

BOMA/Kansas City Successful in Tax Opposition Effort



BOMA/Kansas City scored a major victory for the local commercial real estate industry when the Kansas Court of Appeals upheld a lower court ruling that the “Transportation Utility Fee” (TUF), approved by the City of Mission, Kansas, is an illegal excise tax under Kansas state law.

Many members of the commercial real estate industry in Kansas were outraged when the controversial “driveway tax” was imposed on developed property by former Mission Mayor Laura McConwell and the City Council in 2010. The measure seemingly tried to circumvent Kansas state law prohibiting excise taxes by calling the tax a transportation utility fee. The city, however, argued that the revenue source was a fee, not a tax. Revenue for the TUF was calculated by how much traffic a particular property generated. Assessments on some commercial property had exceeded \$16,000 per year, resulting in funds of approximately \$80,000 annually for local road repairs and maintenance.

The landmark win is a result of the unwavering efforts of BOMA/Kansas City and a coalition of real estate and business interests. Legal opposition to the driveway tax was financed, in part, by BOMA International’s Industry Defense Fund. BOMA hopes this victory will serve as a positive precedent and discourage other local and state governments from implementing these types of fees and taxes.