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**TESTIMONY REGARDING HOUSE BILL 161**

**PRESENTED TO THE HOUSE LOCAL GOVERNMENT COMMITTEE**

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*An affiliate of the County Commissioners Association Of Pennsylvania*



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I want to thank Chairman Harper and the members of the House Local Government Committee for giving me the opportunity to present testimony regarding House Bill 161 on behalf of the Assessors' Association of Pennsylvania (AAP). By way of background, AAP was formed many years ago to promote professionalism and education among county assessors. Today, AAP is the primary source of training for new assessors as they seek certification as a Certified Pennsylvania Evaluator (CPE) as required by the Assessors' Certification Act<sup>1</sup>. AAP also provides continuing professional education for all CPE's and works closely with the County Commissioners' Association to provide technical assistance as needed.

Pennsylvania's Constitution contains a uniformity clause<sup>2</sup> that our Courts have interpreted as requiring all property be treated as one class for purposes of assessment and taxation. The only exceptions to this requirement are certain classes of property carved out in the Constitution itself for special treatment such as agricultural and open space properties and those meeting the constitutional requirements for exemption<sup>3</sup>. If a property is not listed as entitled to differential treatment, it is part of one class of property defined as real estate in Pennsylvania. Mobile homes and manufactured homes fall within that class as they are defined as real estate subject to assessment and taxation in the Consolidated County Assessment Law<sup>4</sup>. More specifically, Section 8821 of the law provides (emphasis added):

**(a) Duty.**—It shall be the duty of the county assessment office to assess all mobile homes and house trailers within the county according to the **actual value** thereof...

House Bill 161 would amend this section to require assessors to consider the “value placed on the mobile home or house trailer in a national directory or valuation guide....” Typically, this national directory or valuation guide is the National Automobile Dealers Association (NADA) Guide, although there are others. For the reasons set forth below, AAP opposes HB 161 as it is currently drafted.

The Assessors' Certification Act requires assessors to uniformly assess all real estate considering three approaches to value: cost, market, and income. These methods are explained in more detail by Charles, “JR” Hardester, Chief Assessor of Lawrence County, in his testimony.

Assessors have a statutory and ethical obligation to assess all real estate using their best professional judgment. AAP is troubled by HB 161 in that it would essentially require assessors to value all mobile homes at their cost value without regard for the most critical real estate factor: location. It is axiomatic in real estate valuation that the most important factors in determining value are “location, location, location.” As currently drafted, HB 161 does not give assessors the option to adequately consider this factor. Although the NADA Guide provides for a locational adjustment, this adjustment is

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<sup>1</sup> 1992, P.L. 155, No. 28.

<sup>2</sup> PA Constitution Article 8 Section 1.

<sup>3</sup> PA Constitution Article 8 Section 2.

<sup>4</sup> 53 Pa.C.S. §8811.

not a true real estate adjustment that would typically look at the neighborhood in which a property is located. The NADA Guide's locational adjustment is more on the line of an adjustment for a particular region (such as "Southeast Pennsylvania" versus "North Central Pennsylvania") or an adjustment based on postal zip code, depending on which version is used.

It is important to distinguish that the NADA Guide and similar directories reflect mobile home value estimates as vehicles, not real estate. Indeed, the NADA Manufactured Housing Cost Guide states that the best measure of the value of a manufactured home as real estate is "the time honored real estate practice of a physical appraisal."<sup>5</sup> The NADA Guide also stresses the fact that typical improvements that are added to a mobile home when it is affixed to the land such as decks and patios as well as set-up costs are not included in the book value. The NADA Guide can be useful in determining the value of a particular unit as a starting point but it cannot be controlling nor even *prima facie* proof of value because it cannot include other items that are part of the real estate. Amendment A05852 addresses some of these concerns as I will discuss later in my comments but it is critical that the assessor's judgment and statutory obligation to value all real estate not be replaced by reliance upon a national directory or valuation guide.

Another major concern with HB 161 is that it would shift the burden of proof in assessment appeals to the assessment office. Lisa Schaefer does an excellent job of explaining the County Commissioners' concerns regarding this issue and we adopt the testimony of CCAP in this regard. We must stress that HB 161 as originally drafted creates a rebuttable presumption that the NADA Guide's value or the value in a similar national directory is correct. In addition to the concerns set forth above, this shift in the burden of proof is unlike anything else in the assessment law. There is no other assessment law provision in Pennsylvania that shifts the burden of proof to the assessment office beyond the burden to present the assessment into evidence.

Pursuant to Pennsylvania law, an assessor must treat all real estate as one class using available methodologies in an appropriate manner to arrive at a fair assessed value. We may not selectively apply different valuation methodologies to different types of properties to achieve a particular result because this would result in what is commonly referred to as "spot assessment." However, that is exactly what HB 161 would require assessors to do when valuing mobile homes for taxation purposes.

Furthermore, as currently drafted, HB 161 could be interpreted as requiring assessors to value mobile homes without regard for the base year of assessment within the county. According to the assessment law, counties may assess all property using a base year or current market value. Most counties are on a base year system. Whichever option a county chooses, all property must be assessed at values for the same point in time and using the same methodologies. HB 161 could be interpreted as requiring assessors to value mobile homes at their current book value as opposed to their value in the base year. This would create a uniformity issue in each county in that mobile homes would be assessed at current value while other real estate is assessed at base year value. By creating a different class of properties entitled to special treatment it is our opinion that HB 161 violates the uniformity clause of the Pennsylvania Constitution.

Amendment A05852 addresses some of AAP's uniformity concerns in that it would limit the requirement to consider the national directory value to countywide reassessments and in the context of an assessment appeal. However, this amendment raises other concerns because it restricts counties to using only the "noncomputerized version" of a national directory or valuation guide. One of the differences between the computerized version and non-computerized version of the NADA Guide is the ability to make

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<sup>5</sup> NADA Manufactured Housing Cost Guide, National Edition, September 2010, p.4A.

adjustments. Restricting all counties to using the “noncomputerized version” of a national directory or valuation guide is unduly restrictive of counties that have the technological ability to use the computerized version of the guides.

The amendment appears to address many of AAP’s concerns with HB 161 as originally drafted in that it allows assessors and appeals boards to consider comparable sales to the extent that sales are available and it allows us to consider improvements such as decks, patios and set-up costs. However, AAP believes that another factor that needs to be considered is location for the reasons set forth above. The amendment does not sufficiently address this issue. Our Association stands ready to work with the committee and CCAP to address concerns with the assessment of mobile homes and manufactured homes.

