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## Avoiding Spot Reassessment

By Sharon F. DiPaolo, Esquire, Partner  
Siegel Jennings, Co., L.P.A

Assessors monitoring the assessments of thousands of tax parcels attempt to maintain the uniformity required by our Constitution, while also complying with the requirements of four assessment statutes and myriad reported cases from Pennsylvania courts. How to meet uniformity without engaging in spot assessment? An analysis of recent statutory changes and case law provides guidance.

First and foremost, uniformity is achieved by countywide reassessment. Outside of the reassessment cycle and assessment appeals, Pennsylvania law limits the assessor's ability to change an individual parcel's assessment to three discrete situations:

1. To correct clerical error, mathematical error, or omissions;
2. When a property is subdivided and the subdivided parcel is sold; or
3. When a physical change occurs on the property (whether by new construction or demolition)

Notably, these situations are all based on readily-determined facts: Was the property subdivided and sold? Is there a data error? Has there been a change in the improvement? The four Pennsylvania assessment statutes are consistent in limiting assessment changes to these circumstances, and the case law interpreting these statutes has been remarkably consistent. Simply put, if the assessor wishes to make a change based on a subjective judgment, such as an opinion that the value of the property has changed outside of these three fact-based scenarios, that change would be an impermissible spot assessment.

One of the most important changes in the new Consolidated County Assessment Law, 53 Pa. C.S.A. §8801 et seq., which originated in this Association's Assessment Reform Committee, was to codify Pennsylvania's case law regarding spot assessment. The new Law also strengthened the proscription against spot assessment in three ways. First, the Law expressly defines "spot assessment." §8802. Second, the Law adds new language: "The County assessment office is prohibited from engaging the practice of spot assessment." 53 Pa. C.S.A. §8843. Third, the Law contains a new provision that allows a taxpayer to file an appeal to the Board limited to the issue of spot assessment. 53 Pa. C.S.A. §8843.

Early this year, the Commonwealth Court issued its decision in *Krohn v. Snyder County Board of Assessment Appeals*, No. 1116 of 2012 (Pa. Commw. Ct. January 23, 2013), which illustrates that subjectively-based changes by the assessor -- no matter how well-intentioned -- outside of the three allowable factual circumstances will be deemed to be spot assessment. While the Krohn case arose under the now-repealed Fourth to Eighth Class County Law, 72 P.S. 5020-204, the case is still instructive because the new Consolidated County Assessment Law, 53 Pa. C.S.A. §8801 et seq., not only incorporates the same standard as the prior statute, it includes an even stronger proscription against spot assessment.

The facts underlying the Krohn decision are that in 2009 the senior Krohns transferred their 120-acre farm to their son

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## Ideas for You

### DELIVER A "NO" WITHOUT DEVASTATING

As difficult as it can be to tell someone "No," you can turn that moment into a positive experience. Maybe an employee is asking for a raise, or your boss is gung ho about an idea that you know is doomed. *With this approach, the other person will thank you later:*

Soften your "No."  
Put yourself in the other person's shoes, understanding that they want a "Yes." Say "I wish that I could tell you that (what the person wants to hear) but I can't." Say that simply, without apologizing.

Redirect.  
Steer the conversation in a positive direction. Lead the person with a phrase like "Let's do this . . ." or "Here's what we can do instead . . ."

You will maintain your credibility as an honest person and be seen as someone who is a problem solver rather than a naysayer.

*Adapted from "What to Say When You Can't Say 'Yes,'" Beth Haiken, PR News, www.prnewsonline.com.*

*Communication Briefings, March 2012*

## What's Inside

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and his wife ("Farm Tract"). Previously, in 1996 the senior Krohns recorded a subdivision plan for the Farm Tract dividing it into two lots, but they kept the two tracts in common ownership and transferred them together to the junior Krohns, recorded as one parcel in the 2009 deed. In 2010, the Board of Assessment ("Board") increased the assessment on the Farm Tract stating its reason as "purchase of land." The same day the Board also increased the assessment of the neighboring 2-acre tract of land improved by a barn, which the senior Krohns owned and which had not sold ("Barn Tract"). The Board's reason for increasing the Barn Tract was "the sale of land and the assessment of a home site not assessed previously."

The taxpayers filed an assessment appeal claiming the assessment changes constituted spot assessment. The Board denied their appeal and taxpayers appealed to the trial court. At trial, the County's position rested on two arguments – 1) that there was a subdivision and transfer which triggered the ability to reassess, and 2) that it assessed a "home site value" to each parcel in an attempt to

achieve uniformity in assessment. The County explained that it determined that the highest and best use of the parcels was as a home site, and that the County had a practice of assessing all properties that it classified as "home sites" uniformly.

Both the trial court and the Commonwealth Court ruled that the reassessments were impermissible spot assessments. The Commonwealth Court reviewed the three bases for reassessing an individual parcel. As to the subdivision, the fact that the parcels were nevertheless held in common ownership and not sold off individually supported the Court's finding that the subdivision exception did not apply. As to the County's practice of reclassifying and revaluing of "home sites," that rationale did not meet one of three allowable exceptions for reassessing. Finding none of three bases on the facts presented, the Commonwealth Court affirmed the trial court ruling the County's action amounted to spot assessment.

Over time, the common lesson in Pennsylvania's law regarding spot assessment is that if the rationale for the change to an

individual property is outside the scope of the three allowable bases, the change will be deemed to be a spot assessment. To avoid spot assessment, assessors should examine tax parcels for one of three fact-based bases for change. Outside of these bases, the cure for a lack of uniformity is countywide reassessment.

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Consolidated County Assessment Law, 53 Pa. C.S.A. § 8816-17 (applying to 2nd Class A, Third, Fourth, Fifth, Sixth, Seventh and Eighth Class Counties), as of January 1, 2011 replacing Fourth to Eighth Class County Law, 72, P.S. §§ 5453.602a, 5453.703a and 5453.703c; First Class County Law, 72 P.S. §§5341.6 and §5341.8 (applying to Philadelphia County); Second Class County Law, 72 P.S. §§5352.13, 5352.13a (applying to Allegheny County).

See Pennsylvania General Assembly Local Government Commission Report on Consolidated County Assessment Law, Executive Summary, <http://www.lgc.state.pa.us> at 2 (One of "[t]he most important changes" of the new law is that "[s]pot reassessment provisions are updated to comport with case law.")

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