

May 3, 2005

The scheduled meeting of the Cleveland County Excise Board was called to order this 3rd day of May, 2005, in the conference room of the Cleveland County Fairgrounds, 605 E. Robinson, Norman, Oklahoma, by Chairman Waldo Blanton. Roll was called by Dorinda Harvey, County Clerk/Secretary and those present were:

Waldo Blanton, Chairman
Charles Thompson, Vice-Chairman
Pat Ross, Member
Dorinda Harvey, Secretary

Others present were: Christine Brannon, Leroy Krohmer, Denise Heavner, David Tinsley, Billijo Ragland, Carl & Myrna Frye, Mr. & Mrs. Robert Strange, Robert & Carolyn Morehead, Virgil L. Holden, James Edward Clark and John Beck.

After the reading of the minutes of the meeting of January 24, 2005, and there being no additions or corrections, Pat Ross moved that the minutes be approved. Charles Thompson seconded the motion.

The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.

Chairman Blanton called for discussion, consideration, and/or action on the following Letters of Protest:

Carl D. & Myrna Frye, 201 N.E. 21st St., Moore, OK 73160 appeared for Lot 1, Block 3, Northmoor 3rd. Mr. Frye presented the Board with a letter stating his property was in a flood zone.

Billijo Ragland, Deputy Assessor, looked at some of the properties in the area and did make an adjustment on Mr. Frye's land, lowering it, taking into consideration it was in the flood plane. Ms. Ragland stated she feels his property is on fairly compared to what the other homes are selling for. Some of the comparable sales are \$65.69 per square foot and Mr. Frye's market value is \$53.89 per square foot and his taxable is \$35.74 per square foot. Denise Heavner, Assessor, stated Mr. Frye's original value was \$110,767.00 and that is what Mr. Frye's notice was for and when he came in, there was an adjustment made of fifty (50%) percent to the land only. It has been reduced to \$103,100.00. Ms. Heavner stated it was capped so unless it goes below \$68,000.00 it would not necessarily affect Mr. Frye's tax liability for this year, because the value of limitation is \$68,374.00. It is capped from last year it has gone up five (5%) percent above last years value and that is reflected in the \$68,374.00.

Mr. Frye stated he was not informed about the flood plane before he bought the house thirty-seven or thirty-eight years ago. Mr. Frye stated the City of Moore made the decision because they are the ones who have to maintain the creek. If they do not maintain it and it caused a back-up and flooded the city would be liable. So now the city has come in and told Mr. Frye that he is in a flood plane and the city is no longer liable. If the creek would flood and flood

the house the house would not be rebuilt because it is in the flood plane. Mr. Frye is grandfathered in to buy flood insurance and there may be a time he has to.

Denise Heavner presented pictures of the property to the Board along with comps. The comps have not been adjusted because they are not in the flood plane, but Mr. Frye's is lower than the comps.

Mr. Frye is asking for thirty (30%) percent lower than the Assessor valuation or around \$70,000.00.

Ms. Heavner told Mr. Frye he was still a little above the capped value.

Chairman Blanton stated it is not going to change his taxes and Ms. Heavner agreed that the taxes would not change for this year but possibly next year.

Discussion took place about flood planes and Charles Thompson stated the Equalization Board is trying to keep everybody equal and that means to him being fair. Today Mr. Frye my not get a \$103,000.00 for his house but he could get more than \$70,000.00. Mr. Thompson is speaking of something in between. A lot depends on the market and the way people have bought houses the last few years they would probably buy one that is in the ditch.

Charles Thompson moved, seconded by Pat Ross, to put Mr. Frye's house on for \$90,000.00.

The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.

Motion carried.

Mr. & Mrs. Robert Strange, 3416 Fairway Dr., Moore, OK 73160 appeared for 2 acres in Section 30, T10N, R2W, GEO #MC2 10-2W-30-003.

Ms. Strange gave the Board Members a letter about their house and pictures. Ms. Strange explained some of the pictures.

Chairman Blanton doesn't think taxes should go down because maintenance was not performed on a house.

Denise Heavner stated the original appraisal was \$138,000.00 and when the Assessor's Office went out and inspected it, it was lowered to \$100,998.00, because there was an error the house was not two stories. Ms. Heavner noticed that Ms. Strange said the 2004 appraised value was \$73,766.00 and Ms. Heavner stated that was the capped value.

Ms. Strange asked for an explanation of the form and Ms. Heavner went over it in detail along with the five (5%) cap and that the new value would be \$79,854.00.

The Strange's live on an acreage and the house is around thirteen hundred (1300) square feet.

Ms. Heavner explained to Ms. Strange that it is hard to get comps on acreages.

Ms. Strange spoke of a house down the street that was older, approximately the same size house, it is on for \$55,501.00, and that is a huge difference. Ms. Strange questioned the second form that she had received from Ms. Heavner and stated that the value went up.

Ms. Heavner stated that they would be tied to the five (5%) percent more, regardless. Ms. Heavner explained her new computer system and that it would not be more than five (5%) percent.

Waldo Blanton stated that five (5%) percent of the \$73,766.00 and that was the cap before, you take five (5%) percent of that and add it, you get the \$77,443.00 and that is going to happen.

Ms. Strange stated that the Assessor's Office had it at \$79,000.00.

Ms. Heavner stated that is why she explained how they re-entered the entire property and something in the computer kicked it up a little.

Ms. Strange stated no matter what it will go to \$77,443.00 and everyone agreed.

Chairman Blanton stated his view is that the Assessor's Office has done what they needed to except where the Assessor is going to change the value of limitation and moved that the value as assessed by the Assessor remained unchanged.

Charles Thompson seconded the motion.

The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.

Motion carried.

Denise Heavner asked the Board if that was the appraisal of the \$100,998.00.

Chairman Blanton stated yes but that the Assessor was going to correct the value of limitation back to the previous which is five (5%) percent of what it was.

Robert & Carolyn Morehead, 977 N. W. 6th St., Moore, OK 73160 appeared for Lot 29, Block 42, Southgate.

The Morehead's had addressed a letter to the Board when they filed their formal protest and Ms. Morehead presented pictures. Ms. Morehead stated they had lost their house in the tornado and when they re-built they used everything they could from their old house and put it in the new one, including their heater which is sixteen (16) years old. Ms. Morehead gave the Board this information because you can't hide these things if you go to sell a house.

Chairman Blanton stated you have to disclose proper things you don't have to disclose the fact that it is trashy looking they can look for themselves.

The Assessor also gave the Board a picture of the Morehead's house.

Chairman Blanton stated the jest of their letter was that they were under insured and that they took everything they could to try to make it work. Chairman Blanton doesn't know if there is a method of calculating things based on use of used things once you build a house back.

Denise Heavner did lower the property from her original appraisal due to the information she was given. Ms. Heavner asked the Morehead's if they were aware of the tax credit and Ms. Heavner explained how it worked.

Chairman Blanton told the Morehead's that once the house is new, the value of limitation is as of today's date rather getting the cap way back with what they had before. That is an unfortunate thing because you can't build an old house.

Ms. Morehead stated it was way to high for the neighborhood.

John Beck, Real Estate Broker, who was representing James Edward Clark, 612 N. Markwell Ave, Moore, OK 73160 for Lot 21, Block 41 Southgate, asked if he could speak because Mr. Clark is a neighbor of the Morehead's and is in the exact same situation. He would like to address the Board in conjunction with Mr. Clark. Mr. Beck has pulled some data that may be of benefit to the Board. Mr. Beck stated there are three different approaches to coming up with a value for a house, the cost approach, the income approach and comparable approach. Mr. Beck went over each approach pertaining to Mr. Clark's house. On the comparable approach Mr. Beck had pulled comps from the Southgate Addition and the most expensive house that sold, sold for \$56.81 per square foot and if you take that times the square foot of Mr. Clark's house it comes up to \$80,909.00. Mr. Beck is not saying that the Morehead's house or Mr. Clark's house is comparable exactly to the most expensive one in the neighborhood, because it was built before theirs. So he is increasing that value by \$9.00 a square foot to come up with a fair market value of \$92,600.00 for Mr. Clark's house. You may have a new house but you are in an old neighborhood and can you have a depreciation value based on the psychological effects of the house being blown away in the tornado. He

thinks that would have some effect on the value that he would put in. The Morehead's have lived in their house for a number of years and Mr. Clark has lived in his for over twenty year and that is home to them, so he is not taking the depreciation of the psychological effect into consideration here. But by the same token you have a new property in an old neighborhood and the new property is going to have to have some life, some term if you will, before the old neighborhood can support the values that are attributed to new houses by the Assessor. The Assessor's Office had to use recent sales of new homes in Southgate Addition and Billijo Ragland had a list of new construction that sold from \$76.81 up to \$79.22 and these are within a half of mile of the subject homes. These houses were re-built from the tornado also.

Charles Thompson asked what the Assessor has the Morehead house on per square foot and Ms. Ragland stated it was on for \$59.00 per square foot and that is taking into consideration the used material.

Denise Heavner stated she did make adjustment because of the use of old material.

Charles Thompson stated the equalization part of this (and he agreed with the people it ought to be \$90,000.00 or less in his opinion) is to get it to where all of the people that this has happened to in the tornado with the rebuilding it all has to be as equal as possible.

Ms. Morehead explained the pictures she had presented to the Board saying a couple of the houses had sold and one house down from them sold for \$65,000.00.

The senior freeze was discussed and Ms. Morehead wondered why it was taken off.

Ms. Heavner stated that was because it was a different house than it was and Ms. Heavner explained the tax credit again to Ms. Morehead.

Ms. Heavner told the Board that the new house of the Morehead's is a couple hundred square feet larger than their previous house and the difference in the sizes of the house was discussed.

Ms. Heavner stated one of the sales, a house that was just repaired and not a bigger house, (in the neighborhood) nothing changed and it was the same house as before and that went for \$71.00 a square foot.

Mr. Beck again stated the most expensive house that sold in that neighborhood sold for \$56.81 per square foot and Ms. Heavner stated that is not what the Assessor's Office is seeing.

Charles Thompson moved, seconded by Waldo Blanton, to change the Morehead's to \$95,000.00.

The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.

Motion carried.

Charles Thompson also moved to change James Clark's to \$95,000.00. (Item F. James Edward Clark, 612 N. Markwell Ave., Moore, OK 73160 for Lot 21, Block 41, Southgate.)

Mr. Beck asked the square footage of the Morehead's house and was told 1700 square feet and Mr. Beck replied that Mr. Clark's is only 1424 square feet.

Ms. Heavner stated that Mr. Clark's was not used material.

Pat Ross seconded the motion.

The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.

Motion carried.

Virgil L. Holden appeared for 2321 Westpark, LLC, P. O. Box 1594, Norman, OK 73070 for Part of Lots 2 & 3, Block 1 Westridge Office Park. Mr. Holden stated that Westpark is only a block long. His immediate neighbor's building is 1200 square feet bigger and \$51,000.00 less taxable market and the one across the street is 300 feet smaller and the taxable market is \$112,000.00 and it goes that way throughout. His shock was going from \$164,000.00 to \$243,000.00 as far as an increase as far as his taxable. This is a LLC to a trust. The only member is himself his trust and this is his estate planning for his kids.

Denise Heavner stated that the main issue seems to be the LLC whether you take the cap off or not and that is the main difference, Mr. Holden is talking about taxable value and that is something that the Assessor doesn't have any choice about. On a LLC deed the cap is taken off. There has been an Attorney Generals opinion backing that up.

Chairman Blanton stated just from the practical stand point when a man moves it to an LLC for a trust for himself and he was there anyway, Chairman Blanton has a problem with taking off the cap.

Denise Heavner stated there is an Attorney Generals opinion dealing with that and Chairman Blanton asked if it just addresses the LLC or does it address the fact that it is going from the same man to his self.

Mr. Holden stated this is a one man LLC and is for IRS purposes.

Ms. Heavner stated the AG's opinion didn't make that distinction. Ms. Heavner stated there were some statutes that dealt with LLC's, there were exception for LLC's at the beginning, when this law the cap law went into effect. But that is what was ruled unconstitutional and basically if a LLC files a deed the Assessor takes the cap off and that changed when the AG's opinion came out.

Charles Thompson doesn't see how the Board could go around something that there is an AG's opinion on.

Ms. Heavner read part of the statute that was ruled unconstitutional by the AG.

Discussion took place on getting an AG's opinion and how long it would take.

Charles Thompson stated it would probably have to be left the way it is until an AG's opinion is received to change it.

Ms. Heavner stated usually those are not retro active. Even if it changed it probably would not affect this year. (She is guessing.)

Mr. Holden stated he thinks it would be different in this case if they clarify their opinion this is an opinion and the statute is still the statute there has not been a court case saying that the AG's even correct. The Oklahoma statute says this is not a taxable event. It is only the AG's opinion as to that particular section of the statute.

Charles Thompson and Denise Heavner both stated that is what they have to go by.

Mr. Holden stated the argument is, is that you should be complying with the Oklahoma Statute.

Ms. Heavner stated there was some questionable family LLC business going on and she thinks that is what caused this to happen. Ms. Heavner stated she could not do anything different.

Charles Thompson stated he didn't know on what grounds.

Mr. Holden can go to the next step.

Mr. Holden stated than the question is what is the law.

Charles Thompson stated that from the Equalization Board you go to court and you can get a court opinion. A Judge has a lot more power than the Board has.

Charles Thompson moved, seconded by Pat Ross, to leave as is, no change.
The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.

Waldo Blanton moved, seconded by Pat Ross, that there be no changes for Sam Dugan, 807 Pine St., Orlando, FL 32824-9101 for GEO #OCC2 10 3W 5 104, as no one appeared to present anything to the contrary.
The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.

Pat Ross moved, seconded by Waldo Blanton, to approve the Homestead Exemption Applications.
The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.

Waldo Blanton moved, seconded by Pat Ross, to approve the Applications for Five Year Ad Valorem Tax Exemption.
The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.

Denise Heavner told members of the Equalization Board that she was going to request from the Cleveland County Budget Board to extend the Equalization Board till July. There is one personal property oil and gas. This will probably start being done every year because of the way the deadlines fall. The Assessor's Office just can't get everyone talked to in time to get through the process. It usually means that past the end of May the Board could meet one time. But by statute Ms. Heavner does have to ask the Budget Board to extend the deadline.

There being no further business to come before the Board, Pat Ross moved that the meeting be adjourned. Waldo Blanton seconded the motion.
The vote was: Waldo Blanton, yes; Charles Thompson, yes; Pat Ross, yes.
Motion carried.