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## UNIFORMITY IN TAX ASSESSMENT APPEALS

*GM Berkshire Hills, LLC, and GM Oberlin Berkshire Hills, LLC v. Berks Cty. Bd. Of Assessment and Wilson School District*

“While every tax is a burden, it is more cheerfully borne when the citizen feels that he is only required to bear his proportionate share of that burden measured by the value of his property to that of his neighbor.” This fundamental principle is written into Pennsylvania’s Constitution: “All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws.” Under the Consolidated County Assessment Law (CCAL), taxpayers are permitted to appeal their property’s assessed value if they think that their taxes are too high. “[A] taxpayer is entitled to relief under the Uniformity Clause where his property is assessed at a higher percentage of fair market value than other properties throughout the taxing district.” *Downingtown Area Sch. Dist. v. Chester Cty. Bd. Of Assessment Appeals*, 913 A.2d 194 at 199 (Pa. 2006). Likewise, municipalities and school districts are also permitted to appeal a property’s assessed value if it thinks that the property is under-assessed, thereby not generating the proper amount of tax revenue. However, as the court ruled in *Valley Forge Towers Apartments N, LP v. Upper Merion Area Sch. Dist.*, 163 A.3d 962 (Pa. 2017), these appeals must conform to the Uniformity Clause.

The Pennsylvania Supreme Court in *GM Berkshire Hills, LLC, and GM Oberlin Berkshire Hills, LLC v. Berks Cty. Bd. of Assessment and Wilson School District* recently issued a ruling affirming the commonwealth court allowing taxing authorities to pursue tax appeals. Here, the Wilson School District created a two-prong, quantitative uniformity test to determine whether it should pursue an assessment appeal against a property. First, the property is designated by the State Tax Equalization Board (STEB) as recently sold. Second, a monetary threshold where, after applying valuation calculations utilizing the common level ratio (CLR), the property is determined to be underassessed by at least \$150,000. The first prong, which relied on public records, ensured an arm’s length transfer and an ascertainable market value of the property. The second prong promoted the responsible use of public funds by ensuring that the presumed increase in revenue would outweigh the “real-world” cost of the appeal, as well as pull in different types of properties (i.e.: commercial, industrial, residential). Taxpayer argued that the district’s draw of recently purchased properties from the monthly STEB reports creates a sub-class of properties (those properties that are under new ownership) and further limited that sub-class by market value.

While the taxing authority is permitted discretion when choosing its appeal process, that process must conform to the Uniformity Clause. The district’s reliance on the monthly STEB reports is non-discriminatory since each property can be bought and sold, creating a sales price that is not unique to a subset of properties, and reflects the property’s market value (when transferred in an arm’s length transaction). Further, the sales data in the monthly STEB reports is crucial to determining whether a property’s assessment is too low when compared to other properties in the taxing district. Finally, the court agreed that the district’s use of the monthly STEB reports does not create prohibited subsets of properties.

The court notes that a taxpayer can feel discriminated against when their property’s assessment is subject to review and adjustment by a taxing authority while neighboring properties within the taxing district are not challenged. “[A]fter a countywide reassessment, ‘under normal economic conditions the STEB-calculated CLR tends to diminish each year, reflecting ongoing inflation and real estate appreciation.’” Under the CCAL, to determine a property’s assessed value of a property, the established predetermined ratio (EPR) is applied to the market value unless the CLR varies by more than

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15% from the EPR, in which case the CLR is applied.

Application of the district's two prong test ensures that non-conforming properties are adjusted for uniformity, thereby safeguarding "the principle that a taxpayer should pay no more or no less than his proportionate share of the cost of government." Thus, school district tax appeals, sometime colloquially and incorrectly referred to as 'reverse appeals' are permissible if the process by which they are chosen is nondiscriminatory and conforms with principles of uniformity.

*It should be noted that the Supreme Court ruling in this case remained in place only because the court was split 3-3 with no majority resulting in a default of maintaining the lower court's ruling.*

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

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