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Where are assessment and appeal policies headed?

Summary: 2020 begins with a ruling in a lawsuit over taxing body appeals of assessed values. What does that mean for purchasers who are often subject to what many term a “newcomer’s tax”?

It is a familiar tale: Pennsylvania allows counties to assess properties under a base-year system and it can be many years before subsequent reassessments take place. As time goes on, gaps develop between sales prices and assessed values. Taxing bodies then appeal sales that meet certain criteria, seeking to have values raised to, or near, sales price. Buyers are caught off guard and are then faced with the possibility of higher tax bills and frustrated since similar properties are not appealed because they were not for sale.

We’ve documented data on appeals in Allegheny County for several years since the 2013 reassessment. Last year the county’s Board of Assessment Appeals and Review (BPAAR) heard over 6,000 appeals brought by owners and taxing bodies.

One property appealed in 2016 had a 2012 base-year assessment of \$464,700. The property was bought in 2015 for \$750,000. The assessed value was appealed by Pittsburgh Public Schools (PPS) and a BPAAR decision increased its assessed value to \$690,000. That decision was then appealed by the buyers to the Board of Viewers (BOV), where it is currently pending.

Not long after a class-action lawsuit involving the buyers was brought against Allegheny County, the City of Pittsburgh, PPS and BPAAR. This was done on behalf of “all property owners in Allegheny County whose real estate tax assessment value was increased for the tax years 2014-2016 ... due to a tax assessment appeal initiated by either Allegheny County, City of Pittsburgh or Pittsburgh Public Schools, where the decision was reached on the basis of current market value and not based on an addition or removal of improvements on the subject property or physical changes in the land of the subject property.”

Allegheny County Common Pleas Court delivered a mixed verdict in March 2018. It cited language from the General County Assessment law that taxing bodies can 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.” The ruling noted that the county’s administrative code and BPAAR rules of procedure had language that was contradictory (and not followed in appeal practices) to the General County Assessment Law and Second Class County Assessment Law about the ability of taxing bodies to utilize current market value in appeal proceedings.

Upon appeal, Commonwealth Court upheld the decision in August 2019 with a modification that the plaintiffs did not exhaust all remedies available under the Second Class County Assessment Law, specifically the BOV appeal which could result in a lower assessed value. The opinion noted “a party may not seek judicial resolution of a dispute until he or she has exhausted available statutory or administrative remedies.”

The Supreme Court denied the petition for allowance of appeal of the Commonwealth Court ruling with a one sentence ruling in January 2020.

To prevent taxing bodies from appealing recent sales, why not ban the practice? In the March 2018 ruling the court noted “taxing bodies are simply taking appeals where there exists readily available evidence to prove their case ... they are doing what most law students are trained to do in law school.” Four years earlier we noted in a *Policy Brief* that “properties that have sold recently are the only ones for which the [taxing body] can actually prove assessments provided by the county are far below true market value.” Properties that had not sold could go up in value “but on what grounds can the [taxing body] appeal their assessments?” we asked.

The General Assembly attempted to stop taxing body appeals on sales prices over a decade ago (the legislation was vetoed) and is trying again. The legislation would prohibit appeals based on sales price alone but would allow for taxing body appeals when there is a reassessment, a division of the parcel or a change to its use.

How are potential buyers to be made aware that if they purchase property at a price above the current assessed value that there could be an appeal by a taxing body? This can lead to tax increases that can lead to higher escrow payments that a lender should take into account. This is especially true if they are from another state where there are no long outdated assessments. Is there not an ethical obligation for someone involved in the transaction to inform the buyer of the likelihood of an assessment appeal? The costs in time, money and distress for the buyer in having to deal with the appeal is certain to create animosity toward the appealing taxing body and the system that has created this mess.

The state should just end, or curtail appeals, by bringing Pennsylvania’s assessment practices in line with other states. Most don’t let values go beyond six years—and have a regular, predictable cycle. That was the argument by the governor when the 2009 legislation was vetoed (“the long term solution to this problem is the passage of legislation that would compel regular reassessments at the county level”); that’s what the 2018 self-evaluation guide for counties noted when it pointed out that inequitable tax burdens, reassessment costs from data reconstruction and complications to mass-appraisal

models can grow the longer time passes between updates; it is what we have pointed out time and again, notably the political reluctance that also grows the longer the time between updates.

For close to a year there has been a co-sponsorship memorandum in the General Assembly seeking to establish a four-year reassessment cycle. The memorandum notes that it is not uncommon for decades to pass between revaluations and that inequities in tax burdens can develop.

Given that recent buyers who feel they are singled out by taxing body appeals, that taxing bodies are trying to do their part to ensure uniformity, that the evidence on the side that more frequent assessments would be an overall positive, what are the chances that Pennsylvania will adopt a reassessment cycle? It is unknown since the proposal has yet to be introduced as a bill in the General Assembly.

That's correct: the proposal has not yet even been introduced as legislation. What is the holdup? Is there pushback from county officials who don't want to conduct one, from taxpayers fearing spikes in tax bills if values increase or from legislators who feel they are going to enact a tax shift that will rid the state of property taxes and the need to reassess?

In the Allegheny County case, if the county were on a four-year reassessment cycle that began in 2012, the home would have been purchased in year three with an update coming in the following year. Then there might have been less impetus for a taxing body appeal and the buyers would know that all values would be updated.

In the next two-and-a-half years—the time the case spent in the courts—new values will have gone into effect in Monroe, Delaware and Beaver counties, updating base years that are 31, 21 and 40 years, respectively. When that time is up, what will the state's assessment practices be?

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