

§ 12.13 Petition for Judicial Review of an Order of the Board of Tax Appeals

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Application of

XYZ Corp. for Exemption from

[Insert BOTD Docket Number]

Ad Valorem Taxation.

PETITION FOR JUDICIAL REVIEW OF AN ORDER OF THE BOARD OF TAX APPEALS

XYZ Corporation asks the Court of Appeals for judicial review of all adverse rulings made by the Board of Tax Appeals in that Board's order, dated [Insert Date], and that Board's subsequent order denying reconsideration, dated [Insert Date].

The petitioner states:

1. Name and mailing address of the petitioner.
[Insert information]
2. Name and mailing address of the agency whose action is at issue.
[Insert information]
3. *Authority.* K.S.A. 74-2426, K.S.A. 77-614, and Kansas Supreme Court Rule 9.03.
4. *Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action.*

XYZ Corp. requested ad valorem taxation exemption for certain real property under K.S.A. 79-201b Sixth. XYZ Corp. claimed that the subject property satisfied the statutory requirements, which require the operator to be a not-for-profit corporation and that the property be used exclusively for the housing of mentally ill, retarded, or other handicapped persons.

On [Insert Date], the Board of Tax Appeals ruled that the operator of the subject property could not meet the statutory requirement of being a not-for-profit corporation and that the subject property was not being used exclusively for an exempt purpose because XYX Corp. was receiving a benefit in the form of Internal Revenue Code Section 42 low income housing tax credits. XYZ Corp. moved for reconsideration

on [Insert Date]. The Board of Tax Appeals on [Insert Date] denied the motion for reconsideration. The Board of Tax Appeals reversed the ruling as to the operator, determining the project was operated by a not-for-profit entity as contemplated by K.S.A. 79-201b Sixth. However, the Board of Tax Appeals reaffirmed its prior decision that the subject property was not being used exclusively for an exempt purpose.

Certified copies of the order of the Board of Tax Appeals, the petition for reconsideration, and the Board's order on the petition for reconsideration are attached.

5. *Identification of persons who were parties in any adjudicative proceedings that led to the agency action.*

[Insert Information]

6. *Facts to demonstrate that the petitioner is entitled to obtain judicial review.*

This is a final order of the Board of Tax Appeals and constitutes final agency action. Any party choosing to appeal this order must do so by filing a petition for judicial review within 30 days from the date of certification of this order. See K.S.A. 77-613(c). The petition for judicial review must be filed with the Kansas Court of Appeals. K.S.A. 7426(c)(2).

7. *Reasons why relief should be granted.*

The Board of Tax Appeals erroneously ruled, as a matter of law, that the subject property was not entitled to exemption under K.S.A. 79-201b Sixth by virtue of the property owner receiving Internal Revenue Code Section 42 low income housing tax credits in respect of certain construction and other acquisition costs attached to the property.

8. *The type and extent of relief petitioner requests.*

A determination that the subject property is entitled to exemption under K.S.A. 79-201b Sixth.

Attorney's Signature

/s/ _____

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Petition for Judicial Review was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/

Attorney's Name and Registration Number

PRACTICE NOTE: See § 12.15, *infra*, to request certification of the record.

The petition for judicial review must be in compliance with K.S.A. 77-614. Some petitions may be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same.

