

TAX RESOLUTION CONUNDRUM

Pittsburgh resolves to reduce taxpayers' inflated property assessments.

By Sharon DiPaolo, Esq.

Politics makes strange bed fellows. Pittsburgh's city council recently ordered its finance director to draft policies that protect taxpayers from assessment appeals by the city, and even to file appeals on taxpayers' behalf.



Sharon DiPaolo
Siegel Jennings

Unlike many states, Pennsylvania allows the three entities that levy real estate taxes (counties, schools and municipalities) to appeal annual real estate assessments, just as taxpayers do.

Taxpayers file appeals when they believe their property is over-assessed, in order to reduce their assessment and their real estate taxes.

When taxing authorities file annual appeals, they seek to increase assessments and taxes. The city of Pittsburgh has historically filed appeals following the sale of a property assessed at a lower value than the sale price. This practice, where taxing authorities essentially sue individual taxpayers (and voters) to increase real estate tax payments, is common in Western Pennsylvania.

In a strange twist, first-term city councilman Dan Gilman recently introduced legislation to limit the city's ability to file increase appeals and, in some cases, to even direct the city to file appeals to decrease property assessments. The resolution passed and the mayor signed the measure on Feb. 23.

The resolution starts off with two self-limiting provisions. First, it bars the city from appealing the assessment of a property for two years after the property sells. Second, the resolution prohibits the city from using a property's sale price as the basis for an appeal seeking an assessment increase.

These provisions restrict the city from doing what it is permitted to do by Pennsylvania statute, which states that: "[A]ny county, city, . . . school district . . . which may feel aggrieved by any assessment of any property . . . shall have the right to appeal" an assessment the same as the property's owner.

The resolution further limits the city to appealing a property's assessment once every three years. Pennsylvania's statute allows taxing authorities to appeal annually.

David "J.R." Sachs, president of A-1 Van Service recently battled Pittsburgh taxing authorities over his property's assessment, and believes the new resolution is a good idea.

After Sachs purchased three dilapidated buildings and contaminated

land along the banks of the Allegheny River in 2013, the school district appealed his assessment, seeking an increase to the purchase price. Sachs saw his assessment mushroom from \$489,800 to \$540,000 following the appeal, while the assessments of neighboring properties without recent sale prices remained unchanged.

The new resolution "gives people a chance to invest in their properties and improve them before getting hit with a tax increase," Sachs says.

Perhaps most unusual is the resolution's requirement directing the city to generate a list of properties with assessments 50 percent or more greater than their market value, and to "appeal values downward on behalf of those owners." This provision turns current practice on its head.

In a taxpayer-initiated appeal seeking an assessment reduction, the city's legal department has historically defended the assessment and fought against reductions. Now, the city will be required to file appeals seeking reductions on behalf of taxpayers.

This last provision is not entirely unprecedented in Pittsburgh. In 2005, Allegheny County, where Pittsburgh is located, conducted a countywide reassessment following a court mandate, releasing the new assessment figures but refusing to certify the assessment. Instead, the county resisted implementing the assessments in litigation that wound up in Pennsylvania's Supreme Court.

During this litigation, in April 2006, Allegheny County filed 11,000 appeals on behalf of taxpayers who saw their assessments rise since the prior reassessment in 2002 as a result of

In a strange twist, the new legislation even directs the city to file appeals to decrease property assessments.

previous appeals by school districts or municipalities. Allegheny County brought these appeals to hearing and requested reductions. City and school district representatives appeared and defended the assessments.

The city's recent initiative may have unintended consequences, according to Pittsburgh lawyer, Michael I. Werner of ZunderWerner, LLP. Werner has extensive experience representing property owners in appeals of their property assessments. "When the county did the same thing in 2006, property owners were confused. In some instances, the owners did not want the county to file appeals on their properties," he says. "This put us in an odd position: Because the owner was not the appellant, we were unable to withdraw the appeals. The county was trying to help, but they inadvertently created new obstacles for many property owners."

"It is a noble thing they are trying to do, but it raises the question of whether a city employee, who does not know the specific property and who does not have an attorney-client relationship with the property owner, is in a position to properly represent that owner's interests," Werner says. "City-initiated appeals to reduce an assessment should only be filed at the request of the property owner."

The city's resolution also calls for its finance director to collaborate with the Pittsburgh school district and Allegheny County to implement and expand its new policies. Given the history, it seems unlikely that the school district will join the city, either in self-limiting its appeal rights or in filing appeals seeking lower assessments.

Pennsylvania school systems are strapped for cash due to the state legislature's budget impasse: lawmakers are more than eight months past deadline to pass the 2015-2016 budget, and many school districts have been forced to take out loans to meet operating expenses. Increasingly, school districts have become more aggressive in filing increase appeals as they seek new sources of revenue.

What happens next is open for debate. Even though Pittsburgh's mayor ratified the resolution on Feb. 23, one councilwoman introduced a measure on Feb. 22 to repeal it. The new proposal remains in committee. All assessment appeals for properties in Pittsburgh were due March 31, and hearings will begin in May and June.

Sharon DiPaolo is a partner in the law firm of Siegel Jennings Co., L.P.A., the Ohio and Western Pennsylvania member of American Property Tax Counsel, the national affiliation of property tax attorneys.



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