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BULLETIN NUMBER 2017-01

TO: Assessors of Property
FROM: Stephanie Maxwell, General Counsel *SM*
DATE: June 1, 2017
RE: **RECENT LEGISLATION AND TENNESSEE ATTORNEY GENERAL OPINION
REGARDING MOBILE HOMES AND FOREST LAND**

We wanted to bring to your attention a few recent developments related to mobile homes and forest land.

Mobile Homes:

Public Chapter 297, signed by Governor Haslam on May 5, 2017, amends Tenn. Code Ann. § 67-5-801 by redesignating the language in subsection (c)(2) as a new subdivision (c)(2)(A) and adding the following language as a new subdivision (c)(2)(B): “When a mobile home attached to real property as described in § 67-5-802 is used as a residence, the assessor of property may presume the classification is residential.” Public Chapter 297 shall apply to the tax year beginning January 1, 2017.

On April 21, 2017, the Attorney General issued an opinion regarding whether this language conforms to Article II, Section 28 of the Tennessee Constitution insofar as it applies to property with no more than one rental unit. (Tenn. Op. Atty. Gen. No. 17-32) The Attorney General stated that this language violates Article II, Section 28 of the Tennessee Constitution if it is applied to residential property containing two or more rental units. If assessors of property apply the presumption of a residential

classification created by this proposed legislation only to property with no more than one rental unit, this language conforms to existing case law.

Assessors should carefully implement this statutory change so as not to violate the Tennessee Constitution as explained by the Attorney General. If a property has two or more rental units, it must still be classified as commercial.

Forest Land:

Public Chapter 297, signed by Governor Haslam on May 5, 2017, also amends Tenn. Code Ann. § 67-5-1004 by deleting subdivision (3) and substituting instead the following: “(3) “Forest land” means land constituting a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest.” Public Chapter 297 shall apply to the tax year beginning January 1, 2017. This public chapter is not retroactive. This means that properties previously qualifying for preferential assessment under the old law do not lose their eligibility simply because they would not have qualified under the new law. However, if a taxpayer **reapplies** for his forest land to be on greenbelt, the new law will disqualify the property if it is less than 15 acres. Similarly, new applicants cannot qualify tracts for preferential assessment as forest land if the tracts are less than fifteen (15) acres.

Public Chapter 297 also amends Tenn. Code Ann. § 67-5-1006 by deleting subsections (d) and (e) and substituting instead a new subsection (d): “(d) Any person aggrieved by the denial of an application for the classification of land as forest land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization.” Public Chapter 297 shall apply to the tax year beginning January 1, 2017. In other words, taxpayers wishing to appeal the denial of a greenbelt application for preferential assessment as forest land must appeal to the county board of equalization and/or State Board of Equalization as appropriate. The state forester will no longer hear such appeals.