

PROTECTING YOUR MUNICIPAL TAX RATE FROM THE EFFECTS OF TAX APPEALS AND LACK OF UNIFORMITY

1) The Tax Court needs to fill open spaces for judges. Lobby for the appointment of new judges to the Tax Court bench and for appointment of reassigned Judges to the Superior Court. We cannot hold the line on cases if the Court is overwhelmed with appeals.

It has been over two years since the Honorable Roger Kahn has retired without replacement. Last year's filings at the Tax Court were higher than any year since 1998. With recent issues over a softening real estate market, filings should go up even higher next April. The law requires 12 sitting judges. There currently are only 6 sitting on the Tax Court, with five having been reassigned to the Superior Court. One of the Judges reaches mandatory retirement in 2009, two more will be eligible to retire in early 2008.

2) Repeal Chapter 101.

Chapter 101 requires Assessors to seek approval of County Boards and the Division of Taxation, with notice to municipal governing bodies, before they reassess any neighborhood, segment or class of properties. Assessors cannot do their constitutionally mandated job without permission. Regulations limiting the granting of approval have further restricted this requirement.

3) Assessments should be made uniform and that uniformity should be maintained.

Some County Tax Boards are reluctant to Order Revaluations where they are needed primarily because of political issues. Municipalities that presently would qualify for an order of revaluation should be ordered by the Division of Taxation to conduct district revaluations, and once revalued, maintenance reassessments must be conducted. Municipality by municipality should be ordered revalued with those districts, which have the lowest ratios and highest coefficients of deviation going first. Tax Boards must have qualified members willing to rule based upon value, not personal or political whim. The Board should support maintenance of reassessed properties. Unqualified members should not sit at hearings, and quorums should be present for all hearings. Tax Court Magistrate legislation may need to be considered.

4) Municipalities should not short change the defense of tax appeals. Assessors should have full and complete staffs and resources available from municipal, county and state government to draw upon. Good working relationships should

be established and maintained between the Assessor, and the Building Officials.

An Assessor's office should be computerized with the latest CAMA software, adequate field inspectors, a retained appraisal expert, and knowledgeable legal tax appeal counsel. PAMS is coming from the State and current CAMA software programs make residential assessing very efficient. The taxpayer/voter can be and is in many districts very efficiently taxed. Commercial assessing, however, should have better resources. Assessors should seek income and expense information from income producing taxpayers each year, and municipalities should give the assessors the resources to make those requests properly. Income and expense data should be submitted to the County Tax Board and/or the Division of Taxation, with that data being an exception from the Open Public Records Act. A weighted data base should be created on a Countywide or regional basis, segmented between cities and other municipalities, for the development of County or Regional commercial income, expenses and capitalization rates that may be used by Assessors to value and defend tax appeals on commercial and income producing properties. It is imperative that Building and Assessing Offices work well together to have a free flow of information so that new and added assessments are recognized.

5) Are different classes of property valued differently?

A debate by the panel of the upsides and downsides of appraisal valuation methods in tax appeals. Commercial income producing properties are typically valued in tax appeals using the income approach. Residential taxpayers (voters) are efficiently taxed using the sales approach. Depending upon the real estate market the results of that approach may diverge in the extreme with sales. Unique properties are mostly valued using the cost approach. Both the cost approach and income approach are subjective methods that can be influenced by talented advocacy. But changes may have different effects in different real estate markets, and some proposals may require changes to the State constitution.

6) Allowing residential tenants to share in any refund or credit from a settlement or successful tax appeal on the property in which they live.

Landlords raise rents year after year, claiming that costs and taxes have increased. If they win a tax appeal, then the tenants, who have paid the tax increases through their rents should benefit. N.J.S.A.54:4-6.2. Municipalities should pass ordinances requiring residential landlords to pass on real estate tax appeal reductions to tenants. One municipality's ordinance has been upheld, how it can be administered.

Hilltop Associates v. Edison, 181 N.J. Super 100 (App Div 1981)

7) Fix the educational funding mess.

Is real estate taxation the way to fund education? Does anyone have an answer? Inter-municipal tax sharing and other proposals should be examined. Exemption laws should be better codified and perhaps re-examined. In addition, currently tax refunds are the responsibilities of municipalities. Other entities are not responsible for the cost of defense or even the damage of refunds. But, municipalities may have to give up added assessments in return.