



LOCAL ISSUES

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Assessing Leasehold Interests Part 1

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The assessment of leasehold interests has been the subject of much conflicting opinion. These assessments are unusual in that the fee interest must be exempt (usually the government or a quasi-governmental entity) before the leasehold interest is taxable to the lessee. The authority for this assessment is found at T.C.A. 67-5-502(6) which provides:

All mineral interests and all other interests of whatsoever character, not defined as products of the soil, in real property, including the interest which the lessee may have in and to the improvements erected upon land where the fee, reversion, or remainder therein is exempt to the owner, and which said interest or interests is or are owned separate from the general freehold, shall be assessed to the owner thereof, separately from the other interests in such real estate, which other interests shall be assessed to the owner thereof, all of which shall be assessed as real property. [emphasis added]

The method of valuation is specified in various court decisions. In *State v. Grosvenor*, 149 Tenn. 158, 258 S.W. 140, 142 (1924), it was stated that, "[t]he value of a leasehold is to be based on the difference between the rent paid and the value of the use of property." In *Metropolitan Government of Nashville and Davidson County v. Schatten Cypress Co.*, 530 S.W.2d 277, 281 (Tenn. 1975), the court stated, "The valuation of a leasehold for tax purposes . . . is normally accomplished by determining whether there is an excess in fair rental value over the rent reserved in the lease." (continued on page 3)

State Library and Archives

Volunteers Assist in Loose Records Microfilming

Thomas A. Turley
Local Records Coordinator
Tennessee State Library and Archives

The State Library and Archives microfilms the bound, permanent-value records of Tennessee's counties and municipalities, preserving a secure copy in our vault in case the original records are ever lost or destroyed. At the present time, records from the years 1950 to 1985 are being inventoried throughout the state. Completion of this phase of our microfilming program is projected for 1995.

Meanwhile, work is proceeding on another important group of records. Loose records (court cases, individual wills or deeds, marriage records) provide a wealth of historical and genealogical information that is often omitted from the bound volumes. Many Tennessee counties have preserved loose records from the early 19th or even late 18th centuries. The State Library and Archives microfilms those up to the year 1984. Due to staffing limitations, filming is carried out on a "first-come, first-served" basis.

Unlike our microfilming of bound records, loose records work is a cooperative endeavor. The State Library and Archives depends on local volunteers to carry out preliminary cleaning, arranging and indexing of loose records. These volunteers--recruited from the ranks of genealogists, members of historical societies and courthouse officials--contribute their time and labor without financial reward, although some counties provide work space and money for supplies. Once loose records have been suitably prepared, they are transported to Nashville and microfilmed at state expense. A

copy of the film is kept in the State Library and Archives' public services area for use by researchers from all across the country. A second copy is returned to the county library or, upon request, to an established county archives.

Preparation of loose records for microfilming is an arduous and time-consuming task. The records are removed from their Woodruff files, unfolded, cleaned and placed within boxes in individual file folders. (The use of acid-free materials is strongly recommended.) Folders are then arranged chronologically and alphabetically, after first being separated according to court, office or record type. In order for loose records to be accessible on microfilm, indexing is required. An all-name index is best for genealogical purposes; but if time and labor do not permit this, a limited (e.g., plaintiff and defendant) index is sufficient. A computer, if one is available, can be a great convenience here.

"Pilot" loose records projects were started several years ago in Franklin, Giles and Sumner Counties, and microfilming of their records is now almost complete. The latter two counties have developed their projects into full-service county archives. More recently, the State Library and Archives has cooperated with loose records workers in Anderson, Bradley, Coffee, Dickson, Gibson, Knox, Lawrence, Lincoln, Marshall, Montgomery, Moore, Roane, Sevier, Shelby, Smith, Washington, Weakley and Wilson Counties. There may, of course, be other local projects with which we have not yet made contact.

If you are interested in obtaining state assistance for a loose records project, or if you have questions about other aspects of our local records program, please write or call Tom Turley, Local Records Coordinator, Tennessee State Library and Archives, 403 7th Avenue North, Nashville, TN 37219; telephone (615) 741-2561.

Local Issues

(formerly Local Government Newsletter)

WILLIAM R. SNODGRASS
Comptroller of the Treasury
State of Tennessee

This newsletter is produced by the Division of Local Government every other month, six months annually. It includes information of public interest with contributions from the following divisions of the Comptroller's office:

Division of Administration
Department of Audit, with three divisions:
Division of County Audit
Division of State Audit
Division of Municipal Audit

Office of Management Services
Division of Bond Finance
Division of Local Finance
Division of Local Government
Division of Property Assessments
State Board of Equalization
Capitol Print Shop

The newsletter staff welcomes questions, comments, and ideas from readers. To contact the newsletter, write: Division of Local Government, Suite 1600, James K. Polk State Office Building, 505 Deaderick Street, Nashville, Tennessee 37219.

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(continued from page 1)

To properly value a leasehold interest, both the economic (market) rent and contract rent must be determined. If contract rent is less than economic rent, the bonus to the lessee can be valued by calculating the present worth of the bonus for the remaining term of the lease. In most cases, however, the initial leasehold has no value. As the court explained in *State v. Grosvenor*, supra at 258 S.W. 142:

If property is rented for its full value, if it costs the lessee all its worth, then the leasehold has no separate or taxable value. The value of a leasehold is to be based on the difference between the rent paid and the value of the use of the property. In most cases the leasehold is worth nothing, for property is ordinarily rented for the value of its use. There are cases, however, when a leasehold is of real value.

Most assessors will only have a few leasehold assessments at any one time. However, these valuations must be made with particular care. The idea that a long lease is the equivalent of fee simple ownership is not true. A leasehold assessment cannot be made without a copy of the lease. To value a leasehold according to a method appropriate for fee ownership is incorrect. The court has stated that, "Any assessment of a leasehold interest based upon the value of the land or improvement is void." *Airport Inns, Inc. v. LaManna*, slip op. at 6. (Tenn. Ct. App. Nov. 14, 1975, Western Section).

The main obstacle to the valuation of leasehold interests is that the value is a function of the lease and not of the property itself. It is for this reason that a cost-less-depreciation method of appraisal would not be accurate. The value of a leasehold is dependant upon the lease terms and the relationship with the current rental market. The difference between the contract rent and the market rent is capitalized as if it was a cash payment to the lessee.

Ordinarily, there is no leasehold value in the early years of a lease because most negotiated leases are by definition at "market" rent. It generally takes time and inflation to produce the "bonus to the lessee" which indicates a positive leasehold value. The present value of this bonus to the lessee is the value of the leasehold.

For example, the lessee rents a small garage owned by the city. The rental is \$300 per month and he has a 10 year fixed payment lease with 4 years remaining. Although the contract rental was a fair amount when the lease was negotiated, the city could now receive \$400 per month for this space. If the lessee were searching for rental space today, he would have to pay \$400 per month for the same or similar space. This \$100 per month difference between contract rent and market (or eco-

nomic) rent is the bonus to the lessee which is the leasehold value. It is viewed almost as a cash payment to the lessee (since he doesn't have to pay it) and is the present value of the right to receive \$100 per month for 48 months (the remaining term of the lease). If we assume a capitalization rate of 10%, the value of our leasehold is \$3,943.

All of these components are subject to change as the lease progresses. For example, if this lease had only 24 months remaining the leasehold would be valued as follows:

remaining term on lease -	24 months
bonus to lessee -	\$100 per month
discount rate -	10%
leasehold value -	\$2,167
(present value)	

However, if the market rent has now increased to \$450 per month, the result would be as follows:

remaining term on lease -	24 months
bonus to lessee -	\$150 per month
discount rate -	10%
leasehold value -	\$3,250
(present value)	

This example is the simplest form of a leasehold assessment, but contains the necessary elements upon which to base a leasehold evaluation. Care must be taken to study the lease, for not only the rental amount and the length of the lease, but any restrictions placed upon the use of the property by the government (lessor). For example, without a right to sublet, the leasehold could not be transferred and the lessee would be limited to the value in use. All of the terms and conditions in the lease contract should be studied to determine their effect on the leasehold interest. Any restrictions retained by the government is an additional interest to the reversion of the entire property at the end of the lease term.

In the usual and more complicated example, the government leases a parcel of vacant land to the lessee for a longer term. The lessee constructs the improvements and either uses the building or subleases to another party. The State Board of Equalization in its opinion on the appeal of *Nashville Flying Service, Inc.*, February 14, 1975, determined that other factors and obligations of the lessee, pursuant to the lease, are a part of the contract or actual rent and must be given due weight. These factors are often called "imputed rent" to distinguish them from actual cash payments to the lessor. In this appeal, the State Board of Equalization agreed with the position of the appellant that amortization of capital improvements made by him and his expenditures for such things as maintenance and

insurance that are normally landlord responsibilities, all in accordance with the terms and provisions of the lease, were costs to him to realize full utilization of the property and were imputed contract rent.

The theory behind the concept of imputed rent is that these items are usually paid for by the lessor, who would construct and operate the building. Ordinarily, the rent which is charged the lessee provides for funds to amortize the mortgage, pay the expenses and provide a profit to the building owner (lessor). In the next example, the lessor is not required to pay for these items, but if he were, additional rent would have been charged to cover these expenses.

It is important that these expenses be typical of those normally found in the market place. The best method of determining this is to compare the actual expenses of the lessee with the market place, as in the income approach to value. Another problem is deciding over what period of time to amortize the cost to construct the improvement. Ordinarily, the lessee will have a mortgage which is typical of the market and this information can be supplied by him. Another alternative is to use the lease term, however, this will not be proper if the term is very long. In the following example, the lessee has a 20 year lease and a 20 year mortgage on the improvements. However, if the lease was for 50 years, it is unlikely that the cost to build would be amortized over this period of time.

This example is a 2,000 square foot office building constructed on a one acre tract owned by the city. The lease provides for a 20 year lease at \$1,000 per year. The lease is at the beginning of the 16th year. The lessee is required to construct and maintain the building, which will revert to the city at the end of the lease. The building cost \$90,000 and was financed over 20 years at 8% interest. The annual mortgage payments are \$9,034. Insurance is \$1,000 per year. Maintenance and repair is \$10,000 per year. If vacant the city could lease this building to another tenant at \$12 per square foot or \$24,000 per year. The city would then pay all expenses. The leasehold valuation would be as follows:

Market rent \$12 per square foot x 2,000 square foot	= \$24,000
Contract Rent (annual)	\$ 1,000
Expenses (imputed rent)	
mortgage (cost to build)	9,034
insurance	1,000
maintenance and repair	<u>10,000</u>
Total cost to lessee	<u>\$21,034</u>
bonus to the lessee	<u>2,966</u>

The leasehold value would be the right to receive \$2,966 per year for 5 years. If we assume a 10% discount rate, the value of the leasehold would be \$11,243. As in the first example, as the lease progresses the components may change. With 2 years remaining the leasehold would be as follows:

remaining term -	2 years
bonus to lessee -	\$2,966
discount rate -	10%
leasehold value -	\$5,148

However, if the potential market rent had increased, and we assume an increase of \$1,500 per year bonus to the lessee, the results would look as follows:

remaining term -	2 years
bonus to lessee -	\$4,466
discount rate -	10%
leasehold value -	\$7,751

Close observers will note that the earlier example is calculated monthly and this example is based on annualized data. In the first example, the city is the typical landlord and would collect the rent monthly, therefore the bonus would accrue to the lessee on a monthly basis. In the second example, the contract land rent is \$1,000 per year and the monthly mortgage has been annualized. However, the lease terms would control the contract rent, and market conditions would determine the amortization of the improvements. It is unlikely that the mortgage would contain annual payments.

It is obvious from these relatively simple examples that leasehold assessments can be quite complicated. However, they are no more difficult than a typical income approach to value. The appraiser must study the lease carefully for all relevant terms, conditions and restrictions. Also any assumptions must be based upon actual conditions or those which are typical for the market place. For example, if the lessee had paid cash to construct the building, we must still allow an amount as imputed rent, which would be necessary to amortize the costs if there were a loan under "typical" market conditions.

In part two of this article, we will explore industrial development corporation leases, in lieu of tax payments, practical applications and general observations. There also will be more examples of lease analysis and leasehold valuation.

A View from the Advisory Commission on Intergovernmental Relations

John T. Bragg
Deputy Speaker
Tennessee House of Representatives

In 1986, leaders of the Southern Growth Policies Board issued a report on the future of the South entitled *Halfway Home and a Long Way to Go*. At the core of the report were ten regional objectives to ease the South's entrance into the 21st century.

Strangely enough, all ten objectives seem to fit any section of the country. All are common goals of government involving education, at-risk families, technology, jobs and the environment. It is significant that two of the objectives point directly at government itself: (1) develop pragmatic leaders with global vision; and (2) improve the structure and performance of state and local governments.

The development of "pragmatic leaders" will continue to be debated in every election. The global vision, however, is already upon us. Many state and local leaders have come to realize that the fortunes of their citizens are tied to global affairs, and that there is much to be learned from other countries. The National Governors Association reports, for example, that governors of 47 states led 87 delegations to foreign countries in 1987. While these leaders were circling the globe for economic opportunities, state and local governments back home were demanding more and more attention, to say nothing about dollars.

The March 1988 Fiscal Survey of the States by the National Association of State Budget Officers reveals that last year 24 states cut their budgets in mid-year and that 34 states raised tax levels. The survey also documents the wide array of budget balancing initiatives employed by states.

Amid the otherwise routine statistics, one item stood out: "Sixteen states recommended new and expanded programs to help local governments." This is very important in a time of declining federal aid to state and local governments.

In Tennessee we have an expression called "poor mouthing." When you contend that you don't have anything, and have no hope for the future, you're poor mouthing. In my early years in the General Assembly, I was convinced that our local government representatives in Tennessee were the all-time champion poor mouthers.

However, recent studies by the Tennessee ACIR report that:

54 of the state's 95 counties do not raise half of their budgets from local sources.

49 counties have one or more constitutional clerks whose office fees do not generate enough revenue to cover the cost of their offices.

44 counties are making a greater tax effort than their capacity.

20 counties with the lowest educational attainment have consistently had the highest unemployment rates.

We cannot pass these findings off as poor mouthing. Such findings also are not unique to Tennessee. Similar figures or others equally critical can probably be found in other states.

The pressing problem is that we are approaching the 21st century riding in an 18th-century vehicle. To prepare for the years ahead, state and local officials must overcome their mind sets that each is an avowed enemy and this also goes for state and local officials in relation to the federal establishment, *Garcia and South Carolina v. Baker* notwithstanding.

We need, among other things, better intergovernmental coordination, not just federal-state-local but also state-local. A look at the changes going on in the federal system today will highlight the importance of good state-local relations. By working together, we can structure state and local governments to make them more effective in the 21st century.

In this, state ACIRs can play a vital role. Our own Tennessee ACIR, for example, identifies issues, researches problems, makes recommendations and facilitates communication. We need the Tennessee ACIR to focus attention on the wider intergovernmental context of public policy.

The Congress, too, must repair its intergovernmental machinery. Unfunded mandates, preemption of state and local authority, the federal deficit, declining state aid to state and local governments, the low priority of intergovernmental affairs and reduced support for the U.S. ACIR all signal problems on the horizon for good federal-state-local relations.

The U.S. ACIR has spoken of the need to restore balance in the federal system, a balance that recognizes the renewed strength of the states and the vital importance of local governments. Perhaps to think pragmatically about restructuring our federal system, we need to stop thinking about it as a top-heavy totem pole.

Our federal system does not have to be a stick in the mud. It is and can be an energetic system of constitutionally coordinated governments that share power and perform functions according to the will of the people.

(This article was reprinted with permission from *Intergovernmental Perspective*, the publication of the U.S. Advisory Commission on Intergovernmental Relations.)

Tennessee State Revenue Sharing Act

When Congress created TVA in 1933, the Act stipulated that five percent of the gross proceeds received from power sales be allocated to the states where the power sales were made. Tennessee's share of the five percent for the current fiscal year is \$146,429,736. TVA makes monthly payments in lieu of taxes to the state. A portion is then shared quarterly with all local governments in Tennessee.

The Tennessee State Revenue Sharing Act (T.C.A., Title 67, section 9-101 through 9-103) went into effect July 1, 1978. The state and local governments receiving money from the payments made to the state in 1977-78 fiscal year continue to receive that base year amount. The act appropriates the amount of the increase above the base year payments as follows:

- 48 1/2 percent to the state of Tennessee;
- 48 1/2 percent to local governments; and
- 3 percent to local governments located in impact areas.

For the fiscal year 1988-89, the state will be sharing \$46,980,952.42 with local governments in addition to the base year payment of \$4,174,574.71. All local governments will receive four quarterly payments, the first in October and subsequent payments in January, April and June. The local governments receiving impact funds receive one payment in October.

IMPACT AREAS DESIGNATED BY TVA

BRADLEY	191,677.53	CALHOUN	2,637.17	GORDONSVILLE	2,971.18
CHARLESTON	2,145.29	ENGLEWOOD	8,224.39	SOUTH CARTHAGE	3,340.50
CLEVELAND	79,852.63	ETOWAH	17,776.30		
		NIOTA	3,535.59	SULLIVAN	3,624.38
HAMILTON	152,945.39			BLUFF CITY	28.22
CHATTANOOGA	90,133.88	MACON	23,459.04	BRISTOL	603.85
COLLEGEDALE	2,449.63	LAFAYETTE	5,689.94	KINGSPORT	772.54
EAST RIDGE	11,291.59	RED BOILING SPGS	1,752.71		
LAKESITE	346.15			SUMNER	14,659.55
LOOKOUT MOUNTAIN	1,002.82	MEIGS	231,547.57	GALLATIN	2,937.55
RED BANK	6,980.94	DECATUR	42,127.88	GOODLETTSVILLE	331.85
RIDGESIDE	221.73			HENDERSONVILLE	4,580.36
SIGNAL MOUNTAIN	3,093.54	MONROE	204,666.48	MILLERSVILLE	274.43
SODDY DAISY	4,522.27	MADISONVILLE	20,709.11	MITCHELLVILLE	35.72
WALDEN	687.51	SWEETWATER	37,866.86	PORTLAND	688.64
		TELLICO PLAINS	6,067.71	WESTMORELAND	299.72
HAWKINS	13,153.27	VONORE	3,765.29	WHITE HOUSE	186.43
BULLS GAP	246.83				
CHURCH HILL	1,242.85	RHEA	197,496.49	TROUSDALE	34,395.43
KINGSPORT	402.86	DAYTON	46,743.96	HARTSVILLE	14,986.70
MOUNT CARMEL	1,167.99	GRAYSVILLE	11,245.93		
ROGERSVILLE	1,313.20	SPRING CITY	18,189.07	WILSON	11,573.20
SURGOINSVILLE	468.70			LEBANON	2,614.01
		ROANE	186,962.15	MOUNT JULIET	692.36
LOUDON	198,553.06	HARRIMAN	32,913.49	WATERTOWN	268.36
GREENBACK	4,659.07	KINGSTON	17,897.00		
LENOIR CITY	37,849.77	OAK RIDGE	9,120.33	U. T. PUBLIC SERVICE	
LOUDON	29,087.93	OLIVER SPRINGS	4,463.63	INSTITUTE FOR C-TAS	273,676.45
PHILADELPHIA	3,525.60	ROCKWOOD	22,298.85		
				RETURNED TO COUNTY/	
McMINN	187,185.28	SMITH	49,691.57	MUNICIPALITY PAYMENTS	66,331.27
ATHENS	54,316.72	CARTHAGE	8,890.25		
				TOTAL	\$2,736,754.51

Distribution of TVA Payments to Counties

County	Total 1988-89 Payment	County	Total 1988-89 Payment	County	Total 1988-89 Payment
ANDERSON	483,244.77	HAMILTON	1,302,207.81	MORGAN	220,421.91
BEDFORD	246,833.55	HANCOCK	91,907.10	OBION	272,226.48
BENTON	625,623.17	HARDEMAN	285,412.81	OVERTON	190,518.78
BLED SOE	164,092.38	HARDIN	384,158.83	PERRY	238,578.15
BLOUNT	465,630.74	HAWKINS	545,577.23	PICKETT	63,918.47
BRADLEY	339,870.45	HAYWOOD	231,360.38	POLK	373,815.57
CAMPBELL	469,803.09	HENDERSON	281,389.29	PUTNAM	287,380.63
CANNON	129,237.80	HENRY	643,399.41	RHEA	453,776.75
CARROLL	275,484.50	HICKMAN	257,951.38	ROANE	664,066.98
CARTER	306,288.55	HOUSTON	147,207.14	ROBERTSON	261,501.06
CHEATHAM	171,399.03	HUMPHREYS	579,936.54	RUTHERFORD	497,613.01
CHESTER	130,021.54	JACKSON	126,616.84	SCOTT	228,037.58
CLAIBORNE	325,607.29	JEFFERSON	433,228.81	SEQUATCHIE	119,712.34
CLAY	95,413.04	JOHNSON	181,006.48	SEVIER	344,188.08
COCKE	299,162.97	KNOX	1,231,507.20	SHELBY	2,688,427.83
COFFEE	313,925.56	LAKE	76,074.52	SMITH	175,461.27
CROCKETT	129,073.68	LAUDERDALE	224,086.90	STEWART	978,300.59
CUMBERLAND	303,582.21	LAWRENCE	300,677.01	SULLIVAN	685,497.63
DAVIDSON	1,591,462.33	LEWIS	122,268.96	SUMNER	448,268.42
DECATUR	244,915.18	LINCOLN	263,821.85	TIPTON	242,564.22
DEKALB	133,201.59	LOUDON	526,343.37	TROUSDALE	90,427.27
DICKSON	247,001.68	MCMINN	352,047.68	UNICOI	107,509.75
DYER	267,968.84	MCNAIRY	246,523.93	UNION	410,231.94
FAYETTE	300,811.49	MACON	144,493.88	VAN BUREN	115,703.85
FENTRESS	203,567.47	MADISON	396,180.24	WARREN	232,895.88
FRANKLIN	451,461.25	MARION	469,363.24	WASHINGTON	390,625.21
GIBSON	337,193.09	MARSHALL	187,755.20	WAYNE	281,296.51
GILES	275,883.01	MAURY	474,190.98	WEAKLEY	284,345.32
GRAINGER	368,877.02	MEIGS	284,342.87	WHITE	191,967.75
GREENE	373,689.55	MONROE	643,497.05	WILLIAMSON	378,652.38
GRUNDY	160,563.79	MONTGOMERY	450,155.05	WILSON	361,560.34
HAMBLEN	327,057.85	MOORE	74,514.61	STATE TOTAL	34,833,847.00

Distribution of TVA Payments to Municipalities

Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment
ADAMS	2,920.72	AUBURNTOWN	993.05	BLUFF CITY	5,907.01
ADAMSVILLE	8,174.26	BAILEYTON	1,737.83	BOLIVAR	32,989.46
ALAMO	12,735.26	BANE BERRY	1,056.33	BRADEN	1,426.29
ALCOA	33,500.59	BARTLETT	115,139.38	BRADFORD	5,602.12
ALEXANDRIA	3,874.82	BAXTER	6,892.99	BRENTWOOD	63,559.59
ALGOOD	11,712.07	BEERSHEBA SPRING	3,130.04	BRIGHTON	4,751.04
ALLARDT	3,183.59	BELL BUCKLE	2,740.61	BRISTOL	120,322.23
ALTAMONT	3,305.23	BELLE MEADE	15,489.52	BROWNSVILLE	50,936.5
ARDMORE	4,064.67	BELLS	8,455.47	BRUCETON	7,686.35
ARLINGTON	6,655.06	BENTON	5,427.67	BULLS GAP	3,996.52
ASHLAND CITY	12,596.02	BERRY HILL	5,417.98	BURLISON	1,879.00
ATHENS	59,298.56	BETHEL SPRINGS	4,249.65	BURNS	4,940.88
ATOKA	3,650.90	BIG SANDY	3,843.75	BYRDSTOWN	4,303.19
ATWOOD	5,563.97	BLAINE	5,933.93	CALHOUN	2,872.04

Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment
CAMDEN	19,583.39	ERWIN	25,828.85	JELICO	13,620.26
CARTHAGE	13,006.92	ESTILL SPRINGS	8,842.69	JOHNSON CITY	229,333.18
CARYVILLE	9,925.57	ETHRIDGE	2,667.58	JONESBORO	13,771.16
CEDAR HILL	2,044.51	ETOWAH	19,359.46	KENTON	7,642.53
CELINA	7,691.22	FAIRVIEW	18,361.55	KIMBALL	5,938.78
CENTERTOWN	1,460.37	FARRAGUT	40,481.06	KINGSPORT	162,698.32
CENTERVILLE	13,905.04	FAYETTEVILLE	39,301.81	KINGSTON	25,281.86
CHAPEL HILL	4,191.23	FINGER	1,192.62	KINGSTON SPRINGS	6,751.71
CHARLESTON	3,680.11	FOREST HILLS	21,963.23	KNOXVILLE	889,609.78
CHARLOTTE	3,635.88	FRANKLIN	83,435.78	LAFAYETTE	19,281.57
CHATTANOOGA	968,187.56	FRIENDSHIP	3,831.01	LAFOLLETTE	40,771.24
CHURCH HILL	20,790.62	FRIENDSVILLE	4,420.01	LAGRANGE	900.55
CLARKSBURG	1,947.15	GADSDEN	3,324.74	LAKE CITY	12,075.64
CLARKSVILLE	343,483.75	GAINESBORO	5,860.90	LAKELAND	4,994.42
CLEVELAND	137,743.81	GALLATIN	85,800.81	LAKESITE	3,168.97
CLIFTON	3,762.86	GALLAWAY	3,913.76	LAKEWOOD	11,317.76
CLINTON	42,046.33	GARLAND	1,465.22	LAVERGNE	32,458.86
COALMONT	4,575.79	GATES	3,548.67	LAWRENCEBURG	49,574.24
COLLEGEDALE	22,426.22	GATLINBURG	17,412.32	LEBANON	70,994.20
COLLIERVILLE	57,625.68	GERMANTOWN	153,176.79	LENOIR CITY	28,020.12
COLLINWOOD	5,179.41	GIBSON	2,229.48	LEWISBURG	43,315.28
COLUMBIA	138,309.92	GILT EDGE	1,990.95	LEXINGTON	29,064.68
COOKEVILLE	104,717.31	GLEASON	6,800.81	LIBERTY	1,776.77
COPPERHILL	2,034.77	GOODLETTSVILLE	46,638.92	LINDEN	5,298.24
CORNERSVILLE	3,514.00	GORDONSVILLE	4,346.99	LIVINGSTON	17,056.96
COTTAGE GROVE	589.55	GORD JUNCTION	2,127.25	LOBELVILLE	4,833.78
COVINGTON	30,163.11	GRAYSVILLE	6,717.64	LOOKOUT MOUNTAIN	9,180.77
COWAN	8,963.17	GREENBACK	3,261.46	LORETTO	8,168.28
CRAB ORCHARD	5,184.28	GREENBRIER	15,479.78	LOUDON	23,634.82
CROSS PLAINS	4,244.78	GREENEVILLE	68,916.74	LUTTRELL	4,682.8
CROSSVILLE	31,178.62	GREENFIELD	10,266.31	LYNCHBURG	3,325.09
CUMBERLAND CITY	14,510.04	GRUETLI-LAAGER	9,837.93	LYNNVILLE	1,919.97
CUMBERLAND GAP	1,230.26	GUYS	2,312.23	MADISONVILLE	14,136.25
DANDRIDGE	7,542.56	HALLS	12,471.44	MANCHESTER	36,153.56
DAYTON	30,474.03	HARRIMAN	44,491.88	MARTIN	44,150.59
DECATUR	6,561.35	HARTSVILLE	13,016.64	MARYVILLE	86,681.89
DECATURVILLE	4,963.04	HENDERSON	23,375.44	MASON	2,292.76
DECHERD	10,890.98	HENDERSONVILLE	145,130.23	MAURY CITY	4,814.31
DICKSON	34,269.71	HENNING	4,132.81	MAYNARDVILLE	4,497.90
DOVER	6,021.55	HENRY	1,496.02	MCEWEN	6,734.59
DOWELLTOWN	1,659.95	HICKORY VALLEY	1,228.70	MCKENZIE	26,573.62
DOYLE	1,674.55	HOHENWALD	19,764.01	MCLEMORESVILLE	1,513.90
DRESDEN	12,748.92	HOLLOW ROCK	5,013.89	MCMINNVILLE	57,879.86
DUCKTOWN	2,837.97	HORNBEAK	2,200.27	MEDINA	3,344.22
DUNLAP	17,941.44	HORNSBY	1,952.01	MEDON	1,022.25
DYER	11,887.31	HUMBOLDT	49,699.41	MEMPHIS	3,342,506.33
DYERSBURG	77,184.72	HUNTINGDON	21,968.63	MICHIE	2,925.58
EAGLEVILLE	2,346.32	HUNTLAND	4,785.10	MIDDLETON	3,061.35
EAST RIDGE	103,373.78	HUNTSVILLE	3,524.33	MILAN	40,052.71
EASTVIEW	2,687.07	IRON CITY	2,555.62	MILLEDGEVILLE	1,908.20
ELIZABETHTON	61,942.32	JACKSBORO	8,416.52	MILLERSVILLE	9,872.01
ELKTON	2,628.64	JACKSON	243,102.97	MILLINGTON	98,505.91
ENGLEWOOD	10,147.68	JAMESTOWN	11,507.61	MINOR HILL	2,745.47
ENVILLE	1,397.07	JASPER	12,997.17	MITCHELLVILLE	1,017.38
ERIN	7,856.72	JEFFERSON CITY	28,690.39	MONTEAGLE	5,481.20

Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment	Municipality	Total 1988-89 Payment
MONTEREY	12,865.65	PORTLAND	22,212.02	SPRING HILL	5,325.43
MORRISON	2,857.43	POWELLS CROSSRDS	4,468.69	SPRINGFIELD	54,505.37
MORRISTOWN	105,963.47	PULASKI	39,049.93	ST JOSEPH	4,366.47
MOSCOW	2,429.06	PURYEAR	3,037.54	STANTON	2,628.64
MOSHEIM	7,637.86	RAMER	2,066.31	STANTONVILLE	1,319.19
MOUNT CARMEL	21,214.11	RED BANK	63,910.07	SURGOINSVILLE	7,588.99
MOUNT JULIET	21,024.27	RED BOILING SPGS	5,709.99	SWEETWATER	26,326.15
MOUNT PLEASANT	16,795.94	RICKMAN	4,293.45	TAZEWELL	10,246.83
MOUNTAIN CITY	11,118.18	RIDGELY	9,404.70	TELLICO PLAINS	4,589.80
MUNFORD	12,593.14	RIDGESIDE	2,029.90	TENNESSEE RIDGE	6,449.91
MURFREESBORO	184,260.04	RIDGETOP	6,352.55	TIPTONVILLE	11,867.83
NASHVILLE	1,682,795.98	RIPLEY	31,129.93	TOONE	1,728.09
NEW HOPE	4,064.13	RIVES	1,878.99	TOWNSEND	1,982.54
NEW JOHNSONVILLE	9,365.17	ROCKFORD	2,760.07	TRACY CITY	8,669.65
NEW MARKET	6,503.45	ROCKWOOD	28,111.86	TRENTON	22,397.00
NEW TAZEWELL	8,163.39	ROGERSVILLE	21,262.79	TREZEVANT	4,483.29
NEWBERN	13,600.79	ROSSVILLE	1,844.92	TRIMBLE	3,514.59
NEWPORT	39,235.94	RUTHERFORD	6,805.26	TROY	5,320.57
NIOTA	5,294.35	RUTLEDGE	5,150.19	TULLAHOMA	77,586.29
NORMANDY	574.41	SALTILLO	2,112.65	TUSCULUM	10,670.34
NORRIS	7,024.31	SAMBURG	2,263.55	UNION CITY	51,940.01
OAK HILL	22,435.94	SARDIS	1,465.22	VANLEER	1,952.01
OAK RIDGE	137,937.50	SAULSBURY	769.39	VIOLA	725.31
OAKDALE	1,572.32	SAVANNAH	34,687.16	VONORE	2,570.23
OAKLAND	2,516.68	SCOTTS HILL	3,529.19	WALDEN	6,294.14
OBION	6,240.59	SELMER	19,374.80	WARTBURG	3,972.17
OLIVER SPRINGS	18,283.66	SEVIERVILLE	26,948.45	WARTRACE	2,628.64
ONEIDA	20,975.59	SHARON	5,559.48	WATAUGA	1,890.31
ORLINDA	2,063.97	SHELBYVILLE	72,246.30	WATERTOWN	6,425.57
ORME	881.06	SIGNAL MOUNTAIN	28,321.18	WAVERLY	21,442.90
PALMER	4,999.29	SILERTON	486.79	WAYNESBORO	10,266.31
PARIS	52,738.34	SLAYDEN	335.88	WESTMORELAND	8,538.22
PARKERS CROSSRDS	1,066.06	SMITHVILLE	18,697.70	WHITE BLUFF	10,198.16
PARROTTSVILLE	574.41	SMYRNA	55,386.45	WHITE HOUSE	13,606.65
PARSONS	12,454.28	SNEEDVILLE	6,104.29	WHITE PINE	10,115.40
PEGRAM	6,776.05	SODDY DAISY	41,401.11	WHITEVILLE	6,182.18
PETERSBURG	3,807.48	SOMERVILLE	11,020.82	WHITWELL	8,679.39
PHILADELPHIA	2,468.00	SOUTH CARHAGE	4,867.33	WILLISTON	1,922.60
PIGEON FORGE	14,097.31	SOUTH FULTON	14,730.13	WINCHESTER	33,190.40
PIKEVILLE	10,222.50	SOUTH PITTSBURG	18,442.32	WINFIELD	2,826.22
PIPERTON	3,631.42	SPARTA	24,811.25	WOODBURY	11,609.83
PITTMAN CENTER	2,570.23	SPENCER	5,481.20	WOODLAND MILLS	2,580.48
PLEASANT HILL	1,844.92	SPRING CITY	12,235.80	YORKVILLE	1,509.04
				TOTAL	13,651,258.89

Legal Briefs: Attorney General's Opinions

AIDS--Tennessee employers contracting with the Federal government or otherwise receiving federal funds should consider job applicants who have been diagnosed with AIDS as handicapped. Other Tennessee employers are not required to consider applicants who have been diagnosed with AIDS as handicapped.

Pursuant to the Federal Rehabilitation Act of 1973 employers contracting with the Federal government or otherwise receiving federal funds may not refuse to hire an individual solely on the basis that the person has been diagnosed with AIDS. (Op. No. 88-135, Aug. 1, 1988)

BINGO--Statutory restrictions prohibit the sale and require the destruction of forfeited "gambling devices", i.e. equipment and supplies designed and purchased for use exclusively in bingo operations, such as a bingo blower machine, light boards, and bingo paper. However, in the absence of a specific court order, state statutes authorize that forfeited equipment, fixtures, and stock, which are adaptable to non-bingo (non-gambling) uses, may be used by the state or disposed of by public auction or as otherwise provided by law, such as through the State Surplus Personal Property Act. (Op. No. 88-159, Sept. 1, 1988)

CRIMINAL COURT CLERK--Pursuant to Article VII, Section 2 of the Tennessee Constitution, a vacancy in the office of Criminal Court Clerk is filled by the county legislative body until a successor is elected at the next general election occurring after the vacancy. (Op. No. 88-131, July 29, 1988)

DAY CARE--It is the opinion of the Attorney General that legislation exempting church operated day care centers from state regulation under present case law would not necessarily violate the Establishment Clause of the First Amendment of the United States Constitution. (Op. No. 88-150, Aug. 18, 1988)

EDUCATION--It is the opinion of the Attorney General that a public school teacher can teach any scientific theory of the origin of life, such as evolution. However, no theory of the origin of life which is religiously based can be taught in the public schools as part of the science curriculum, because its teaching would violate the establishment clause of the First Amendment of the United States Constitution. (Op. No. 88-149, Aug. 18, 1988)

ELECTIONS--It is the opinion of the Attorney General that where citizens of an unincorporated area in a county file a petition with the county election commission to hold an incorporation election and the municipality adjacent to the unincorporated area files suit against the county election commission to enjoin the holding of such an election, the municipality concerned, namely the

newly-incorporated municipality if the incorporation election is successful, is responsible for payment of legal representation for the county election commission. On the other hand, if the incorporation election is enjoined or rejected by the electorate in the unincorporated area, then there is no statutory authority for such counsel to be paid. (Op. No. 88-155, Aug. 29, 1988)

FELONY CONVICTIONS--The statute of limitations for felony charges is pursuant to the provisions of T.C.A. 40-2-101.

General Sessions and Circuit Court judges do not have the authority to reduce felony convictions or expunge them.

It is the opinion of the Attorney General that the Peace Officers Standards and Training Commission (POST) may grant certification where felony charges are expunged, but has no authority to grant certification where a felony conviction has been expunged absent established criteria for the waiver of qualification. (Op. No. U88-86, Aug. 2, 1988)

GOVERNMENT EMPLOYEES--T.C.A. 8-33-109, requiring state and local governments to grant paid leave to employees while they perform military service, does not violate the federal and state constitutions.

Section 8-33-109 requires full compensation, without regard to compensation received by the employee for military service. (Op. No. 88-137, Aug. 8, 1988)

INSURANCE--It is the opinion of the Attorney General that T.C.A. 56-7-1001 requires insurance to provide coverage for a child from the moment of birth if the parent of the child had pre-existing family insurance or if the parent tenders the increased premium for such coverage within 31 days of the child's birth. (Op. No. 88-162, Sept. 2, 1988)

JUDICIAL IMMUNITY--It is the opinion of the Attorney General that a retired judge serving on active status by letter of designation from the Chief Justice of the Tennessee Supreme Court is afforded the same protection against lawsuits as his or her active counterpart. (Op. No. 88-134, Aug. 1, 1988)

LOCAL GOVERNMENTS--It is the opinion of the Attorney General that a conflict of interest exists when a county commissioner who is also a county employee votes on a budget which includes his salary. (Op. No. U88-98, Sept. 8, 1988)

PUBLIC SERVICE COMMISSION--The Tennessee Public Service Commission has limited authority, under state statute and federal law, to establish speed limits only in those circumstances where it has first determined that a local dangerous condition or safety hazard

(continued on page 12)

Economic Trends

Phil Doss
 Chief of Research
 Division of Local Government

THE FEDERAL RESERVE SYSTEM

Bank failures and intermittent financial panics throughout the 1800s prompted Congress to create the National Monetary Commission in 1908. The Commission was charged with studying the banking system of the United States and recommending ways to stabilize it. One of the Commission's proposals was for the creation of a central bank to exercise general supervisory powers over the banking system. In 1913, Congress passed the Federal Reserve Act, which established the Federal Reserve System.

Periodically, Congress has seen fit to more specifically articulate the Federal Reserve's role in the U.S. economy, most recently in amendments to the Full Employment and Balanced Growth Act of 1978 (which required semi-annual reports from the Federal Reserve Chairman to various congressional committees) and the Depository Institutions Deregulation and Monetary Control Act of 1980 (which allowed savings and loan institutions and credit unions to participate in financial activities previously reserved only for banks).

The Federal Reserve System is composed of twelve regional banks and twenty-five reserve bank branches. Regional banks are located in Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, San Francisco, and St. Louis. The eastern and central sections of Tennessee are served by the Atlanta Federal Reserve, with a branch bank in Nashville. The western section of the state is served by the St. Louis Federal Reserve, with a branch in Memphis.

The Federal Reserve System's operation is directed by the Board of Governors (see chart*), a seven member group appointed by the President of the United States and confirmed by the Senate. The President also appoints a chairman of the board from among the group. Because it administers bank consumer protection legislation and supervises banks and thrift institutions, the board is advised by various councils representing those groups.

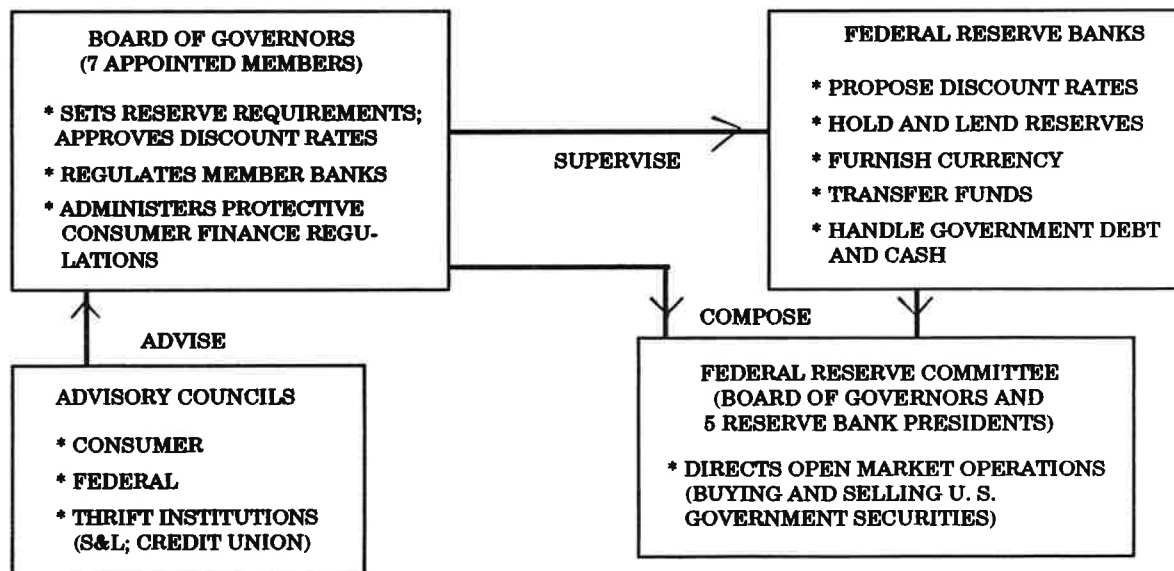
In addition to supervising the operation of the federal reserve system, the Board is responsible for establishing and implementing monetary policy for the nation's economy. By establishing reserve requirements for banks (the amount of cash and security balances a bank must hold in relation to its deposits), and setting discount rates (the interest rate charged by the federal reserve on loans to banks), the federal reserve can influence economic activity.

The entire board also serves on the Federal Open Market Committee (FOMC), along with five reserve bank presidents (appointments rotate among eleven of the twelve districts; the President of the New York Federal Reserve serves continually and is by tradition elected vice-chairman of the FOMC). The FOMC influences the economy by buying or selling U.S. government securities (primarily Treasury bills) in the open market.

* The chart is adapted from *The Federal Reserve System: Purposes and Functions*, published by the Board of Governors of the Federal Reserve System, Washington, D.C., Seventh Edition, 1984.

See also "Economic Commentary" of the FRB of Cleveland, August 1, 1988, on the Federal Reserve's report to congressional committees. For more information, contact this office.

FEDERAL RESERVE BOARD OF GOVERNORS ORGANIZATION CHART



Local Issues

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Greenbelt Advice Corrected

The September *Local Issues* contained a series of questions and answers concerning recent amendments to the Greenbelt Law, including a question regarding circumstances under which rollback taxes were due upon disqualification of greenbelt property. In response to the question, "Should rollback taxes be assessed when acreage that once qualified for preferential assessment no longer qualifies?" the answer indicated rollback taxes would *not* be due. In fact, rollback taxes usually *are* due when a sale or change in use results in property no longer being eligible for greenbelt. The question, however, was meant to address the limited circumstances of greenbelt property being disqualified due to enactment of Public Chapter 207 of 1987 which revoked the "grandfather clause" for the 1,500 acre ownership limitation as to forest land. The result of Public Chapter 207 was to disqualify some parcels which exceed the 1,500 acre limit, and in these instances rollback taxes would not be due. Further questions concerning the Greenbelt Law may be directed to the State Board of Equalization.

(continued from page 10)

exists of which train speed would be an essential element. (Op. No. 88-147, Aug. 18, 1988)

RETIREMENT—City council members may elect to participate in the Tennessee Consolidated Retirement System pursuant to T.C.A. 8-35-226, even though the city has adopted a resolution to withdraw from the System, so long as the withdrawal has not yet become effective. (Op. No. 88-158, Aug. 31, 1988)

SAFETY—It is the opinion of the Attorney General that there is no legislative authority imposing on the Department of Safety a duty to inspect private and church affiliated buses. There is, however, specific authority requiring the Department of Safety to inspect public school buses. (Op. No. 88-164, Sept. 6, 1988)

SHERIFF—The sheriff must specify that a special deputy is appointed on an "urgent occasion" or for a "particular purpose."

A special deputy sheriff may question suspects, conduct searches and make arrests when the authority to perform these acts is expressly granted to him/her by the appointing sheriff.

Evidence obtained pursuant to interrogation, searches or arrests, performed by special deputies, is subject to exclusionary rules when the special deputy is acting pursuant to express authorization and under supervision or direction of the appointing sheriff.

There are statutory limitations on the time and place in which a special deputy may carry a firearm.

A special deputy does not generally act under color of state law for purposes of 42 U.S.C. 1983 analysis. In order to determine if an action is taken under color of state law, the facts and circumstances of the situation must be examined to establish whether there is evidence of a pre-existing plan between law enforcement officers and the privately employed special deputy, and whether the privately employed special deputy is authorized to act as if (s)he is clothed with state authority.

The fact that a judge is a special deputy sheriff disqualifies him/her from issuing arrest/search warrants. (Op. No. 88-139, Aug. 9, 1988)