



March 20, 2012

To: Iowa County Assessors
From: Julie Roisen, Property Tax Division Administrator
RE: Section 42 properties and equalization orders

Questions were brought to my attention in regard to whether Section 42 properties should be excluded from equalization orders.

Attorney General staff has concluded the following:

There does not appear to be authority for removing section 42 housing from the Department's equalization methodology. Section 42 housing is clearly classified as commercial property and section 441.21(2) sets forth the statutory method for determining the market value of this property and states that the Department's rules are not to be "inconsistent with or change the foregoing means of determining the actual, market, taxable and assessed values." Rule 71.5(2) sets forth the actual method for determining the actual value of section 42 property under section 441.21. The fact that the value is to be based upon a specific formula and standard cap rate should not be the basis for removing it from the equalization process any more than you would remove agricultural realty. Section 441.47 contemplates equalization to be applied to each class of property and there is no provision in statute or rule which excludes section 42 property from equalization. See also rule 71.11 which provides that the director "shall order the equalization of the levels of assessment of each class of property in rule 71.12 . . . as reported to the department on the abstract of assessment.". Section 42 property is part of the abstract and reconciliation report given to the Department which further supports the need to include this property in equalization. Rule 71.12(7) specifically excludes mineral rights and interstate railroad and toll bridges from equalization. Section 42 property is not included in this specific exclusion and if the Department intended to exclude such property it should have amended this rule.

The Attorney General's office was not consulted pertaining to the October 19, 2007 letter.

As a result of this direction, our department will be including Section 42 properties in future equalization orders.

Sincerely,

Julie G. Roisen, MA, CAE
Property Tax Division Administrator
Iowa Department of Revenue