

FILED

Do Not Mark In this Box  
DEC 15 9 07 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #4

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: State Tax Division TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code § 11-13-1b(b)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Valuation of Percentage of Completion of  
Improvements and Infrastructure Development In a Recorded Plan or Plat

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
Joseph M. Palmer, Secretary of Tax & Revenue

\$3.00

FILED

DEC 15 9 07 AM '06

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

MODIFIED

TITLE 110  
LEGISLATIVE RULE  
STATE TAX DEPARTMENT

SERIES 4

VALUATION OF PERCENTAGE OF COMPLETION OF IMPROVEMENTS AND  
INFRASTRUCTURE DEVELOPMENT IN A RECORDED PLAN OR PLAT

§ 110-4-1. **General.**

1.1. **Scope.** -- This rule establishes the valuation methodology for unsold lots contained in a recorded plan or plat or in an area designated for proposed land use by a county or municipal planning authority.

1.2. **Authority.** -- W. Va. Code § 11-3-1b(b)

1.3. **Filing Date.** --

1.4. **Effective Date.** --

§ 110-4-2. **Definitions.** When used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein.

2.1. **"Actual use"** means the land use of a recorded plan or plat as of the assessment date, and which will be the basis of valuation for the ensuing tax year.

2.2. **"Commercial land"** means recorded lots used primarily for commercial or business purposes.

2.3. **"Commissioner"** or **"Tax Commissioner"** means the West Virginia State Tax Commissioner, or his or her delegate.

2.4. **"Comparable Lots"** means lots contained in a filed plan or plat that are similarly situated and developed to or whose selling price has been adjusted to render them similarly situated and developed, to other lots, the value of which are being estimated for property tax purposes.

2.5. **"Cost of development of recorded plan or plat"** means the costs of developing a tract or tracts of land to its highest and best use. These costs include but are not limited to (1) raw land; and (2) site development, which include streets, sewers, water service, site preparation, and planning.

2.6. **"County assessor"** means the Assessor, or his or her delegate who determines the valuation of lots after the recordation of a plan or plat.

2.7. **"Improvements and infrastructure development"** means improvements made to the lots in a recorded plan or plat and includes but is not limited to (1) roads; (2) sewage disposal and water supplies; (3) and electric, telephone and other utilities.

2.8. **"Industrial land"** means recorded lots used primarily for industrial or manufacturing purposes.

2.9. **"Percentage of completion"** is the amount of completed or in-place improvements or infrastructure development made to lots in a recorded plan or plat and expressed in terms of a percentage of the total estimated costs of improvements and infrastructure development, as determined annually by the county assessor.

2.10. **"Plan or Plat"** means the recorded instrument indicating the proposed land use of a certain defined tract of land.

2.11. **"Proposed land use"** means the land use as designated by a county or municipal planning authority for a recorded plan or plat.

2.12. **"Raw land"** means the land recorded in a plan or plat that has not been improved or developed with any improvements or infrastructures; but does not include land certified as being eligible for managed timberland valuation treatment or land used as a Class II active farm receiving farm use valuation treatment under provisions of the Tax Department's legislative rule 110 C.S.R. 1A, Valuation of Farmland and Structures Situated Thereon For Ad Valorem Property Tax Purposes.

2.13. **"Residential land"** means recorded lots used for residential purposes.

### **§ 110-4-3. Recordation of a Plan or Plat Not To Be Used As A Basis of Assessments.**

3.1. The recordation of a plan or plat, or the designation of proposed land use by a county or municipal planning authority, shall not be used by the assessor as a basis of assessment except in accordance with the following requirements.

3.1.1. When a lot or parcel within the recorded plan or plat is sold the assessor or the Tax Commissioner shall revalue the sold lot at market value.

3.1.2. When a lot or parcel contained within the recorded plan or plat is first developed and used for a residential, commercial, or industrial purpose, the assessor or Tax Commissioner shall revalue the lot or parcel based upon its actual use.

3.1.3. The remaining lots within the recorded plan or plat will not in any case be revalued by the assessor or Tax Commissioner based solely on sales of other lots in the recorded plan or plat.

**§ 110-4-4. Valuation of Remaining Lots.**

4.1. The assessor or Tax Commissioner shall value the remaining lots in a recorded plan or plat using the valuation procedures described in this Section. The assessor or Tax Commissioner shall determine the percentage of completion of improvements or infrastructure development that is in place as of the assessment date each year. The assessor or Tax Commissioner shall obtain data reflecting the most probable selling price of comparable lots as that term is defined in Section 2 of this rule. The most probable selling price of comparable lots shall then be multiplied by the percentage of completion of improvements and infrastructure development to yield the appraisal value of the remaining lots.

4.2. The raw land shall be valued at the same use as in the preceding year, unless the use has changed as of the assessment date. In the case of a sale of raw land, the assessor may use the purchase price of the raw land, if comparable to other similar raw land sales, for the valuation of the property. If the use, as of the assessment date, has changed to a use other than the use contemplated in the filed plan or plat or the designated proposed land use established by a county or municipal planning authority, the raw land shall be valued based upon its use as of the assessment date.

4.3. In the absence of the availability of data reflecting the selling price of comparable lots, the total expended costs or a percentage of expended costs associated with the development of the potential use as designated in the recorded plan or plat shall be added to the raw land value, yielding the value of the remaining lots.

4.4. The assessor shall annually review the percentage of completion of the improvements and infrastructure development. The property owner shall report on a supplement to the property tax return, the supplement being considered as part of the property tax return, the total estimated cost of improvements and the amount of the estimated costs expended and in-place as of the assessment date. The assessor shall determine, from information on the supplement to the property tax return and his or her physical review, the percentage of completion as of the assessment date. This percentage of completion shall be applied to the most probable selling price of comparable lots when available. The value obtained shall be the appraised value of the remaining lots. In the absence of the availability of data reflecting the most probable selling price of comparable lots, the percentage of completion as of the assessment date shall be applied to the total cost of the improvements and infrastructure development. The value obtained shall be added to the value assigned to the raw land and the sum obtained shall be the appraised value of the remaining lots.

4.5. When the assessor does not have the cost of improvements and infrastructure development, the assessor may use comparable recorded plans or plats with property of similar potential use as a guide. The assessor shall determine the percentage of completion in the same manner as if costs were known.

4.6. The assessor shall in no instance value the remaining unsold lots as managed timberland. The classification of recorded lots shall not change from Class III or Class IV to Class II until a developed lot or parcel is used and occupied by the owner thereof exclusively for residential purposes.

**§ 110-4-5. Proposed land use.**

5.1. Proposed land use may not be used as a basis for valuation until the actual use has changed to correspond with the proposed use. When the actual use changes to the proposed use, the assessor or Tax commissioner may consider for valuation purposes the recorded plan or plat as completed as designated by the county or municipal planning authority.

5.2. Before the property has changed to its proposed land use, the assessor or Tax Commissioner, as the case may be, may consider the factors and valuation process contained in Section 4 of this rule when estimating the value of property designated for a proposed land use.

**§ 110-4-6. Administrative Remedy**

6.1. The owner or owners of property assessed under W. Va. Code § 11-3-1 et seq., who claims to be aggrieved by the value of real property as derived by this legislative rule may appeal the assessed value to the county commission under authority of W. Va. Code §11-3-24. If the taxpayer claims to be aggrieved by the tax classification of the property, an appeal may be taken under the authority of W Va. Code §11-3-24a.

**§ 110-4-7. Effective date.** The valuation methodologies contained in this rule are effective for all recorded plans or plats filed after June 30, 2000. Provisions of this rule shall not apply to any plans or plats recorded before July 1, 2000, and in no event shall the appraised value of those lots, parcels or undeveloped land be less than their appraised value as of July 1, 2000.