STATE OF ARKANSAS
ASSESSMENT COORDINATION DEPARTMENT

IN THE MATTER OF
EQUITY EVALUATIONS, INC.
ADMINISTRATIVE LAW HEARING
October 31, 2005

CASE NUMBER: 05-03

DECISION

On September 15, 2005, as required by Arkansas Code Annotated, (A.C.A.) 26-26-304, the Assessment Coordination Department (ACD) certified to Baxter County Judge, Dan Hall, with copies to the Baxter County Assessor and other County and State officials, that the county's 2005 ratio of assessed value to true and full market or actual value had failed to meet legal standards. The A.C.D. sent field staff to Baxter County to make an analysis of the reason for the failure.

As a result of the analysis, on October 11, 2005 the ACD notified the Baxter County reassessment contractor, Equity Valuations, Inc., (Equity) and Mr. Ed Riffel, president of the company and the project Manager for the County Reassessment Plan, that a decision had been made to terminate the Baxter County reappraisal contract and require the corrective work to be done by a new contractor finding that Equity was responsible for the county failing the ratio study and that Equity would be responsible for bearing the cost of the additional services in accordance with A.C.A. 26-26-304.

Pursuant to the Arkansas Administrative Procedures Act, A.C.A.25-15-208, Equity requested a hearing. At the hearing Equity requested that ACD reverse its determination as set out in its letters of September 15, 2005 and October 11, 2005. In support of their request they raised several issues. I will attempt to respond to those issues in this decision as I understand them.

1. Contrary to the contention of Equity, the Assessment Coordination Department (ACD) has the power and authority to terminate the contract for the reappraisal of property in Baxter County (Baxter) between Equity and Baxter. Arkansas Code Annotated 26-26-1907 (2) (b).

2. Contrary to the contention of Equity, the ACD has cause to terminate the contract.

   (a) Very poor work by Equity caused Baxter to fail their Ratio Study.

1. Equity contracted to perform the Baxter reappraisal. The State of Arkansas requires a standard of quality for the assessment rolls for taxation in Arkansas counties. In order to maintain this quality standard, reappraisals are systematically required and funded by the State. State law requires the ACD to determine whether the standard is being met. This is done by the ACD through a test that is referred to as a Ratio Study. The Ratio Study measures the performance of contracted appraisal firms and assessment officials who create the assessment roll. The validated sales in the county are used for the test. Baxter failed to meet this standard after completing reappraisal in 2005.

The preliminary Coefficient of Dispersion (COD)* for commercial improved properties in Baxter County was 38.1%. The preliminary COD for vacant properties in Baxter County was 3.21%.The national standard for the COD for these types of property is a maximum of 20% according to the International Association of Assessing Officers (IAAO) Standard on Ratio Studies. Arkansas adopted a standard of a maximum of 25 % in the ACD rules as of July 2004 and allows a higher percentage standard for small sample sizes. After the preliminary study, Mr. Riffel, the principal of Equity, did some belated validation work and resubmitted the assessment roll for recalculation of the ratio study. Upon recalculation using the resubmitted validation work, the official COD for Commercial Improved properties improved to 33.2% and vacant improved to 26.7%, both still failed.

(2) A review of Mr. Riffles' resubmitted validation work performed by Mr. Riffel after the ratio was published indicated an irresponsible effort toward validation of sales, at best and perhaps something worse. There were 58 sales reviewed, all of which were said to be non-valid transactions. Twenty four (24) were found to be valid by ACD field staff, and 8 were found to be coded wrong by Mr. Riffle. There were only 10 found to be validated correctly, and the remainder could not be determined in the time allotted for the review work... According to ACD rule 4.04. (A)(1.3) (Ratio study performance standards) (Audit of county validation codes). The state will accept county contractor validation codes if 10% or less are found to be incorrectly coded. The field review of the validation work done in Baxter County indicated at least 55% were incorrectly coded. Had the validation been done in a timely manner, the audit of county validation codes would have found that over 10% were incorrectly coded and ACD would not have used the validation codes submitted by the county according to Rule 4.04.1 (A) (3.4) and the

county would have failed the ratio study performance standards for COD, in fact the results would have been identical to the preliminary ratio. The official ratio which was published, giving Mr. Riffel the benefit of the doubt for validation work, overstated the quality of the reappraisal as being better than it actually was.

(b). Contrary to the contention of Equity, it was responsible for the validation of sales and it did not do so.

It is not in dispute that the validation of sales in Baxter County was inadequate. A letter from Mark F. Cooper, Attorney for Equity dated October 27, 2005 states, "In fact, very little validation was (done) by the county and as a result both ACD and Equity Valuations, Inc. were using hundreds of sales that had not been validated or un-validated by the county."

(ACD) Rule 3.25 states in part: "The appraisal manager will assure that a reasonable attempt is made to obtain sales price and confirm validity of all warranty deeds." Item number 9.0 (Sales Information) of the Bid Specifications for Contracting Reappraisal Countys states "County shall continually and concurrently provide copies of all sales information available to it with respect to transfers of parcels occurring from beginning through the duration of the Contract. The Contractor shall verify selling prices indicated in public records and confirm physical data and other relevant information about the property as of the date of sale." Item number 10 of the same document states in part: "10.0 (Sales Ratio Study).Contractor shall generate and supply to the County an appraisal-to-sales price ratio study in compliance with the standards provided under Act 1131 of 2001. The study shall include a list of sales considered to be valid by the Contractor, occurring during the year in which the contract commences until the completion date of the contract."

It is clear that Mr. Riffel, as appraisal manger and Equity as the contractor for the Baxter County reappraisal, was responsible for the validation of sales in Baxter County during the time of the contract. Mr. Riffel had ample time to do the sales validation for Baxter County. Under ACD rules the validation work should have been done throughout the three year project and completed well before the A C D. conducted the ratio study for Baxter County.

(c) Several progress reports were filled out and returned in to the ACD by Equity showing the only work they did for the pay period was land valuing. However, an analysis by ACD of the assessment roll changes and field review showed that Equity did almost no work during the thirty-two months they worked on the project to revalue land.

(d). An unsatisfactory job was done in the valuation of Commercial Improved properties, particularly in the area of assigning building quality class codes. Therefore, the quality of the assessment roll in Baxter County was not maintained.

3. Contrary to the contentions of Equity, it has been given due process of law.

(a) Decisions of the ACD are subject to the Administrative Procedures Act which is codified in pertinent part in A.C.A. 25-15-208. The act does not refer to this procedure as an appeal, it provides that an aggreved party shall be afforded an opportunity for a hearing after reasonable notice. This was done in this case and a hearing was held.

(b) Equity has raised the issue of damages. Equity alone is responsible for any damages it may have.

(a) The contract was for thirty-six months. There were four month remaining on the contract when the ACD ratio study showed that the reappraisal had failed to meet required performance standards. Reimbursement payments to the County was stopped at that time as the ACD no longer had authority to make such payments. A.C.A. 26-26-1907(c) (1). At that point, Equity had been paid thirty-two payments for a total 0f _____. The County made an additional payment to Equity after being notified of the ratio study failure. Equity has therefore been paid a total of _____.

(b) The work Equity did is defective; constitutes a material breach of contract; and cannot be relied upon. The result is that the reappraisal cannot be completed in 2005 as scheduled and the county, the school districts, the state and all entities that receive any proceeds of ad valorem taxes will not receive the benefit of any increase in values in the County that have occurred over the past three years until the reappraisal can be completed.

(c) Corrective action includes:

1) Land size must be added into the CAMA system for those properties that do not contain this component. Land size descriptions must include descriptions, and acreage of all unplatted descriptions. These descriptions must reside within the CAMA system in such a manner as to allow proper land valuation analysis.
2) Sales validation codes must be accurately updated within the CAMA system to meet requirements of the ACD's *Rules and Regulations*. Further validation work shall be conducted and documented as needed throughout the remainder of the reappraisal project.
3)A current valuation model must be developed that recognizes the local market sentiment of land size, water influence, view, or any other land

attribute that the market recognizes regarding the value of vacant or improved land.
4) Comprehensive countywide neighborhood delineation must be developed and used to calculate the value of all market value property in Baxter County.
5) Sales used for residential valuation must be time adjusted before recalculation of location factors.
6) Location factors must be reviewed and recalculated for improved properties in order to ensure valuation meets the acceptable limits of Arkansas law regarding the ratio study.
7) Current value updates must be done on properties with mobile homes.
8) All commercial properties must be field reviewed to ensure proper appraisal methodology is used.
9) Values must be corrected as necessary.

(d) The corrective work will be contracted out and Equity will be expected to pay the cost in accordance with ACA 26-26-304.

4. As previously stated, Equity was paid in reliance upon progress reports that it turned in to ACD stating that certain work had been done. Evidence in the record shows that in many instances such reports were false or misleading. Such false reports are, at a minimum, a violation of ACD Rule 3.31 which provides: "Funding already distributed to the county as a result of misrepresentation will be required to be reimbursed to the state, unless the action is determined, by the ACD Director to be unintentional."

5 Equity contends that since ACD barred them, in the October 11, 2005 letter, from going into the County CAMA System they could not retrieve documents or do any competent study of the ratio study which they contended was incorrect. Equity had from the date of the first letter on September 15,2005 until October 11, 2005, the date of the second letter, to retrieve any information or do any study they wished using the County CAMA system.. In addition, Equity was told at the hearing, on the record, that ACD would work with them to see that they had access to the CAMA system for what ever they needed. It is simply that, under the circumstances, Equity could not have uncontrolled access to the system after October 11th because it would be too easy to alter or delete data. In fact, ACD can not be assured that alterations or deletions did not occur between the date of the first letter and the date of the second letter.

CONCLUSION

The ratio study indicates an unacceptable reappraisal was performed in Baxter County and the field review found the reasons that reappraisal performance standards were not met.

The issues raised by Equity are without merit and their request that the ACD reverse its previous determination in this case is denied.

Debra Asbury, Director