



Testimony of Theodore O. Finnarn, Attorney for Ohio Farmers Union
Ohio Senate Committee on Ways & Means
Hearing on S.B. 36 (CAUV Computation Bill)
February 22, 2017

Chairman-John Eklund, Vice-Chairman-Lou Terhar, Ranking Member-Sandra Williams, and members of the Committee:

I am Ted Finnarn, an attorney and farmer; I represent the Ohio Farmers Union on the Agricultural Advisory Committee to the Division of Tax Equalization, Ohio Department of Taxation, in regards to the Current Agricultural Use Valuation (CAUV) law. I have been a member of that Advisory Committee for now going on 41 years and I was “present at the creation” of the CAUV. We had the Constitutional Amendment passed overwhelmingly by the voters in the Fall of 1973, the enabling legislation (statutes) in 1974, and then the governing regulations - Ohio Administrative Code (OAC) in 1975 and 1976. These all led to the “Explanation” or formula for the CAUV.

The CAUV has served us well over the past forty years in delivering its intended purpose of allowing farmland owners to pay their real estate taxes based on the income producing ability of the farmland and not on its speculative fair market value. This allows our farmers to pay “reasonable” real estate taxes and keeps agricultural production in Ohio the number one industry. This basic concept is known as “use value” and it has a long history in Ohio tax law. I completed my dissertation at the end of law school on this particular subject and you can see more by going to the Law Review article, “Property Taxes and Farmers in Ohio: The Park Investment Story”, [Vol. 7 University of Toledo Law Review, No. 3 Spring,

p.1125], updated at Ohio Bar Association Report March 31, 1980, No. 13. During the long history of the CAUV with its implementation across the state of Ohio, the “formula” to determine the soil type valuations which are included in the lengthy “Explanation” each year (approximately 20 pages) has been modified and changed over twenty different times in order to adapt the formula to the changing times. In regards to SB 36, this bill helps to clarify and further define what is known as the “capitalization” interest rate within the formula. By way of explanation, note that once the soil values are determined on a net income basis per soil type/per acre, then that value has to be capitalized by dividing it by a suitable interest rate, in order to determine the value for that soil type. It goes without saying that the lower the interest rate used in the formula, the higher the value per acre.

We all know that most recently the CAUV values have “sky-rocketed” tremendously over the past four or five years, with increases from one set of valuations to the next (every three years) of over 200-400% or more. This has resulted in unwarranted increases in farm real estate taxes, which jeopardizes Ohio’s agricultural productivity and threatens once profitable farming operations. One of the chief reasons for the CAUV value increase has been the extremely low interest rates that have been prevalent in our economy; that then find their way into the formula. This has been due mainly to the Federal Reserve System’s quantitative easing program (QE) wherein the Fed participated in unprecedented monetary policy in order to keep interest rates low after the financial crisis of 2008. There is no way we could have anticipated this in our formula during the past few years.

I would also like to say that there is really no one to blame or to point a finger at in this situation, due to the very unlikely historical situation where interest rates through the Federal Reserve have approached almost zero. The Ohio Tax Department-Division of Tax

Equalization which works with the CAUV is certainly not to blame, nor are the hard-working members of the Agriculture Advisory Committee that make the recommendations to that Division. The CAUV legislation in the past and from those statutes the corresponding regulations and then the Explanation, always needed to be clarified and better defined in regards to this capitalization rate. When we first started with our calculations back in circa 1976 through 1980 the capitalization rate formula was very simple and did not contain the two non-farm appreciation-“sinking fund”-items that this legislation addresses and removes from the capitalization rate calculation. Those two items were added later into the formula when interest rates were extremely high and there were historical factors that supported their addition to the formula at that time. However, those factors, due to the extremely low interest rates in the economy at this time, are no longer relevant. And, also, in regards to further legal research, it now appears that those two factors are foreign to the agricultural basis of the formula. My attorney colleagues at the Ohio Farm Bureau have done an admirable job of doing research in regards to this and have brought forward information from the prestigious Appraisal Institute located at Chicago, Illinois. I myself joined this Institute four years ago in order to take advantage of its clearinghouse of information on this subject. Our committee had been talking about improving the capitalization rate calculation over the past four years and it is now time to put this into the legislative statutes that govern the determination of the CAUV. I cannot blame the Ohio Tax Department – Division of Equalization for not doing this on their own, since I believe that they need the proper guidance from the General Assembly in regards to this matter, basically since it was not contained in the legislation in the past. Therefore, the Ohio Farmers Union welcomes this legislation as it will further refine and improve the CAUV tax formula.

We also support the legislative changes in the Bill in regards to “conservation” acres and I would note that in the past these conservation acres were valued at the lowest value which was the minimum value. Several years ago there was a change on this wherein that, even though the farmland owner would have the acres in a conservation practice and not be able to farm the farmland, the CAUV value was determined as if the farm ground was being tilled and producing a crop. Therefore, this legislation clarifies for the Tax Department – Division of Tax Equalization that since these soil type farm acres are not actually being farmed, that their valuation should be at the lowest value for that soil type, which in most cases would be the minimum value we have used within formula in the past. (Those values most recently are at \$350 per acre/cropland or pasture and \$230 per acre/woodland).

Thus, the Ohio Farmers Union supports this important CAUV tax legislation and notes that it should be passed by the General Assembly so that it can be effective for our “tax year” 2017. Our first meeting of our Ag advisory committee to work on the 2017 values will be held on March 3, 2017 and hopefully this legislation will help us to determine more accurate and reasonable CAUV values.

Thank you for your time today.

Respectfully submitted,
Theodore O. Finnarn
Attorney representing the Ohio Farmers Union
Member of the Agricultural Advisory Committee to the Division of Tax Equalization, Ohio Department of Taxation

421 Public Square, Greenville, Ohio 45331
(937) 548-3240 – phone (937) 548-3291 – fax toflaw@earthlink.net