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DIRECTIVE #19-041

TO: **Register of Deeds**

SUBJECT: **Real Estate Sales Valuation Questionnaires; Submission Requirements**

This Directive Supersedes Directive #03-041

This directive is adopted pursuant to the provisions of K.S.A. 79-505, and shall be in force and effect from and after the director's approval date. The register of deeds shall comply with the following procedures in handling and processing real estate sales validation questionnaires.

1. The only exceptions to the requirement to file a real estate sales validation questionnaire are statutory. K.S.A. 79-1437e(a) provides as follows:

   The real estate sales validation questionnaire ~~s~~hall not apply to transfers of title:

   (1) Recorded prior to the effective date of this act;

   (2) made solely for the purpose of securing or releasing security for a debt or other obligation;

   (3) made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration;

   (4) by way of gift, donation or contribution stated in the deed or other instrument;

   (5) to cemetery lots;

   (6) by leases and transfers of severed mineral interests;

   (7) to or from a trust, and without consideration;

   (8) resulting from a divorce settlement where one party transfers interest in property to the other;

   (9) made solely for the purpose of creating a joint tenancy or tenancy in common;

   (10) by way of a sheriff's deed;

(11) by way of a deed which has been in escrow for longer than five years;

(12) by way of a quit claim deed filed for the purpose of clearing title encumbrances;

(13) when title is transferred to convey right-of-way or pursuant to eminent domain;

(14) made by a guardian, executor, administrator, conservator or trustee of an estate pursuant to judicial order;

(15) when title is transferred due to repossession; or

(16) made for the purpose of releasing an equitable lien on a previously recorded affidavit of equitable interest, and without additional consideration.

Except where an exception pursuant to K.S.A. 79-1437e is applicable, no deed or instrument providing for the transfer of title to real estate or affidavit of equitable interest in real estate shall be recorded in the office of register of deeds unless such deed is accompanied by a real estate sales validation questionnaire in compliance with the provisions of K.S.A. 79-1437c. The specific requirements of K.S.A. 79-1437c supersede the general requirements of K.S.A. 58-2221(d) to record any deed to real estate immediately.

When a real estate questionnaire is not required due to one of the exemptions listed above, the exemption number or reason for an exemption must be clearly stated on the deed. The register of deeds should not make changes to the face of the deed by adding the exemption number or exemption description. *(See Att'y Gen. Op. No. 92-122).*

2. The division of property valuation supplies a three-part real estate sales validation questionnaire (form number PV-RE-23) which is required when an affidavit of equitable interest, deed in real estate, or any other instrument used to transfer real property is recorded in the office of the register of deeds. Only counties having prior written approval from the director may use a special one-part version of the form (PV-RE-22- OP). The one-part form is intended to be used in conjunction with image document management systems. Photocopies of the questionnaire are not acceptable; however, filers may submit a computer-printed form. The digital version of the form (PV-RE-22-OP-CG) can be obtained from the Department of Revenue website. Counties accepting one-part forms are required to provide the original document(s) to the division of property valuation unless the register of deeds office has prior written approval from the director to submit document image files of the real estate sales validation questionnaires. Document image files shall be transmitted in monthly sessions to the Department of Revenue File Transfer Protocol (FTP) server.

3. The "total sale price" must be entered on the real estate sales validation questionnaire. If one dollar ($1.00), ten dollars ($10.00) or any nominal sale price is entered on the real estate sales validation questionnaire, the register of deeds shall question the accuracy of the sale price as entered. If the grantor, grantee, or agent affirms that the sale price as entered is correct, the deed should be recorded.

4. A real estate sales validation questionnaire is not required on a deed that states "without consideration" or that has one dollar ($1.00), ten dollars ($10.00), “love and affection” or some other nominal value entered thereon. "Without consideration" as used in K.S.A. 79-1437(e)(7), means "gift." Therefore, a deed with nominal value entered thereon shall be construed as a "gift," and the deed accepted without a real estate sales validation questionnaire. However, if the phrase "one dollar ($1.00) [or other nominal value] *and other valuable consideration*" has been entered on the deed, a real estate sales validation questionnaire is required to record the deed.

5. The buyer, seller or agent thereof may complete the real estate validation questionnaire. The party completing the real estate validation questionnaire must print their name and sign section 13 to affirm the instructions have been read and the information provided is true and accurate. An agent signing the real estate validation questionnaire must also provide a daytime phone number.

6. If a government entity, such as a county, conveys real property, the real estate sales validation questionnaire must be signed by the government official(s) who signed the deed or an agent.

7. Multiple deeds conveying partial interests and filed simultaneously, do not require multiple real estate sales validation questionnaires, provided the real estate sales validation questionnaire filed is annotated to state that the consideration entered thereon is the total consideration for the transfer of the entire interest. The register of deeds shall indicate in the upper left-hand corner of the real estate sales validation questionnaire the deed book and page number range assigned to the corresponding deeds.

8. A real estate sales validation questionnaire with the phrase "other valuable consideration" entered as the sales price shall not be accepted. It shall be returned for the sale price to be entered before the deed, instrument or affidavit may be recorded.

9. The register of deeds has a legal obligation to see that the real estate sales validation questionnaire is fully completed. At a minimum, this requires that each real estate sales validation questionnaire be scrutinized for completion of the identification, telephone, contact and parcel location information and all questions thereon.

10. A real estate sales validation questionnaire without every question answered, including the sale price, the signature and phone numbers of the seller and buyer entered is not "completed". Incomplete real estate sales validation questionnaires accompanied by the deed, other instrument transferring title to real estate or affidavit of equitable interest must be returned to the filer with notice that such deed, instrument or affidavit has not been recorded.

11. Telephone numbers for both the buyer and the seller are required at the top of the form, even if the agent completes and signs section 13 of the real estate sales validation questionnaire.

12. The phrase "made for the purpose of confirming, correcting, modifying or supplementing a deed previously recorded, and without additional consideration," (K.S.A. 79-1437e) is explained as follows:

    Confirm means "to support or establish the certainty or validity of; verify." The American Heritage Dictionary of the English Language, 386 (4th Edition, 2000).

    Correct means "to remove errors from." Webster's II New Riverside University Dictionary, 314 (1984).

    Modify means "To change in form or character; alter." The American Heritage Dictionary of the English Language, 1130 (4th Edition, 2000).

    Supplement means "something added to offset a deficiency, or strengthen the whole; a section added to a document to provide additional data, or to correct errors." Webster's II New Riverside Dictionary, 1163 (1984).

    The recurrent theme of these definitions is an incidental change, not a change in substance. In the case of a deed previously recorded, this would mean that the change does not change the grantor or the grantee (although, e.g., a change may be made in the spelling of the grantor or grantee's name). Whatever the change, the intent to convey the real property to a named person or entity is not changed. Also, there can be no additional consideration.

13. It is a misdemeanor to falsify the sale price of real estate transferred on a real estate sales validation questionnaire (K.S.A. 79-1437g). Any register of deeds or other county official who has information or suspects that a real estate sales validation questionnaire has been falsified shall notify the county attorney or county counselor for possible legal action.

14. Individuals may obtain photocopies of real estate sales validation questionnaires if they have statutory access to them (K.S.A. 79-1437f). K.S.A. 45-219(a) provides that any person may make abstracts or copies of any public record to which such person has access under the Open Records Act. Public officials may require advance payment of the actual cost of furnishing copies, including the cost of staff time, to make the information available. K.S.A. 45-218(f); K.S.A. 45-219(c)(1). *(See Att'y Gen. Op. No. 92-38)* Financial institutions can also obtain copies of real estate sales validation questionnaires for conducting appraisals or evaluations that are being conducted pursuant to state and federal regulations. The Internal Revenue Service (IRS) also has access to real estate sales validation questionnaires (*United States v. Martin*, 542 F. Supp. 22 (1982)).

15. Transfer on death deeds do not require the completion of the *Kansas Real Estate Sales Validation Questionnaire* because it does not actually transfer property at the time of filing.

16. Only those deeds to and from a trust and *without consideration* do not require a questionnaire be completed.

17. The register of deeds shall also comply with Kansas Administrative Regulation. 93-4-2.

93-4-2. Annotation and disposition of real estate sales validation questionnaires; duties of county officials.

(a) Not later than three business days after the receipt of a three-part real estate sales validation questionnaire, the register of deeds shall annotate each copy with the following information:

(1) The volume and page entry from the general index, indicating where the deed, instrument, or affidavit of equitable interest that accompanies it is recorded;
(2) the county official validation number;
(3) the type of instrument; and
(4) the recording date

The register of deeds shall retain the original copy and forward the county appraiser's copy and the director of property valuation's copy to the county appraiser. Not later than three business days after the receipt of the county appraiser's and the director's copies, the county appraiser shall enter the parcel identification number on both paper copies of each real estate sales validation questionnaire received from the register of deeds.

(b) The register of deeds may accept a one-part real estate sales validation questionnaire when authorized by the director of property valuation to process real estate sales validation questionnaires by electronic imaging. An electronic copy may be accepted by the register of deeds if questionnaires are received by means of digital media transmission and retained in an electronic document management system. (Authorized by K.S.A. 79-1491; implementing K.S.A. 79-1487 and 79-1488; effective June 26, 1998; amended Oct. 3, 2014.)

18. The Kansas Real Estate Sales Validation Questionnaire provides crucial information to fulfill requirements of the Kansas Real Estate Ratio Study Act (K.S.A 79-1486). All county officials share in the duty to cooperate and assist the director of property valuation in the development of information required by this act (K.S.A. 79-1487). Participation by the register of deeds is not optional.

19. Permanent administrative regulations and directives promulgated by the division of property valuation carry the force of law and must be given the same deference by the register of deeds as Kansas statutes.

Approved: August 27, 2019

David N Harper

David N. Harper
Director of Property Valuation