

## **Philadelphia Real Estate Tax Assessments-A New Attack.**

As I have noted in prior posts, Philadelphia's real estate tax system has been controversial in recent years. Last week, *The Philadelphia Inquirer* published an article describing a lawsuit that mounts another challenge to real estate taxes in Philadelphia; the article is available at [http://articles.philly.com/2012-10-31/news/34838395\\_1\\_tax-bills-tax-assessments-property-owners](http://articles.philly.com/2012-10-31/news/34838395_1_tax-bills-tax-assessments-property-owners). The reporter, Bob Warner, was kind enough to send me a copy of the complaint, which was filed in Commonwealth Court on October 26, 2012. *Gerald S. Kaufman Corp. v. Commonwealth*, 652 MD 2012 (Pa. Commw.)

The backstory is pretty straightforward: the City set ought to fix an assessment system that was fairly clearly broken; property taxes were based upon assessments that appeared to have no real basis in fact. The City started the "Actual Value Initiative," which set out to reassess all real estate in the City based on a realistic look at the market value of each property. The new system will also require restructured tax rates, as the real estate tax rate in Philadelphia was pushed to artificial levels to raise revenue in the context of assessments that were historically low in comparison to the fair market value of properties.

Such a major revamping of the tax system is a big undertaking, and there are risks that there will be unintended consequences. As a stop gap, legislation was passed by the General Assembly and by City Council deferring the implementation for one year and directing that 2013 taxes be calculated based on the 2011 assessed value, using the predetermined ratio of 32% of assessed value to determine the valuation of property for purposes of calculating property taxes. An effort is also being made to create a homestead exemption that might lower the impact on those who have been living in homes that have been significantly undervalued in the assessment process.

The *Kaufman* case is essentially a frontal assault on the stop gap measures adopted by the General Assembly and City Council. The case, which is being brought as a class action by a large number of property owners, seeks to invalidate both the state statute and the local ordinance that authorize the application of Philadelphia's predetermined ratio of 32% to 2011 assessments to calculate 2013 taxes.

The plaintiffs note that the State Tax Equalization Board is charged with determining the "common level ratio" which determines what the average ratio of market value to assessed value is in a particular county. For 2012, the Board calculated the common level ratio for Philadelphia at 25.2%, rather than the City's predetermined ratio of 32%. A similar determination for 2013 would likely result in a significant number of property tax appeals and reduced tax bills for those who chose to appeal.

With this background, the plaintiffs have a fairly straightforward argument: they start with the proposition that a number of constitutional provisions require that taxes be uniform, and they note that the common level ratio, as determined by the State Tax Equalization Board, is designed to insure uniformity and is the normal measure to be applied in property tax appeals to determine the validity of the assessment. In the plaintiffs' view, the state and local legislation that direct that taxes be calculated on the basis of 2011 values and the predetermined ratio of 32% violate their right to be taxed on a uniform basis. As a consequence, they ask the Commonwealth Court to invalidate the legislation.

Having provided an overview of the case, I will drill into the issues it raises in more detail in a future post.

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