

Recent Real Estate Tax Decisions

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Church of the Overcomer v. Delaware County Board of Assessment Appeals, No. 269 C.D. 2010 (March 17, 2011)

The Commonwealth Court has held that a church's community center was not entitled to an exemption from real estate taxation. After first determining that the exempt status of the community center must be considered separate from the status of the church, the Court considered whether the community center met all of the requirements of the Institutions of Purely Public Charity Act. The Court determined that the center had failed to satisfy the "community service" and "charity to persons" elements of the Act, because the center failed to show that it provided services to individuals unable to provide for themselves, or had made known the availability of free services to the public.

City of Philadelphia v. Cumberland County Board of Assessment Appeals, No. 1725 C.D. 2010 (April 4, 2011)

The Commonwealth Court has held that investment property owned by a charitable trust was not entitled to an exemption from real estate taxation. The trustee, the City of Philadelphia, derived investment income from the property which it used for the benefit of Girard College. The Court determined that the City's role as trustee did not establish that the trust was a Commonwealth agency immune from real estate taxation. The Court also determined that the trust, while qualifying as an institution of purely public charity, did not use the instant property for its charitable purpose, as it was used solely to generate investment income.

Blair v. Berks County Board of Assessment Appeals, No. 1310 C.D. 2010 (May 3, 2011)

The Commonwealth Court has affirmed a decision of the Court of Common Pleas of Berks County, which, among other things, applied the common level ratio to the value of a farmstead located on a forest reserve, but not eligible for preferential assessment under the Clean and Green Act. Under the statute at issue, the assessment of a farmstead not eligible for a Clean and Green preferential assessment must be assessed based on its fair market value. However, that assessment must meet the Constitutional requirement of uniformity. Therefore, the application of the common level ratio was proper.

***Elmhurst Group v. Board of Property Assessment Appeals and Review, No. 2258
C.D. 2009 (May 3, 2011)***

The Commonwealth Court has held that property owned by the Allegheny County Industrial Development Authority and leased to a for-profit entity responsible for its property taxes was properly subject to real estate taxation. Relying heavily upon its prior decision in *Tech One Associates* – a decision that has been appealed to the Pennsylvania Supreme Court – the Court held that where the lessee assumes the responsibility for paying the taxes, the buildings and other improvements on the leased property must be included in a property's assessed value, as the economic realities are different than a lease where the lessor is responsible for the taxes.

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