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Dealing with Municipal and School District Assessment Appeals

A few weeks ago (*Policy Brief, Volume 14, Number 15)* the Institute called attention to the Mt. Lebanon policy of appealing property tax assessments of homeowners who had recently purchased homes with sales prices far above the County's latest assessment. The municipality's appeals have engendered understandable anger among the folks affected. But Mt. Lebanon is not alone in challenging under assessed properties; several school districts in the region and state also pursue such efforts.

As the earlier *Policy Brief* noted, court decisions have upheld the right of taxing bodies—other than the assessing body, i.e., the county—to appeal assessments of properties for which the assessments are well below the market value, presumably as indicated by a recent sale. Indeed, in July 2008, Governor Rendell vetoed bills from both the House and Senate that were designed to end "spot" reassessments. The Governor argued that the need for taxing bodies to ensure fairness in taxation required that they be able to appeal county assessments that have not been adequately updated and accurate.

That being said, the court rulings should not mean municipalities and school boards can arbitrarily set their criteria for launching appeals. Nor does it absolve realtors from the responsibility of informing home buyers of the possibility of a municipal or school board assessment appeal and a substantial upward adjustment in their tax liability.

A recent news report enumerated the criteria used by Mt. Lebanon for appealing assessments as follows: (a) property must have sold for more than $100,000; (b) sales price must exceed assessed value (same as appraised value in Allegheny County) by $58,000 or more and; (c) the assessed value to sales price ratio must be 85 percent or less. Meanwhile, Pine-Richland school district uses the criteria that a successfully appealed value will bring in at least $1000 or more in tax revenue from the property.

These criteria for challenging assessments raise serious questions regarding fairness in the municipal or school district appeals of recently sold properties. For example, setting a minimal price to assessed value gap such as $58,000 and coupling that with the minimum 85 percent assessed value to sales price ratio has the potential to create clearly discriminatory outcomes.

Consider a home that sold in 2012 for $358,000 and is assessed by the County at $300,000. With an assessment ratio of 0.84, it would be subject to a municipal appeal. Now consider a home that sold for $590,000 and is assessed at $510,000. The $80,000 gap between sales price and assessed value would raise the red flag but the assessment to sales price ratio at 0.86 would be too high to place the property on the list of properties to be appealed. Assuming total millage (county, municipality, school) at roughly 30 mills that means the $358,000 home could be paying $1,740 more in real estate taxes (a near 20 percent increase) annually after a change in assessment while the $590,000 house is still underpaying by $2,400. How is that fair? And the comparison gets markedly worse for even higher sales price properties such as, say a million dollar sale with an assessed value of $860,000.

Or consider a home that sold for $155,000 and is assessed at $100,000. It does not meet the $58,000 requirement even though it is assessed at only 64 percent of market value. Its taxes would remain $1,650 (35 percent) below its fair share based on market value. How is this equitable when compared to a $250,000 home assessed at $190,000 that would be appealed and could lead to a tax hike of $1,800?

Finally, consider a home that sold for $356,000 and is assessed at $300,000. It would escape the municipal appeal by $2,000 even though, in any meaningful sense, the home has virtually the same market value as the $358,000 home that gets put through the appeal process.

Obviously, the criteria established by the municipality are arbitrary and can result in highly discriminatory treatment of properties. If the aim is to ensure fairness, the Mt. Lebanon plan fails in its objective. The criteria could be improved by using, say, a $40,000 price to assessed value gap **or** (not and) less than 85 percent ratio of assessed value to sales price ratio as the trigger. That would eliminate the very expensive homes, selling for a million dollars but assessed at $870,000, from escaping a municipal appeal. It would also prevent $155,000 sales price homes with $120,000 assessments (77 percent ratio of assessment to price) from escaping appeal. There would still be some opportunities for unfairness, but the range would be much smaller than the current criteria permit.

The problem is that once any numbers for the sales price–assessed value gap or percentage undervalued are chosen there will always be some sales gap or assessed ratio properties that lie just outside the criteria and escape the municipality appeal.

The Pine-Richland criteria outlined above in which any appeal that generates $1,000 in additional revenue for the school, which for the district and its 19.2 millage rate means any property with a sales price–assessed value gap of $52,000, will be assessed regardless of the assessed value to sales price ratio. Here again, the unfairness is obvious. Those with assessment to sales price gaps of $50,000 would escape the appeal and might well be grotesquely under assessed in percentage terms—say $130,000 assessed and $180,000 selling price.

All this is precipitated by the failure of the County (and many other Pennsylvania counties) to keep assessments up to date and accurate. This failure, along with the need and desire of other taxing bodies to make taxation within their jurisdiction as fair as possible, means the taxing jurisdiction must have the right and power to appeal assessments prepared by the county. The question is how is that need served in a non-discriminatory manner as required by the Constitution and ordinary ethical standards?

First of all, the Legislature should revisit the issue of taxing body appeals of assessments. Rather than trying to do away with the right to appeal completely as was attempted back in 2008, new legislation should establish methodologies for establishing the basis and criteria that municipalities and school districts can use to challenge assessments. There was an effort in 2012 to address this, but it was flawed and failed to pass the House. As was shown above, setting criteria that will insure that the properties being appealed are not singled out arbitrarily is not an easy task but one that must be addressed. Of course, the Legislature could all but eliminate the need for municipal appeals by passing assessment reforms that require counties to carry out frequent and regularly scheduled reassessments.

Moreover the Legislature should enact a provision (assuming one is not in existence) that would require realtors to make clear to persons buying properties priced well above the county's appraised or assessed values that they could well see an appeal of the assessment by the municipality or school district. If buyers agree in writing to that stipulation the realtor is absolved of any liability or legal action should a successful appeal occur. It is interesting that realtors have not been sued already even without such a law.

Finally, the Legislature should mandate that 90 percent of any windfall revenue (after covering appeal expenses) stemming from assessments being raised through a municipal or school district appeal should be used to lower the millage rate to compensate for the higher revenue. Fairness should be the issue, not more revenue.

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