



## **Washington County Assessment Appeal Thrown Out**

In a long running drama remarkably similar to the case in Allegheny County, a Commonwealth Court judge denied Washington County's appeal of a November 2011 lower court order requiring the County to begin a property reassessment immediately. County Commissioners will appeal to a panel of Commonwealth Court judges, further delaying the reassessment process that was to have begun in 2009 following a Commissioners' agreement with plaintiffs who had sued the County.

With a Supreme Court decision in the Allegheny County case as precedent for determining whether a county's assessments violate the Pennsylvania Constitution's uniformity clause, the judges who have already ruled will—to a virtual certainty—be upheld by whatever higher court the County appeals to.

The case in Washington County was brought by school districts on the grounds that properties in the districts were being arbitrarily determined and were inherently producing inequitable tax burdens because of assessments that deviate from true market values. To settle the case the Commissioners agreed in December 2008 to begin a reassessment if the Legislature did not reform the state's property assessment statutes—which the Legislature has studiously avoided doing, preferring instead to let the courts deal with the rights of individuals to be treated fairly under the uniformity clause requirement. Thus, rather than putting in place state laws that would keep property assessments up to date and accurate, the Legislature forces property owners and taxpayers to spend huge amounts on court costs and legal expenses to fight assessment inequities.

The County has continued its pursuit of a favorable ruling on the grounds that in some future year the Legislature might rewrite assessment laws that would cause new assessments to be invalidated. In each appeal the courts have refused to accept such an argument. First of all, talk in Harrisburg of reforming assessment laws has been underway off and on for decades and nothing meaningful has been done to address the issue except a vetoed budget amendment in 2011 that would have indefinitely delayed the Washington County reassessment. Second, judges cannot and should not take into account the possibility of a law change in making a ruling, especially when there is no pending relevant legislation and the impact, if any, of the law's potential contents on a reassessment cannot be determined beyond pure speculation. The judges have rightly seen this argument as fatuous. A ruling in its favor would be tossed out forthwith on appeal.

Suffice to say that since the consent agreement in December 2008, the Commissioners have done everything possible to thwart the courts and avoid carrying out the agreed to reassessment.

Washington County Commissioners argue a reassessment will be costly and lead to enormous problems as property owners appeal updated values. Of late they point to the experience in Allegheny County where a long delayed reassessment has created considerable angst. They might have a point. But that is not justification for refusing to carry out a court order. The fundamental fact remains. If taxing bodies are going to be allowed to levy taxes on real property based on fair market values and the Constitution requires uniformity of taxation across similarly situated taxpayers, then all properties must be valued as accurately as possible, certainly within an acceptably narrow range of error. To ignore this fundamental fact is to ask for the courts to intervene.

Moreover, the Commissioners' argument ignores the plight of those being unfairly taxed because of incorrect valuations of their properties while continuing to reward property owners who are underassessed. The Commissioners, who claim the cost of the reassessment could run to \$8 million, should be asked how much in overpayment of taxes is being imposed on owners of properties that are overassessed or correctly assessed while a large fraction of property owners are underpaying. As we have pointed out, state laws that apply to Washington County, its municipalities, and its school districts would require millage rollbacks and adjustments that might lower taxes for many taxpayers following a reassessment. The Commissioners should also be asked how much money taxpayers and taxing bodies are presently spending in legal costs arising from assessment challenges, both by the folks appealing and by the County to hear appeals.

One must ask why public officials are so much more afraid of the underassessed property owners than they are of overassessed and accurately assessed property owners. Why is doing the right thing and obeying the laws one has sworn to uphold so difficult? If the underassessed are as powerful as they appear to be, both locally and statewide, perhaps the only solutions are to either amend the Constitution to eliminate the uniformity clause or eliminate real property taxation. Alternatively, the Commissioners could ask the Legislature to force all counties to reassess within three years.

As more and more taxes will have to be collected locally to pay for public sector pay and pension benefits and as the state struggles with its own fiscal problems, the likelihood of increased burdens on property owners will become greater and the demand for equity in taxation will grow stronger. Legal and court costs are undoubtedly going to grow rapidly as well.

Washington County will be forced to reassess properties. Its arguments have lost again and again. And waiting for some magic bullet in the form of legislation in Harrisburg to grant a reprieve will not be acceptable.

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