



Supreme Court in Reassessment Thicket Again

It has been nearly four years since the state Supreme Court struck down Allegheny County's base year assessments. It might have to wade back into the issue based on an appeal to be filed by Washington County.

Here are the important highlights of the pending case as summarized by a Commonwealth Court opinion from December 5th. In January of 2008 the McGuffey and Washington School Districts sued Washington County to force a countywide reassessment, arguing that since it had been a very long time since one had been done the uniformity clause of the Pennsylvania Constitution had been violated; in November of that year the County and the Districts came to the Common Pleas Court with a document described as "containing nine stipulations of fact" and a proposed order.

The order—agreed to by all parties—said that if there was no significant legislative or judicial change to assessment law by September 30, 2009 the County was to proceed with the reassessment process. This was delayed by the Legislature's attempts at a moratorium on reassessments while the issue could be studied. A bill ordering a moratorium for Washington County passed both houses of the General Assembly but was vetoed by the Governor in July of 2011. The County appealed the courts for a "stay" in December of 2011, was denied relief and thereby required under court orders and its own agreement of 2008 to begin a reassessment. True to form, the County felt that would be "a permanent denial of relief because it 'compelled the appellants to proceed with a countywide reassessment without further delay'". Hence the County's most recent appeal to the Commonwealth Court of the earlier lower court ruling. But in the decision handed down December 5th the Commonwealth Court ruled the previous court order was "not an appealable order".

Now Washington County will appeal the Commonwealth Court ruling to the Supreme Court in the hope that it will provide the County permanent relief from ever having to reassess. A member of the County's Board of Commissioners stated in a newspaper article that "we're stuck in this legal limbo where we're being forced to reassess. It is a case that's of interest throughout the state. We don't want to be the last county in the state to be forced to reassess under the old system."

Why would the Commissioner think that the state is ready to replace the old system? First, all a moratorium would have accomplished is to raise the specter of a constitutional crisis with counties deciding which branch of government to listen to: the courts, who would be saying “do a reassessment”, or the Legislature who would be saying “ignore the courts, wait until we can find a solution”. Following the requirements of the “uniformity clause” in the Constitution, the courts are currently—and by default—the only source of relief for property owners when it comes to correcting massive inequities in property assessments resulting from the failure to update assessments on periodic basis.

But more to the point about the old system being replaced, it is noteworthy that whenever the possibility of significant reform of Pennsylvania’s assessment laws arises, it gets punted away. We wrote last year (*Policy Brief Volume 12, Number 20*) about the legislative task force that was charged with giving counties a self-evaluation tool to tell them when they should reassess or to come up with a statewide standard on a time frame for reassessments. The group failed to reach agreement on either problem—indeed, it did not offer a pathway to reaching needed meaningful long term reform.

Washington County is in a bind: it stated it would wait for Harrisburg to act by September 2009, but that did not happen nor is the Legislature likely to act on the issue in the foreseeable future. If the Supreme Court hears the latest appeal, it may choose to limit its ruling to whether or not the County can appeal the order, an option already denied by the Commonwealth Court. If the Court instead decides to deal with the broader issue of whether the County’s assessments are sufficiently inequitable to violate the uniformity clause, it will undoubtedly look at the 2009 Allegheny County decision as a precedent.

In that ruling, the Court did not deal with the use of a base year in and of itself. The majority opinion held that “we find no ineluctable constitutional deficiency with the use of a base year system; it is only through the passage of time that a base year assessment will become stale, and thus unconstitutional”. In effect, this made the issue a case by case situation wherein aggrieved taxpayers could seek relief through court action. Different counties would find their base year plan has become deficient at various points of time. The Supreme Court did find that Allegheny’s base year plan had kept in place inequities that violated the uniformity clause of the Pennsylvania Constitution. Maybe the Court will find that Washington’s assessments have not yet reached that point, but it will be hard for the Court to ignore the 2008 consent order and what lower courts have ruled. Note that while Allegheny County had done a reassessment in 2002 Washington County has not done one since 1981.

Officials reluctant to reassess will never have a shortage of reasons not to reassess. However, they should take the time to present a clear explanation of the process to the taxpayers, especially the fact that state law requires counties and municipalities to adjust millage rates so as to be revenue neutral and, in the case of school districts, to be limited to an increase after reassessments not to exceed the Act 1 index. They should further point out that a large number of properties could see their tax bills go down following the reassessment, or for many others remain unchanged. An honest presentation of the “windfall” limitations would go a long way to avoiding a lot of the confusion and anxiety

that will otherwise accompany the opening of envelopes containing updated assessment values.

Such a move by Allegheny County officials could have lowered the level of angst among home owners considerably if it had been employed rather than the non-stop efforts by officials to make taxpayers believe that reassessments are necessarily followed by tax bills going up for everyone.

As we have written on several occasions previously, if opponents of reassessments believe they can never get accurate results, then it is imperative and incumbent on these opponents to end the levying of property taxes in short order and to develop alternative sources of revenue to fund local governments and schools in the Commonwealth. Perpetuating gross inequities in property taxation is unconstitutional and unethical.

Eric Montarti, Senior Policy Analyst

Jake Haulk, Ph.D., President

*Policy Briefs may be reprinted as long as proper attribution is given.
For more information about this and other topics, please visit our website:
www.alleghenyinstitute.org*

<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>
