

LEGAL ALERT (January 27, 2012)

Commercial Owners in Allegheny County Dodge Bullet

Commercial Owners Have a Right to a Board of Assessment Hearing. On Wednesday of this week (January 25) we learned that a draft court order was under consideration in Allegheny County's reassessment case, which would have deprived commercial owners of their right to a hearing before the Board of Assessment Appeals (what the County calls the "formal appeal"). Put simply, if a commercial owner filed an appeal to the Board of Assessment, this order would have allowed taxing districts to unilaterally move the case immediately to the next level (Board of Viewers) without having a hearing at the Board of Assessment. **No commercial property owner is a party to the lawsuit.**

One of our commercial clients agreed to step forward with us to fight for commercial property owners. By Wednesday evening, we prepared court papers seeking to intervene in the lawsuit. First thing Thursday morning (January 26) we filed a Petition to Intervene and took it before Judge Wettick; it will be heard on February 2. In the meantime, immediately following yesterday's court conference, the lawyers in the case met with Judge Wettick behind closed doors in a working meeting. When the Judge issued an Order late yesterday afternoon, the troubling problem for commercial owners was removed – rather, under the Order, commercial owners (but not taxing districts) will have an *option* to move their case to the next level if they wish. The language which would have allowed taxing districts to eliminate Board of Assessment hearings for commercial properties was eliminated, we think as a direct result of our raising the issue.

Dearth of Data for Commercial Owners. Commercial owners who have taken a look at their new values – commercial property in the City saw an average increase of 70% -- might be wondering what data the County used to set these new values. Keep wondering. The County *says* they used sales from 2008 through 2010 and general financial information. But, unlike residential properties, there is no data available to commercial owners as to the specific data the County relied on. Residential property owners can view the County's comparable sales for their properties online; commercial owners can't. Residential owners can go online to view square footage and other building characteristics that the County tracks for their properties; commercial owners can't. And, while the County does maintain Property Record Cards on commercial properties (available only by going to the County Office Building in person and asking for them), our check of some Property Record Cards this week revealed that information for commercial properties is outdated and ties to the old assessment values. In other words, there is absolutely no data available to commercial owners as to how the County arrived at their new assessment, which places a huge – some might say impossible – burden on the commercial owner to figure out why it is wrong. Part of our request to intervene in the lawsuit is to force the County to provide the same data for commercial owners as it does for residential owners.

Fighting the Good Fight. We still think commercial property owners need a seat at the table to avoid any other "solutions" that deprive commercial owners of their right. We will ask the Judge next Thursday February 2 to allow us to take part in the case.

We will continue to monitor and advise on the developing situation in the County. In the meantime, we are happy to answer your general or property-specific questions.

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