

Suit Challenges Allegheny County Limitation on 2005 Assessment Appeals

Allegheny County plans to mail new assessment notices to property owners in February 2005. But these are notices for 2006 assessments, and anyone expecting to file appeals of 2005 property assessments may be surprised to find that the deadline was April 30, 2004.

The County is shifting to a process that allows property assessments to be appealed *before* the taxes are actually due. Thus on February 26, 2004, Council adopted Ordinance No. 05-04-OR ("County Ordinance"). This amended the Allegheny County Administrative Code and provided that:

"All appeals of certified valuations to be used in the 2005 tax year shall be filed with the Appeals Board on or before the 30th day of April 2004."

In short, according to the County Ordinance, an appeal filed after April 30, 2004, will affect the 2006 assessment only. The 2005 assessment – and therefore the 2005 tax liability – cannot be challenged after April 30, 2004.

Historically, Allegheny County assessment appeals have been filed during the year in which the property taxes are due. Appeal deadlines have ranged from the last day of February to June of the tax year for which the assessment has been challenged.

This procedure has long been criticized. In most instances, it requires property owners to pay their Allegheny County, municipality and, frequently, school district real estate taxes based on an assessment that is being challenged.

In fact, the procedure used in Allegheny County contrasts with most other Pennsylvania counties, where assessment appeals are filed in *advance of* the calendar year in which the taxes are due.

While the new schedule would eliminate pressure on property owners – they would no longer be asked to pay tax bills based on disputed property assessments while appeals are being resolved – the County Ordinance itself has some negative effects:

- It denies the right to challenge 2005 assessments in the customary time period.
- It forecloses clearly meritorious 2005 appeal cases.

No right to challenge – Council did allow a short window to file a 2005 appeal after the ordinance's adoption (February 26, 2004, to April 30, 2004). However, property owners and taxing bodies alike are accustomed to exercising a legal right to file property tax assessment appeals on an annual basis in Allegheny County. The County Ordinance effected a dramatic change in the filing procedure – that is moving the traditional deadline up a whole year – and communication surrounding the change and its implications was minimal.

Foreclosing many appeals – The County Ordinance also has a negative impact in foreclosing obvious 2005 appeal cases. For example, under the Ordinance, the owners of a shopping center who have lost half their rental income due to the loss of a major anchor tenant in the summer of 2004 cannot appeal their 2005 assessment at this point. Instead, their 2005 tax liabilities to Allegheny County, the municipality and the school

district all are fixed at their 2004 level, and that level is likely to be unfairly high, given the loss of their revenue stream.

For the residential property owner, the County Ordinance also has implications. For example, the owner who bought a home after April 30, 2004, at a price substantially below the 2004 assessed value is locked into taxes at the higher 2004 level. This is true, even though the fair market value of the property for 2005 is presumably less, based on the lower purchase price.

Taxing bodies also are affected. In fact, it is two taxing jurisdictions that have filed a suit challenging the constitutionality of the County Ordinance. The suit claims that the General County Assessment Law of the Commonwealth of Pennsylvania gives both owners of taxable property and school districts the right to appeal an assessment if they feel aggrieved by the assessment and that Allegheny County cannot legislatively deny this right.

The suit alleges that the denial of 2005 appeal rights caused by the County Ordinance constitutes a violation of due process rights guaranteed by the Pennsylvania Constitution. The suit requests that the County Ordinance be declared unconstitutional and that a 2005 appeal period be permitted.

To discuss the specific concerns regarding property assessment, contact Donald Walsh at 412-242-4400 or daw@mbm-law.net.

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