

Property Valuation**Pennsylvania Supreme Court Topples School Tax Decision**

The Pennsylvania Supreme Court unanimously reversed a lower court's decision dismissing a challenge to a school district's practice of making spot appeals on tax assessments of large commercial properties (*Valley Forge Towers Apartments N, LP v. Upper Merion Area Sch. Dist.*, 2017 BL 230729, Pa. en banc, No. 49 MAP 2016, 7/5/17).

Morgan Properties Abrams Run Owner LP and KBF Associates LP alleged the Upper Merion Area School District's practice of using spot appeals to raise tax revenue violated the uniformity clause of the state's constitution. The Commonwealth Court upheld the trial court's decision that the apartment owners failed to state a claim and show a uniformity clause violation.

The state Supreme Court disagreed in a July 5 decision, saying the apartment owners' challenge "sets forth a valid claim that the School District's appeal policy violates the Uniformity Clause." The case was remanded to the Montgomery Court of Common Pleas for further review.

The case has the potential to affect hundreds of Pennsylvania school districts that use appeals of tax assessments to boost tax collections.

Pennsylvania tax attorney Sharon F. DiPaolo told Bloomberg BNA in a July 5 email that the decision shows that all taxpayers must be uniformly treated.

"There can be no assessment scheme that systematically treats residential and commercial taxpayers differently," said DiPaolo, a partner with Siegel Jennings, Co. LPA, a boutique law firm in Blawnox, Pa., that represents taxpayers in property tax assessment proceedings. "The Court ruled that all real estate is a single class."

'Back to Step One' The lower courts wrongly interpreted two earlier decisions when they dismissed the case, the state Supreme Court said: *Downingtown Area*

School District v. Chester County Board of Assessment Appeals and *Clifton v. Allegheny County*.

The court ruled on procedural grounds and the decision provides no guidance as to whether a uniformity violation occurred, Wendy Rothstein of Fox Rothschild LLP, who represents the school district, told Bloomberg BNA. The court ruled only that the case was dismissed too soon and the constitutional question must be argued.

"We're back to step one," she said. The apartment owners "still have to prove a constitutional uniformity violation."

Rothstein said she plans to move to dismiss the case again after more fact finding occurs.

School Districts Watching There are "a hundred, if not a thousand" appellate cases in Pennsylvania that are watching the *Valley Forge Towers* litigation, Paul R. Morcom of McNees Wallace & Nurick LLC in Harrisburg, Pa., told Bloomberg BNA. School districts in most of Pennsylvania's 67 counties use spot appeals to raise tax revenue, he said. "It's a huge money-making scheme for the schools. It's become an industry."

Morcom represents one of the property owners, Morgan Properties, in a separate appeal on the same properties in the *Valley Forge Towers* case.

The Pennsylvania Apartment Association, which filed a friend of the court brief in the case, said that while it was "pleased" with the decision, it will continue to seek "complete resolution" of the issue through legislation in the state's General Assembly.

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