparable and what is the standards for appropriately adjusted. Since there are no standards, the person doing an E&U appraisal gets very creative with which properties they select, and/or adjustments they make. There are countless examples of having one property protested and adjusted for E&U, then one of the properties used as a comparable in the E&U protest, which was also protested under E&U, used as a comparable to reduce its value. It just creates a spiral down on appraisals.

Section 41.43(b)(3) or 42.26(a)(3) have the **same** open statement: "the appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted." There simply are no standards for:

- what is a reasonable number of comparable properties,
- what is to be considered comparable, and
- what is the standard for "appropriately adjusted."

In the code above: "**Adjustments must be based on recognized methods and techniques that are necessary to produce a credible opinion."** Because there is no standard for an Equal & Uniform report, this part of the Tax Code is creating inequality of appraisals. You can have two buildings built just alike. **This does not mean they both should be valued the same.** One building with good management located in a prime location in a high demand area should have a higher value typically than the same building with bad management in a bad area without good traffic flow. However, on an E&U report they want the same value of the lower valued property. The most common "method" is to select non-comparable or inferior properties and make adjustments to show their property is over appraised based on the E&U report.

- **Under "Things to Know" in the flier: Article VIII, Section 1(a) of the Texas Constitution states that "taxation must be equal and uniform."**

Please note just because this type of value appeal is called equal & uniform, this form of appeal actually creates inequity between properties and in effect becomes the spiral down of values. As properties are valued lower, other comparable properties use the lowered value property as a new benchmark. Technically E&U reports or analyses are just that, they do not meet the requirement of being actual appraisals pursuant to the Appraisal Institute's definition of an appraisal.

The constitution also requires property to be taxed in proportion to its value. Prior to the

latest Supreme Court decision appraisal districts always assumed that meant at Market value. Nowhere in the constitution or in statute does it say Equity supplants Market value.

- **Appraisal districts are reviewed every year by the Comptroller of Public Accounts… The comptroller studies have generally found that appraisal districts typically hit the mark.**

The school district Property Value Study (PVS) is used by the state to determine property wealth and is a basis for determining state funding for schools. As to the CAD's being reviewed by the Comptroller: there are adjustments allowed to be made to ARB values and values impacted by litigation that frankly portray a higher percentage of market value being achieved in all CAD's throughout the state than what exists in reality. These adjustments are made to the districts value at the time the CAD files an appeal of the state comptroller's findings. This gives the appearance of a higher percentage of market value being achieved.

The Comptrollers rules under the PVS, allow for adjustments to values reduced as a matter of litigation or ARB action. Therefore, when a commercial property value has been reduced, the Comptroller adjusts their market value by the same percentage the CAD's value is reduced by the ARB or in litigation.

- **"The Phony $5 Billion" Some Contend that E&U claims have resulted in the gross under-valuation of properties across the state, resulting in a $5 billion statewide loss of property tax revenues; however, these estimates fail to hold up under close scrutiny.**

TTARA says that the 2006 study from TAAD (Texas Association of Appraisal Districts) found that E&U appeals reduced values by $180 billion, thus cutting property taxes by $5. The TTARA writer claims that the estimate was a statewide extrapolation of litigation pending in Bexar County.

This study actually estimated the impact of the lack of sales disclosure for commercial properties, and not specifically for E&U appeals. The actual report is titled: "What Will Mandatory Sales Disclosure Mean to Texas?" The report demonstrated the level of information available by property category and by extension the shift in property tax burden to homeowners; and included data from all areas of the state – not just an interpolation of what existed in Bexar County at the time. The writer of the TTARA retort appears to be confused between the mandatory sales disclosure report of 2006 and data that was prepared for the Comptroller with regard to the Dark Store Theory last legislative session. The Dark Store Theory (DST) data extended the impact of DST through the appeals process utilizing equal and uniform appeal mechanisms over time. This was an extension of what was pending in Bexar County at the time and projected the proliferation of Dark Store Theory throughout the state.

Change is Needed!

In 2013, in the Austin American Statesman an article further addresses this issue (https://www.statesman.com/NEWS/20130929/Appeals-shift-tax-burden). The article focuses primarily on the lack of sales price disclosure in the state of Texas. It does speak to E&U appraisal provisions contained within the code.

From the article: *"In 2004, the Legislative Budget Board recommended Texas lawmakers enact sales disclosure, saying it would result in "significant savings" to the state because school districts would get more money from property taxes. In 2006, believing the board had understated the case, the state's largest appraisal districts released their own study asserting the lack of sales disclosure in Texas was costing them more than $4 billion a year due to inaccurate appraisals.*

Most of that lost value was in underappraisals of the most expensive property. In the zero-sum game of property taxation, that means lower-value properties — the category where the most sales information is available — paid more than their fair share. The study included a sample of real estate sales in Travis County indicating that offices and apartments were being assessed at 63 percent of market value and high-end residential at 77 percent of market value, but low to mid-range homes at 98 percent.

"Mandatory sales disclosure is an idea whose time has come in Texas," the study's authors proclaimed. A task force named by Gov. Rick Perry and headed by former Texas Workforce Commission Chairman Tom Pauken endorsed a limited form of disclosure."

Since this article came out, many others have cited examples of value reductions from E&U appeals.

In January 2015, for the 84th Legislative Session, the Legislative Budget Board (LBB) issued a report titled "Texas State Government Effectiveness and Efficiency." An entire 8 page section within the report focuses on E&U appeals that contains specific recommendations and the need to modify E&U appeals provisions. **LBB is on record stating the need for change in E&U appeals provisions and mandatory sales disclosure.**

If, as TTARA suggests, folks are not cheating the system, TTARA would be indifferent to tightening the laws. The fact that they fight tightening the laws confirms that commercial property owners are doing their best to reduce their property tax burden. To demand that the property owner prove comparability is perfectly rational.

To say that you cannot hold the threat of legal fees over the appraisal districts head is only fair since these are public entities with fixed budgets. Finally, to require sales price disclosure is very sensible, since there would be more equity in the system.

Sales price disclosure does not exist for homeowners. However, appraisal districts are better able to get sales data on residential properties from MSL services (when available), sales letters, periodicals on the internet, and through the appeals process. Commercial owners in almost universally shield their data.

Sales disclosure will lead to values that are more equitable between properties in the system. More values would be based on the actual market (sales price), instead of other factors.

Mandatory sales tax disclosure, and E&U modifications are needed to ensure fairness and equity in the property tax system in the state of Texas. These changes will work hand in hand to ensure commercial properties are paying their share, and that cities, counties and school districts are not just relying on homeowners. If they did, taxing units would actually be able to lower tax rates in order to give relief to strapped Texas homeowners.

Information from school finance and appraisal district experts, including Steve Bassett, Fort Bend ISD Chief Financial Officer; Glen Whitehead, Chief Appraiser for Fort Bend County; Michael Amezquita, Chief Appraiser for Bexar County; Scott Grissom, Assistant Chief Appraiser for Bexar County; and Mike Collier.