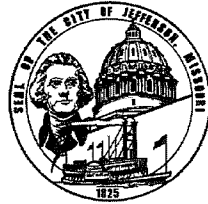


# PROPERTY TAX

Nathan M. Nickolaus

*City Counselor  
Jefferson City*



Joshua L. Payton

CUNNINGHAM, VOGEL & ROST, P.C.

*legal counselors to local government*

75 West Lockwood, Suite One

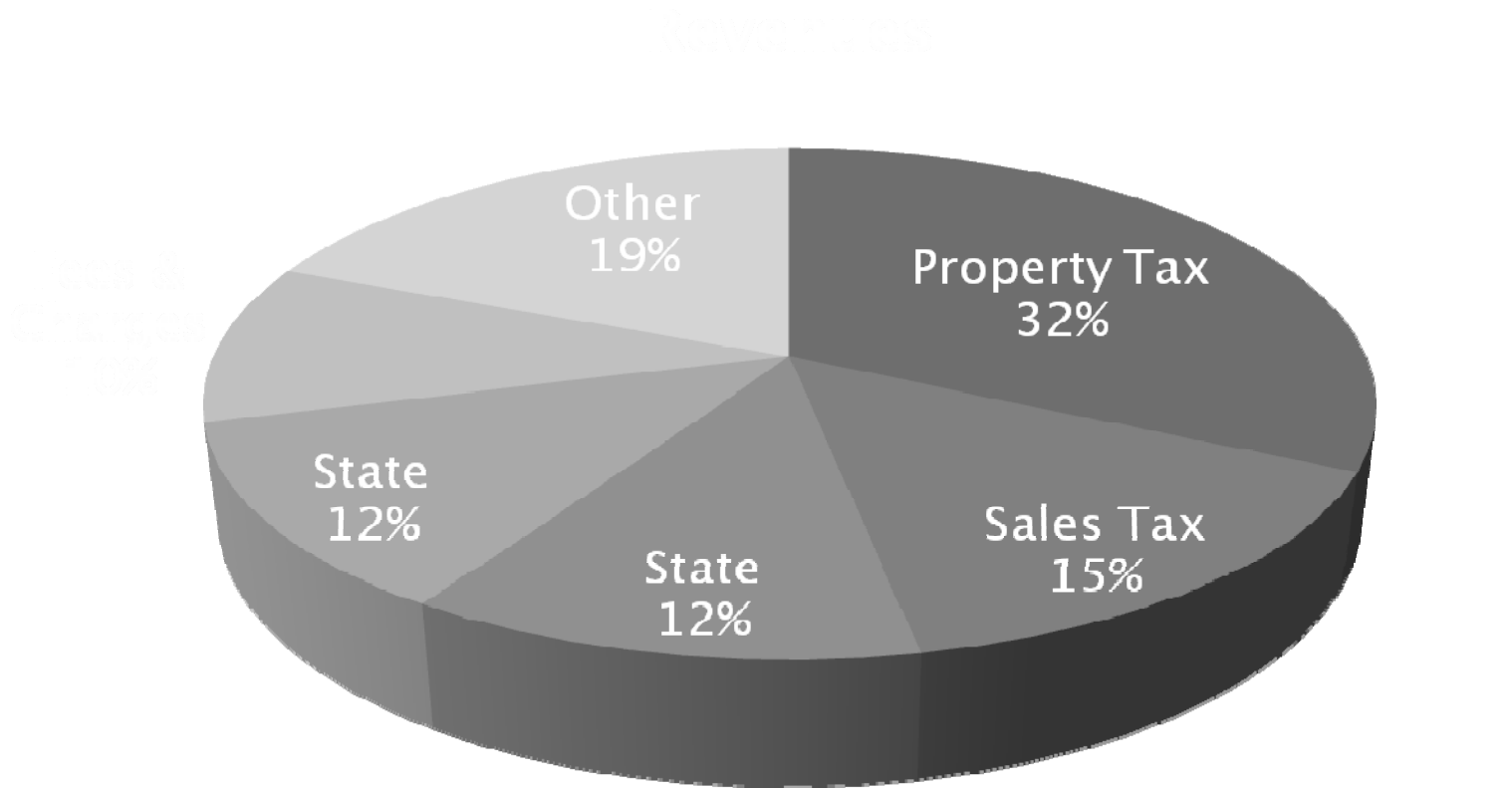
St. Louis, Missouri 63119

314.446.0800

*www.municipalfirm.com*

*josh@municipalfirm.com*

# Property Tax



National League of Cities – September 2009

# Pressure on Property Taxes

## National League of Cities Report

**Full weight of decrease in property values (e.g. housing) will take 18 months to several years**

**Property tax revenues to continue to decline through 2012**

# **Pressure on Property Taxes**

**Senate Bill 711**

# **Pressure on Property Taxes**

## **Special Interests**

# Part One

# Assessment



# Assessor Calculates Market Value

**“Actual Value” is Market Value:**

What an *ordinary willing* buyer  
would pay an *ordinary willing* seller

# Three Appraisal Methodologies

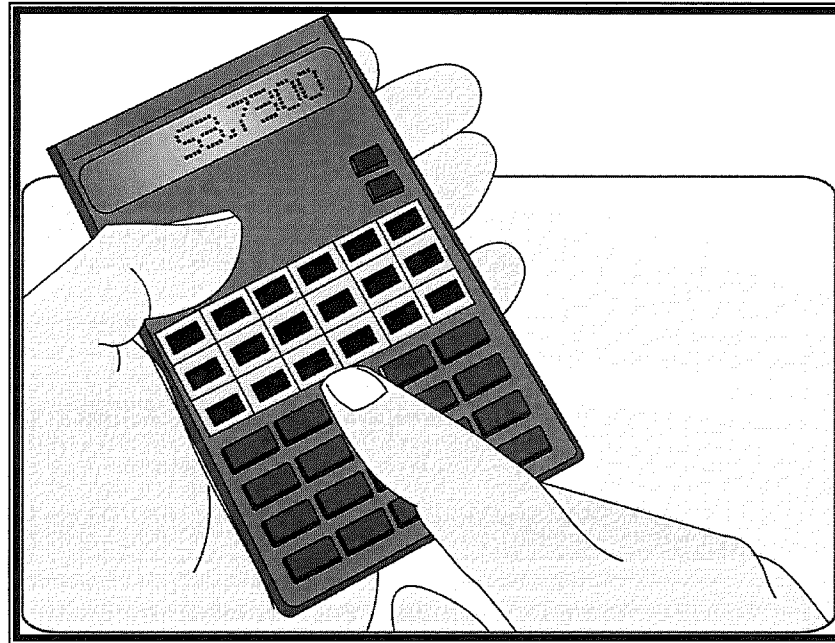
- **Cost Approach**
- **Market Approach**
- **Income Approach**





# Market Value to “Assessed Value”

Multiply the actual value by a percentage based on the type of property



# For Real Property

Residential 19% of value

Agricultural 12% of value

Commercial & Other 32% of value

# For Personal Property

■ Residential	19% of value
■ Agricultural	12% of value
■ Commercial & Other	32% of value
■ Manufactured Homes	19% of value
■ Farm Machinery	12% of value
■ Historic Cars, Planes	5% of value
■ Crops (grain)	0.5% of value
■ Other vehicles	33.3% of value

# Assessor Applies the Tax Rate

- Divide the assessed value by 100, since rate is per 100 assessed valuation.
- Multiply the sum by the tax rate
- $(\$ \text{ Actual Value}) \times (\text{Assessment } \%) \div 100$   
 $\times (\text{tax rate } \%)$

# Example

Thus if the levy is 10¢, and a house is worth \$100,000, the calculation would be:

- $\$100,000$  (market value)  $\times$  19% =  $\$19,000$  (assessed value)
- $\$19,000 \div 100 = \$190$
- $\$190 \times 0.10$  (levy rate) =  $\$19$  (the tax due)

# Assessment Cycle

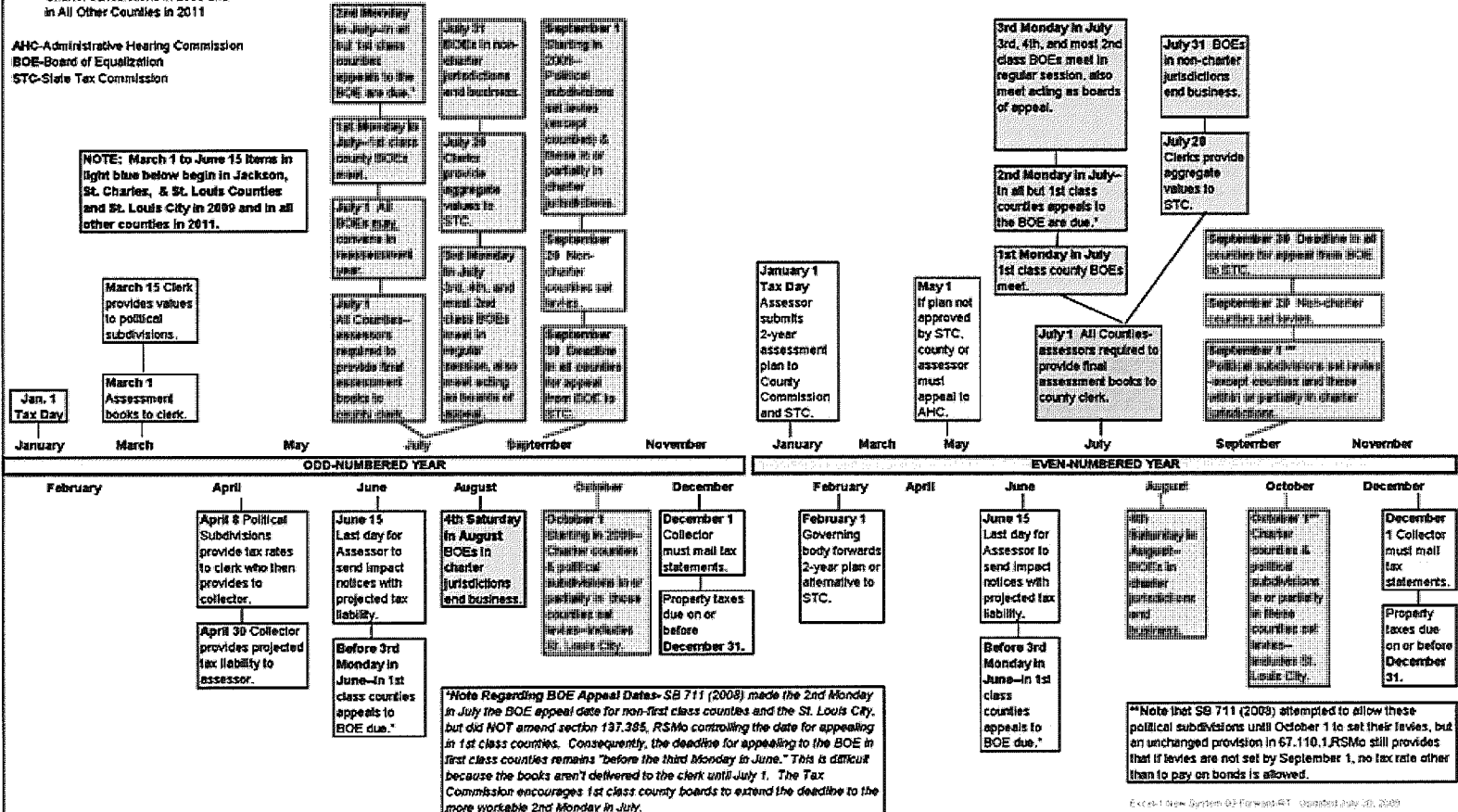
- Real Property assessed on 2-year cycle
  - Value determined in odd year
  - For even years, the odd year's value is applied
- Personal Property is valued every year
- Assessed Value is determined on January 1<sup>st</sup> of each year
- Local government sets levy (now by Sept. 1<sup>st</sup>; in 2011, by April 8)
- Property Tax is due and payable on December 31<sup>st</sup> of each year
- Local government then receives the money around February of the following year

# REAL PROPERTY ASSESSMENT TIMELINE

  Old Law Unchanged by Senate Bill 711  
  Laws Changed by SB 711—Effective 8/28/08  
  Laws Changed by SB 711—Effective in Charter Jurisdictions in 2009 and in All Other Counties in 2011

AHC—Administrative Hearing Commission  
 BOE—Board of Equalization  
 STC—State Tax Commission

NOTE: March 1 to June 15 items in light blue below begin in Jackson, St. Charles, & St. Louis Counties and St. Louis City in 2009 and in all other counties in 2011.



Excel 1 New System 02 Forward 4T Updated July 20, 2009

Source: Missouri State Tax Commission

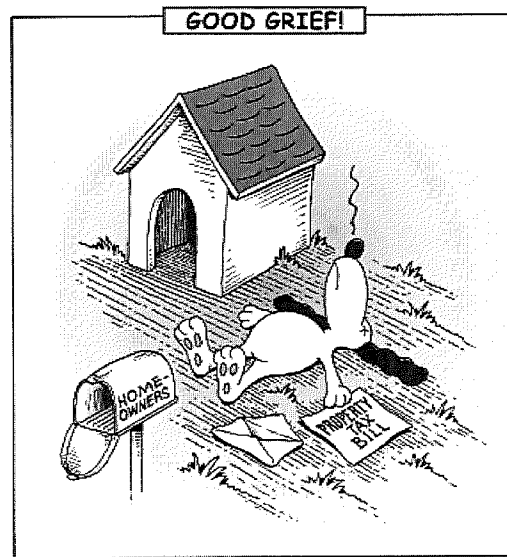
# Other Considerations

- Location
- Exempt Property
  - Some Personal Property
  - Some Real Estate
    - Government property
    - Property used as nonprofit cemeteries
    - Property used for exclusively for religious worship, schools and college
    - Property for purely charitable purposes



# Part Two

# Rate Setting



# Rate Setting

## ■ Overview:

- Each political subdivision must set its own levy rates (§ 67.110.1 RSMo)
- Formula: Levy Rate × Equalized Assessed Value/100 = Tax Amount Owed

# Procedures for Rate Setting

- Receive equalized assessed values (EAV) from County Clerk (§ 137.245.3 RSMo)
- Budget Officer must provide certain information to governing body (§ 67.110.1 RSMo)
- MUST have a properly noticed public hearing (§ 137.055.2 RSMo)
- Prepare State Auditor Forms and deliver to County Collector

**“Simplicity is the ultimate  
sophistication”**

**Leonardo da Vinci**

# **Impediments to Sophistication**

## **Hancock Amendment**

**SB 711**

# Hancock Amendment

## ■ Who?

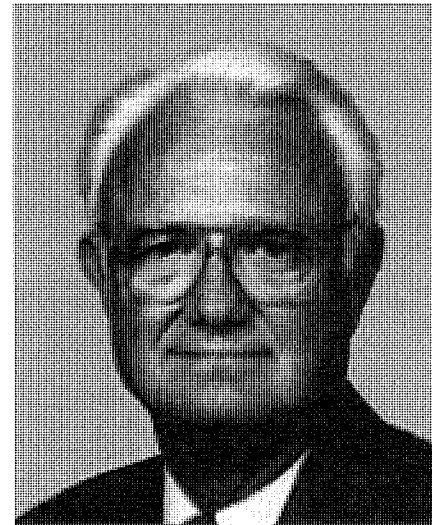
- Businessman from Springfield, Missouri

## ■ What?

- Constitutional amendments (Art. X §§ 16-24) that limit state and local government taxes

## ■ When?

- November 4, 1980 – voter approved initiative



# Hancock Amendment

## ■ How?

- Requires voter approval for new or increases in existing taxes above previously voter approved rate
- Reductions in levy rate when tax base expands
- **Rollbacks to voter approved rates when assessed value of property increases to limit tax revenues to previous year collections plus lesser of CPI or 5% (a.k.a. “Hancock Ceiling”)**

# Hancock Ceiling

## ■ Example

- Prior year revenues = \$1,000,000
- Cost of Living = 1%
- Permitted current year revenue = \$1,010,000
- Total current year EAV = \$25,000,000
- Less New Construction = \$1,000,000
- Adjusted Assessed Value = \$24,000,000



# Hancock Ceiling

## ■ Formula:

– Permitted Current Year Revenues ÷ Adjusted Assessed Valuation = Maximum Authorized Levy

■  $\$1,010,000 \div \$24,000,000 = \$4.11$

■  $\$4.11 \times \$25,000,000/100 =$   
 $\$1,027,500$  (Actual Tax Revenue)

**SB 711**

**Changes to Rate Setting  
Procedures**

# **Purpose of SB 711**

**Targets increased taxes resulting  
from rising assessed values**

# SB 711

## ■ Summary of Changes

- New timeline for setting rates
- Projected levy notification requirement
- Creation of Second “Gibbons” Ceiling
- New methodology for calculating voter approved levy rate increases
- Re-defines statutory definition of maximum authorized rate (“Hancock Ceiling”)

# SB 711

## ■ New Deadlines

- Project Tax Levy delivered to County Clerk by *April 8<sup>th</sup>* (§ 137.243 RSMo)
- Final Rate by *September 1<sup>st</sup>* (confusion!)
  - *See* St. Louis Municipal League Memorandum

# SB 711

## ■ Projected Tax Liability

### – When?

- Odd-Numbered Years (After Reassessment)

### – Who?

- Applies currently to charter counties
- Will apply to all beginning January 1, 2011

### – Procedures

- Aggregate (not equalized) values from County Clerk by March 15<sup>th</sup>
- Governing body or representative provides notice of estimated rate
- NO public hearing requirement

### – Penalty

- Lose 20% of rate if fail to comply

# SB 711

## ■ Second “Gibbons” Ceiling

### – When does Gibbons Ceiling apply?

- When cities have levy rate voluntarily below Hancock Ceiling
- In odd-numbered year (reassessment)

### – Why?

- Limits tax revenues to previous year plus cost of living increase
- Targets increases in tax revenues due solely to rising assessed values

### – Example

# SB 711

## ■ Second “Gibbons” Ceiling

- Potential Long-Term Affect

  - Never achieve Hancock Ceiling

- Can “bust” through Gibbons Ceiling

  - **When?**

    - In even-numbered years

  - **How?**

    - Hold a Public Hearing

    - Governing body passes ordinance/resolution/policy statement justifying increase

    - NO vote of qualified voters required



# SB 711

## ■ Voter Approved Levy Increases

- Voter approved levy increases are “adjusted” (§ 137.073.2 RSMo)
- **Purpose**
  - Protect voters by limiting revenue generated from new levy rate to amount produced from new levy when applied to assessed value at time of election (minus new construction and improvements)
  - Prevents capture of revenues attributed solely to increases in assessed value from election to setting of next levy rate

# Property Tax Elections

- Be careful when drafting ballot language
  - How implementing levy rate increase?
    - Approving new overall rate?
    - Increase over existing rate?
    - Are you a four rate political subdivision?
      - List all four rates in ballot?
  - Consultants want to change language . . .
    - Legal versus practical effects of ballot language
  - Other considerations
    - Future use of revenues

# **Additional Confusion**

**SB 711 re-defines “Hancock Ceiling” as last voter-approved levy and removes statutory reference to 1984 rate**

**HB 148 Vetoed**

# **PART THREE**

## **Collection of Delinquent Taxes**

# When Property Tax Becomes Delinquent

- Tax is due and payable December 31<sup>st</sup> of each year
- Tax becomes delinquent January 1<sup>st</sup>
- Lien created by delinquent tax bill does not expire until December 31<sup>st</sup> of the third year after tax is levied

# **Certification of Delinquent List**

- Villages (§80.480)
- Fourth Class Cities
- Third Class Cities
- Charter Cities

# Process For Tax Sale

- Publication of Delinquent List
  - Three consecutive weeks
  - Last publication 15 days before the 4<sup>th</sup> Monday in August
- Notice contains name, property and amount due
- Sale takes place 4<sup>th</sup> Monday in August at 10 a.m. at Courthouse



# Process For Tax Sale

- Costs of sale charged to City, deducted from sale price
- Sold to bidder who bids the highest amount for the least portion of the property
- City may bid at sale
- If not sold, it is offered again at next sale until third time
- Purchaser gets a certificate of purchase not a deed

# Redemption

- Former owner can “redeem” the property by paying new owner:
  - 100% of amount paid at sale + interest
  - All taxes paid since sale + interest
- If not redeemed, Collector issues a deed one year after sale.

# Collection of Personal Property Taxes

- Personal Property taxes are collected by civil suit
- Three year statute of limitations
- Notice requirement before filing suit

# **Part Four**

## **Special Assessments**

# What Are Special Assessments?

- Source of Revenue
- Basic Definition
  - Assessment for benefits
  - *Compare* assessment for taxation

# What Are Special Assessments?

## Expanded Definition

- Levy of assessment
- Against specific property
- In proportion to benefit received
- From a local public improvement

# What Are Special Assessments?

## Additional Characteristics

- Must confer a benefit
  - Substantial
  - Certain
  - Capable of being realized within a reasonable period of time

# What Are Special Assessments?

## Additional Characteristics

- Benefit Requirements
  - Must be Local
  - Compared to General
  - Must be Public



# Special Assessments

## ■ Authority

- Originates from taxing power
- BUT...
  - Not a tax
  - Not subject to Hancock Amendment voting approval requirement

# Special Assessments

## ■ Constitutional Issues

- Due Process
- Equal Protection
- Uniformity

Since special assessments are not regarded as a “general tax,” *generally* arguments will not be available

# Special Assessments

## ■ Public Works

- Chapter 88
- Specific public works
- Collected by contractor
- Foreclosure
- Infrequently used

# Special Assessments

## ■ Neighborhood Improvement Districts

- Districts formed by Cities and Counties
- Public Improvements
  - Defined under NID Act
- Costs repaid by special assessments
- Can issue Municipal Bonds
  - Without vote
  - Backed by General Fund of City
- Collected by City or County

# Special Assessments

## ■ Community Improvement Districts

- Petition Process
  - Owners of real property
    - More than 50% of assessed value
    - More than 50% per capita
  - Public Improvement
    - Defined under CID Act
- Perpetual Lien
- Foreclosure (§ 88.861)
- County Collector *shall* collect

# Special Assessments

- **Transportation Development Districts**
  - Approval
    - Vote of Qualified Voters
    - All Real Property Owners' Petition
  - Transportation Projects
  - County Collector *shall* collect

# Special Assessments

## ■ Nuisance Abatement

- Cities authorized by §§ 71.285 and 67.398 RSMo to abate nuisances
- Must have specific statutory authority to abate

# Special Assessments

## ■ Nuisance Abatement

### – Procedures

- Follow notice procedures (statutory)
- Abate Nuisance
- Costs
  - Certify Costs
  - Establish Lien on property for eligible costs
- Collect Special Tax Bill
  - Cooperative Agreement (§ 70.220)
  - *See* collection discussion (delinquent)



# **Part Five**

## **Appeals and Challenges**

# Appeals

## Three Steps to contesting an assessment

- Informal adjustment
- Board of Equalization
- Appeal to Tax Commission

(From here can go to court)

# Common Problems with Appeals

- Lack of evidence

- Although owner can testify as to value, his testimony carries no weight unless supported by evidence.
- Similarly, anecdotal evidence can be ignored.

- Lack of funds is not evidence

- Beware of attempts to use political influence

# Why is a Fair Assessment Important?

- One basis for adjusting assessment is to show that similar properties were assessed proportionately lower
  - Thus doing a favor for a politically influential owner can ripple out
- Eventually, the piper must be paid
  - If you habitually allow certain property to be undervalued, when it finally must be brought up to fair level it will be much more painful

# **Questions and Answers**

# Nathan M. Nickolaus

*City Counselor  
Jefferson City*



## Joshua L. Payton

**CUNNINGHAM, VOGEL & ROST, P.C.**

*legal counselors to local government*

75 West Lockwood, Suite One

St. Louis, Missouri 63119

314.446.0800

*www.municipalfirm.com*

*josh@municipalfirm.com*

These materials and the related presentation are intended for discussion purposes and to provide those attending the meeting with useful ideas and guidance on the topics and issues covered. The materials and the comments of the presenters do not constitute, and should not be treated as, legal advice regarding the use of any particular technique, device, or suggestion, or its legal advantages or disadvantages. Although we have made every effort to ensure the accuracy of these materials and the presentation, neither the attorneys presenting at this meeting nor Cunningham, Vogel & Rost, P.C. assume any responsibility for any individual's reliance on the written or oral information presented.

All slides as of Thursday, October 08, 2009