



**GEORGIA
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APPRAISERS BOARD**

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July 23, 2012

TO: The Tax Assessors of the State of Georgia

RE: The Legality of Non-appraisers to Act as Taxpayer Representatives in Real Estate Ad Valorem Tax Appeals and Giving their Opinion of a Property's "Fair Market Value."

Dear Gentlemen and Ladies,

This letter is for the purpose of giving you my position as Georgia Real Estate Commissioner which position was adopted by the Georgia Real Estate Appraisers Board (GREAB) regarding whether or not an individual without a Georgia appraiser classification can legally act under Georgia law as a real property tax advocate (i. e. a tax consultant, agent, or representative) for a taxpayer which representation includes giving an opinion of the fair market value of the real property under appeal.

My conclusion is that he or she may legally do so.

While O.C.G.A. §48-5-11 (e)(6) states that "a taxpayer may appear before the Board concerning any appeal in person, by his or her authorized agent or representative, or both," there is no statutory requirement or limitation on whom this authorized agent or representative may be or whether or not he or she is required to have an appraiser classification or any other expertise to do so. The next question becomes - Can this agent or representative give his or her opinion of the property's fair market value without holding a classification as an appraiser and not be in violation of Georgia's appraiser statutes and its rules and regulations?

It is undisputed that a licensed Georgia appraiser can act as a "property tax consultant" in an advocacy capacity in a real property tax appeal pursuant to Rule 539-1-.20 of the Georgia Appraiser Regulations and give his or her opinion of the "fair market value" of the property under appeal. In doing so, however, the appraiser must comply with the requirements of this rule which are extensive and must follow certain guidelines set out in the rule which are numerous.

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While giving an "opinion of value" of real property for a fee usually requires that a person hold an appraiser's classification with the GREAB, there is an exception under Georgia law that allows an individual without an appraiser's classification to testify to the value of real estate in the courts of this state. See O.C.G.A. §43-39A-24 (b)(5). Subsection (c) of the Code section states: "This exception shall not apply to any person who holds an appraisal classification."

The above Code section was cited in Leota Properties, LTD v. Bank One Lexington, N.A., 212 Ga. App. 508 (1994) which held that if a nonlicensee has the right to testify to the value of real estate in the courts of this state (as the above Code exception allows) then the nonlicensee has the right to testify to the value of real estate in preliminary stages of the appeal process. The court goes on to say . . . "The legislature could not have intended to subject those who are permitted to testify as to the value of real estate under subsection (b)(5) to criminal penalties (O.C.G.A. §43-39A-26) based on their performance of a pre-trial valuation of real estate in preparation for their testimony. Nor would one expect that a person could testify as to the value of real estate without first engaging in some preliminary process of valuation . . ."

In conclusion, my analysis of Georgia law is that a nonlicensee who is hired as a tax consultant by a taxpayer and gives an opinion of the fair market value of the real estate in an ad valorem tax appeal may do so without a classification as an appraiser under Georgia law. Therefore, if the nonlicensed consultant gives his or her opinion of the fair market value of real estate at any stage of the tax appeal process whether it is before a Board of Equalization, a Hearing Officer, an Arbitrator or a Jury, it is permitted.

As stated above if an appraiser gives his opinion of the "fair market value" of property under appeal, he or she must comply with the requirements of Rule 539-1-.20 but if a nonappraiser gives his opinion of "fair market value" of property under appeal, he or she is not required to comply with the requirements of the Rule and is not held to the strict standards required of an appraiser.

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While the testimony of a nonlicensed consultant is permitted, the trier of facts before whom this testimony is given (i.e. a Board of Equalization, a Hearing Office, an Arbitrator or a Jury) may give as much or as little weight to the testimony as warranted. Thus, the testimony of a Georgia licensed appraiser acting as a "property tax consultant" and who must comply with the standards of Rule 539-1-20 may be given more weight by the trier of facts than the testimony of an unlicensed person acting as a tax consultant. However, the testimony of each is allowed under Georgia law.

Sincerely yours,

A handwritten signature in black ink, appearing to read "W.L.R.", written in a cursive style.

William L. Rogers, Jr.
Real Estate Commissioner

WLR: wjs