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Caps Are Out: Now What?

There were no real surprises in the ruling last week by Common Pleas Judge Wettick on the County's assessment cap scheme. Unless one considers the fact that two days were required to render a ruling a surprise. This was the legal equivalent of a slam dunk. In all likelihood an appeal of this decision will be a complete waste of time and taxpayer dollars.

The Judge ruled unequivocally that the County's attempt to impose various percentage limitations on the amount by which taxable values of property may be increased violates the uniformity clause in the Pennsylvania Constitution, statutes governing assessments, the law that created the County's home rule charter, and the charter itself.

Although the court will not order the immediate release of the 2006 values, the Judge does say "the County cannot pursue a course of inaction", especially where there are "significant and system wide discrepancies" between assessments and market values. Further, the court says that if the "2006 reassessment is subject to lingering questions and criticism it is the responsibility of the County to promptly make available to the Office of Property Assessment and the Chief Assessment Officer whatever resources are needed to improve the process." Nor will the County be permitted to justify inaction by waiting for a "perfect" assessment.

In response, the County Executive has stated that he will not release the 2006 values as they stand. He still believes there are inherent, irreparable problems with the assessment system, and the Commonwealth will somehow solve the problem by enacting far-reaching tax reform that replaces school property taxes with some other revenue source. As we have noted previously, this line of thinking is unproductive.

The Executive has been quoting a footnote from the decision stating, "case law recognizes that there will never be a perfect assessment of the properties within a taxing body because the determination of fair market value of a property is an art and not a science". Obviously, no thinking person expects the County will be able to assess more than 500,000 properties perfectly. But it is reasonable to insist that properties be assessed as accurately as humanly possible and that the appeals process be allowed to deal with remaining troublesome properties.

Three months have been wasted that could have been used to come to grips with problems in the 2006 numbers. Instead, the County busied itself with devising a complicated assessment cap scheme despite the fact that, overall, the residential 2006 assessments are closer to market values than the 2003 assessments currently on the books, especially for higher-priced homes. Clearly, the last three months would have been better spent correcting the highly questionable valuations.

Let's recognize the obvious: Assessments are not the fundamental issue. Rather, it is the level of taxation on property that creates the real problem. In Allegheny County, the average parcel pays

three percent of its value to the three taxing bodies (school, municipal, county) each year, one of the highest percentages in the nation. The high level of taxation on property is not a function of assessments; it is driven primarily by the need for money to fund excessive spending levels. Getting assessments as accurate as possible is essential to ensure fairness among taxpayers, not to put a limit on the amount of tax revenue collected. Millage rates can be raised without limit as taxing bodies attempt to generate the money necessary to cover expenditures.

It is time for elected officials to take responsibility for the exorbitant spending that leads to high taxes and do something about both. And just as important, voters must begin to hold officials accountable for their spending and taxing practices.

Apparently, there are some who think the 2006 reassessment fiasco in Allegheny County will produce a groundswell of support for replacing the school property tax with a sales tax. Unfortunately, no statewide groundswell is apparent. The fact is that in many of the state's 67 counties the level of consternation and anger over property taxes does not match that of Allegheny County. For example, adjoining counties use different assessment schemes and their taxing bodies don't spend nearly as much, keeping the combined property tax bills relatively low. This has been the attraction for many Allegheny County residents and businesses that have moved there.

In this context, it is important to remember previous attempts at shifting the property tax burden to other sources of revenue: Act 50, Act 72, the 1989 referendum, etc. To date, none have had significant success in reducing property taxes. Schemes to shift from property taxes to other sources of revenue have been resisted by voters and elected officials for a number of reasons, some plausible, some not.

What taxpayers really need is for Harrisburg to enact a law requiring each taxing body to get approval for all tax increases through voter referenda. Indeed, voters should also have the right of initiative to put tax cuts on the ballot in cases where per capita spending and taxes are well above the state average, taking into account for cost of living differences. The Legislature might also want to consider extending a homestead exemption to low income seniors for school taxes.

Meanwhile, as we await substantive legislative remedies from the General Assembly, Allegheny County needs to do as the Judge instructed in his opinion and promptly make available whatever resources are needed to improve the assessment process. For both legal and taxpayer equity reasons, the County must move expeditiously to get the best possible results it can. It needs to commit itself to getting property assessments accurate. After all, even if the state completely eliminates school property taxes, municipal and county taxes on property will continue, requiring the County to do assessments.

There is no excuse for delaying what must inevitably be done.

Eric Montarti, Policy Analyst

Jake Haulk, Ph.D. President

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
