Michigan Department of Treasury

State Tax Commission Bulletin No. 19 of 1997

DATE: December 12, 1997
TO: Assessing Officers, Equalization Directors
FROM: State Tax Commission (STC)

RE: **THE ILLEGAL PRACTICES OF: A) "FOLLOWING SALES" AND B) ASSESSING OVER 50%**

The State Tax Commission is very concerned about reports that some assessors have engaged in the illegal practices of "following sales" and assessing over 50% of true cash value.

The purpose of this bulletin is to provide instruction to assessors regarding these illegal practices.

A. "Following Sales"

"Following sales" is described in the State Tax Commission Assessor's Manual as the practice of ignoring the assessments of properties which HAVE NOT RECENTLY SOLD while making significant changes to the assessments of properties which HAVE RECENTLY SOLD.

"Following sales" can also be described as the practice of assessing properties which HAVE RECENTLY SOLD significantly differently from properties which HAVE NOT RECENTLY SOLD.

Article IX, Section 3 of the State Constitution states that "The legislature shall provide for the **UNIFORM** general ad valorem taxation of real and tangible personal property ..." This requirement has NOT changed as a result of Proposal A.

Section 27(5) of the General Property Tax Act states the following:

> "In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction."

The following example illustrates the illegal practice of "following sales".

EXAMPLE: An assessor has been notified by the equalization department that the starting base for the residential class in his/her unit is 45.45%. This means that it is necessary for the assessor to increase the residential class overall by about 10% in order to avoid a factor. It is the assessor's responsibility to determine where this increase should be spread in order that all properties are assessed at 50%.

It would be illegal for the assessor to generally increase properties which have recently sold by say 25% while increasing all other properties in a neighborhood by say 5%. This would be an example of the illegal practice of "following sales".

"Following sales" is both UNCONSTITUTIONAL AND ILLEGAL. An exception would occur where an assessor inspects a property after a transfer of ownership and discovers that there is omitted property such as a garage which was built in the past but was not included in the assessment and was not noted on the assessment card. In this case the assessor must include the omitted property in the assessed value for the year following the transfer of ownership.

If the assessor is doing a proper job of assessing all properties uniformly at 50% of true cash value each year, there is no reason to assess properties which have sold any differently from properties which have not sold.

In a related matter, some assessors believe that Proposal A requires that, in the year following a transfer of ownership, the assessed value of a property which has transferred must automatically be set at 1/2 of the sale price. **Proposal A does NOT authorize the assessor to AUTOMATICALLY set the assessed value of a property which has sold at 1/2 of the sale price.** An individual sale price may NOT be a good indicator of the true cash value of the property due to a variety of reasons (such as an uninformed buyer, an uninformed seller, insufficient marketing time, buyer and seller are relatives, and other possible reasons).

B. Assessing Over 50%

It has come to the attention of the State Tax Commission that some assessors are making a practice of assessing properties in excess of 50% of true cash value. This is an illegal practice.

Article IX, Section 3 of the State Constitution states that the assessment of property shall not exceed 50% of its true cash value.

Section 27a of the General Property Tax Act states that property shall be assessed at 50% of its true cash value.

County equalization departments are required to study every classification of property every year and to report the starting ratios to assessors so that the assessors know how much assessments must be changed overall in order to avoid an equalization factor greater or less than 1.0000.

County equalization directors are required to use a 24 month period of sales when studying a class of property. This is true whether the director prepares an assessment/sales ratio study or an appraisal study (An exception to this occurs where there is a severely declining real estate market, in which case a single year study may be substituted for a two year study.)

The 24 month time period which equalization directors must use in setting the starting base for 1998 assessments is as follows:

Year 1: April 1, 1995 to March 31, 1996

Year 2: April 1, 1996 to March 31, 1997

ASSESSORS ARE REQUIRED TO USE THIS SAME 24 MONTH TIME PERIOD FOR SALES USED FOR CALCULATING ECONOMIC CONDITION FACTORS (ECF'S) AND LAND VALUES.

This means that assessors are NOT allowed to incorporate the market value INCREASES from sales occurring in the last 9 months of 1997 into the assessments for 1998. To do so could cause assessments to exceed 50% of true

cash value. If assessments exceed 50%, it is the responsibility of the County Board of Commissioners to apply a factor of less than 1.0000 in order to reduce the assessments down to 50%.

This means that for 1998 assessments, an assessor is NOT allowed to incorporate market value increases which have occurred from April 1, 1997 to December 31, 1997.

The assessor should also be aware that the County Board of Commissioners is permitted by the State Tax Commission to equalize as assessed in those classes where the ending ratio on line 8 of STC Form L-4023 falls between 49.00% and 50.00%. This means that if an assessor is striving to reach 50% but ends up, for example, at 49.50%, an equalization factor of 1.0000 will be assigned by the County Board of Commissioners, NOT an equalization factor greater than 1.0000.

Assessors must also be aware that this same leeway does NOT exist for ratios which fall between 50.01% and 51.00%. The State Tax Commission, in STC Bulletin No. 13 of 1996, advises that a County Board of Commissioners has the obligation to determine the correct true cash value for each class of property for each year even if this results in a class of property receiving an equalization factor of less than 1.0000. An assessor should therefore expect to receive an equalization factor of less than 1.0000 if the ratio on line 8 of form L-4023 exceeds 50% by any amount, provided that the starting ratio was based on a reliable and accurate study. (Please see page 5, paragraph C (copy attached) of STC Bulletin No. 13 of 1996 for an exception to this rule when there has been a complete reappraisal.)

The State Tax Commission intends to closely monitor this practice of assessing in excess of 50% for the 1998 assessment year.

Assessors are advised to review pages 4 to 6 (copies attached) of STC Bulletin No. 13 of 1996 regarding ratios which exceed 50% of true cash value.