

POLICY BRIEF
An electronic publication of
The Allegheny Institute for Public Policy

April 2, 2007

Volume 7, Number 17

Base Year Assessments Under Judicial Siege

In a recent ruling, the Commonwealth Court upheld an Allegheny County Court of Common Pleas decision that property owners must be allowed to appeal the County's 2002 base year assessment on the grounds that the current market value has fallen below the base year value. The County has indicated that it will appeal the ruling.

The Court did not rule against the use of base year assessments. Their ruling was on the narrower question of appeals. In the case in question, a couple had bought a home in Wilksburg for \$31,000 in 2004. Their 2002 base year assessment was set at \$67,000. They tried unsuccessfully to appeal. According to Appeals Board rules only the correctness or incorrectness of the 2002 value could be challenged. As a result, the couple was not permitted to appeal the assessment on the grounds that the base value exceeded the current fair market value.

The court found this rule to be in conflict with the Second Class County Assessment Code, which notes that "any appeal", must consider "the current market value" of the property, which may be lower than the base year value as well as considering the common level ratio (the ratio of assessed to market value).

The ruling notes that "the taxpayer [has] the ability to challenge its assessment for the reason that the base year market value no longer reflects the property's current market value". This decision, if it stands, will certainly lead to appeals by homeowners in communities where values are in decline. But it might also lead to school districts initiating appeals on properties they see as too low. Some school district attorneys have already stated that school districts must be allowed to appeal values that are well below market.

It is hard to see how the system could preclude school districts from appealing values. According to the Pennsylvania Tax Manual, there were two court cases heard by Commonwealth Court in 1999 that led to the ruling that "a school district had statutory authority to appeal an assessment." Indeed, where gross assessments inequities exist—i.e., when some real estate parcels are clearly assessed well under market values—school districts have a moral obligation to try to correct assessment inequities. And inasmuch as school districts typically account for about two-thirds of total property tax bills in

Allegheny County, it is even more incumbent upon them to fight to have all property owners pay their share of taxes.

During the past three years, the County did everything in its power to avoid proceeding with the 2006 assessment as planned and instead adopted a hastily cobbled together base year approach. Here's the problem, if the County wanted to use a base year valuation system, it should have taken the past few years to do the work of collecting construction costs and land costs for a year certain and adjusted the valuation of all properties on that basis. Instead, what we have in Allegheny County is a system where the 2002 base year values for existing properties were done on comparable sales while assessments on future modifications and new buildings will be calculated based on estimated construction costs.

Moreover, as the Chief Executive himself said on many occasions the 2002 numbers were seriously flawed. Thus, we presently have a hybrid system that uses assessments that were far less accurate than the 2006 numbers produced by the assessment office and declared in conformity with international standards by the Chief Assessor. As we noted at the time, there were some problems with those numbers but a concerted effort could have set them right before they were actually adopted for use. That was the whole point in getting the numbers ready a year in advance.

Then too, it is important to remember that appeals by owners will never fix the problem of assessments that are too low. Owners will simply never file an appeal to have their assessments—and taxes—raised. As a result, leaving the 2002 numbers in place would for the indefinite future allow those owners whose properties are under assessed to pay less than their share of taxes while those who are over assessed or correctly assessed must pay more than their fair share to make up the difference. Adopting a base year set of numbers that were demonstrably unreliable was a mistake.

Indeed, there appears to be a very good chance the Courts will eventually rule that the Allegheny County base year plan does not pass Constitutional requirements as laid out in the uniformity clause.

Those who are upset by high property taxes must work to find a way to deal with outlandish taxes other than playing games with assessments. The single best answer is to cut the spending that drives the need for high taxes. Allegheny County schools, municipalities and the County itself should try to get expenditures in line with those in lower tax counties in the region, or maybe even in line with counties in fast growing regions across the country.

Maybe politicians could work up sufficient support of taxpayers to eliminate the right of teachers and other school employees to strike--or at least make the penalties for striking so stiff that strikes would never again be used as a bargaining threat. Maybe the politicians could then turn their attention to the prevailing wage law that unnecessarily and substantially raises the cost to build schools and other public facilities. All the money saved from reducing those costs could be used to lower property taxes. Then maybe politicians could outlaw public transit strikes. How about some outsourcing of non-core

government functions such as selling the state liquor stores and dedicating those proceeds to tax relief?

Of course, what we will get instead are more plans to shift taxes from property to income or sales. Virtually all of these plans are flawed in some way, mostly because they do not result in lower total tax bills and can open the door to faster spending. Until the day comes when reducing expenditures and cutting taxes are the primary focus of politicians, assessment controversies and lawsuits over assessments will not go away.

The ideal situation would be to have updated, accurate assessments in conjunction with tightly controlled government spending growth so that millage rates can stay flat or fall and taxes can drop lower and lower as a percentage of a property's market value. That's a key step to becoming a competitive, dynamic region again.

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