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# 2017 Appeals: Another Round Goes to Taxing Bodies

**Summary:** Last year, 7,015 appeals of property values were heard in Allegheny County resulting in a net increase of $85 million in assessed value as successful taxing body appeals to raise appraisals exceeded owner appeals to lower them. Furthermore, in a very important recent decision, a Court of Common Pleas judge affirmed the right of taxing bodies to appeal values based on sales price.

In 2017 Allegheny County property owners filed 2,927 property value appeals with the county's Board of Property Assessments Appeals and Review (BPAAR). Upon entering the appeals process, the aggregate value of these properties was $1.8 billion. After going through the process, the aggregate value was lowered to $1.609 billion, a decrease of $191 million (10.6 percent). The majority of the owner appeals were on residential property (80 percent of the 2,927 appeals).

Meanwhile, taxing bodies filed 4,058 appeals—1,100 more than owners. The properties started out with an aggregate assessed value of $985 million. When the appeals were completed, the post-appeal value was $1.260 billion, a $275 million increase. About 8 percent of the BPAAR decisions proceeded on to the Court of Common Pleas' Board of Viewers.

Which taxing bodies brought appeals? Municipalities accounted for 19, with Mt. Lebanon accounting for 15 of the appeals. Munhall appealed one property's value and Turtle Creek appealed three. The City of Pittsburgh filed no appeals in 2017 and it appears that the April 2016 directive of the mayor to end city-initiated appeals has stayed in place. Since Allegheny County does not appeal assessments, this means school districts filed over 4,000 appeals. All but seven of the county's 43 districts were active in the process. The Pittsburgh Public Schools (PPS) appealed assessments on 579 properties, both residential and commercial, so it is possible the district appealed properties that the City of Pittsburgh might have if it were still seeking to get a correction of the appraisals of substantially under assessed properties.

## Results of 2017 Appeals (Change in Value from Pre-Hearing to Post-Hearing, $000s)

| Appeal Brought By… | Residential | Non-Residential | Total |
|---|---|---|---|
| Owner | -$57,050 | -$134,318 | -$191,368 |
| Governing Body | $218,574 | $57,300 | $275,874 |
| Combination | $751 | $661 | $1,412 |
| Total | $162,275 | -$76,357 | $85,918 |

The overall net effect of owner, taxing body and combination (in this case both the owner of the property and the school district appealed the property value) appeals in 2017 was an $85.9 million increase from pre-appeal value to post-appeal value. As a percentage of the subtotals, non-residential owner appeals accounted for 70 percent of the overall drop in assessed values for properties appealed by owners. For the taxing body appeals the increase in residential value accounted for close to 80 percent of the rise in assessed value resulting from appeals.

Notwithstanding the wishes of many people, there is little reason to expect a state law prohibiting taxing bodies examining sales and appealing the assessments of properties where they are far lower than the recent sales prices. Ten years ago the General Assembly passed legislation to prevent appeals by taxing bodies based on the sale price. The then-governor vetoed that legislation and said appeals by taxing bodies were the way to ensure assessment fairness and that the long-term solution was to mandate a frequent reassessment cycle for counties. A decade later, there is still no movement toward a mandated regular reassessment cycle. It appears the long term mentioned by the governor should have been referring to the time it would take to get real reform. On the other hand, a decade later a bill to prohibit the practice of sales-based appeals has been pending in the House of Representatives for over a year, which suggests the Legislature has no intention of listening to the former governor or looking around and seeing what all but one other state does regarding regular assessment updates.

But for now the courts are following the state law with regard to taxing body appeals. Recently a lawsuit was filed in Allegheny County Common Pleas Court by property owners (plaintiffs) who purchased a home in the City of Pittsburgh for $750,000, well above the assessed value of $464,700, only to have the assessment raised on PPS appeal to $690,000. The owners sued Allegheny County, the City of Pittsburgh, the PPS, and the BPAAR as a class action on behalf of all property owners who had their assessment raised by a taxing body appeal in the years 2014 to 2016 as a result of a sale and not a change in the characteristics of the property.

The plaintiffs cited language in the county's Administrative Code and the BPAAR rules of procedure that "prohibit taxing bodies from offering evidence of recent sales, including sales of the subject property itself, to challenge the base year assessment." Taxpayers are allowed to do so under the local rules language. The taxing bodies claimed that the code language and the rule are ignored in practice and that they simply "proffer evidence derived from a recent sale of a property in appeals subsequent to the base year to determine current market value and then the BPAAR utilizes this current market value to 'reverse engineer' an adjusted base year assessed value."

The Common Pleas Court's decision that denied the plaintiffs relief—which has been appealed to Commonwealth Court—is squarely based on the section of state law delineating the rights of taxing bodies to file appeals. The judge's ruling cited language in the Second Class County Charter Law that prohibits the charter from enlarging the county's powers on assessments of real property (raising a problem for the Administrative Code language and the BPAAR rule). The ruling also cited the Second Class County Assessment Law, which does not deny taxing bodies the right to appeal on the basis of current market value, and the state's General Assessment Law that permits taxing bodies to appeal "in the same manner, subject to the same procedure, and with like effect, as if such appeal were taken by a [taxpayer] with respect to his property."

So what about mandating more frequent reassessments to reduce appeals (by both taxpayers and taxing bodies) and to eliminate the sticker shock of new updated values come about when there is a long period between reassessments? The opinion noted,

> "Counsel for Plaintiffs repeatedly expressed frustration that the County fails to conduct regular, county-wide reassessments. This frustration is understood. Certainly, the risk of non-uniformity increases when county-wide reassessments do not occur on a regular basis. However, no party is requesting that a county-wide reassessment be ordered, and the Court is not inviting such a request, as the Court sees no evidence of its necessity established by the pleadings filed to date."

Too bad about the last sentence quoted from the ruling. The judge could prevent a lot of angst and costs brought about the thousands of appeals that are still occurring six years after the last reassessment by ordering the county to do the right thing and do a reassessment.

But the county's leadership refuses to reassess, the state doesn't want to force counties into a reassessment cycle and appeals keep happening. As we have pointed out before, "there is massive resistance among politicians to doing the right thing in terms of their unwillingness to reassess on a regular and frequent basis to keep assessments as close to market value and accurate as possible. As a result, taxing bodies, in an effort to create more equitable taxation, have adopted the strategy of appealing the assessments of recently sold properties."

This practice unfortunately singles out recent buyers since their neighbors' homes might have risen in value as much as the one they just bought but the neighbors are not subjected to a taxing body appeal. Clearly, there is an element of improving tax fairness in the appeals. But it is also clearly a sub-optimal and hardly an equitable way to create equity.

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