

# Real Estate Assessment Process in Pennsylvania...

## An Overview

Real property taxes have been and continue to be a primary source of funds for Pennsylvania's local governments. The real estate tax is the only tax authorized by law in Pennsylvania to be levied by all classes of local governments in the state. Every property owner pays real estate taxes, unless otherwise exempted, to three independent taxing districts: the county, the municipality, and the school district.<sup>1</sup> The property tax is not levied at the state level in Pennsylvania.

The Consolidated County Assessment law<sup>2</sup> (hereinafter referred to as the assessment law) governs the real estate assessment process in counties of the second class A through the eighth class.<sup>3</sup> Philadelphia<sup>4</sup> and Allegheny<sup>5</sup> Counties primarily are subject to distinctive statutory provisions regarding the assessment of real property, as well as to unique home rule charter and administrative code requirements. The Third Class City Code sets forth procedures relating to the assessment of real property for taxation purposes in a city of the third class that chooses to assess property separate from the county in which it is located.<sup>6</sup>

### Key Definitions

**“Base year.”** The year upon which real property market values are based for the most recent countywide revision of assessment of real property or other prior year upon which the market value of all real property of the county is based for assessment purposes. Real property market values shall be equalized within the county and any changes by the board shall be expressed in terms of base-year values.<sup>7</sup>

**“Common level ratio.”** The ratio of assessed value to current market value used generally in the county and published by the State Tax Equalization Board on or before July 1 of the year prior to

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<sup>1</sup> Pennsylvania Department of Community and Economic Development, Governor's Center for Local Government Services, *Taxation Manual*, 11th ed. (2022), p. 2.

<sup>2</sup> 53 Pa.C.S. § 8801 et seq.

<sup>3</sup> In addition, a school district of the first class A, second class, third class or fourth class is subject to the property tax rate restrictions and anti-windfall limitations delineated in the Taxpayer Relief Act (Act of June 27, 2006, Special Session 1, P.L. 1873, No. 1).

<sup>4</sup> The General County Assessment Law, Act 155 of 1933 (72 P.S. § 5020-101 et seq.); Related to Taxation; Board of Revision of Taxes, Act 404 of 1939 (72 P.S. § 5341.1 et seq.); 53 Pa.C.S. §§ 8561-8565 (relating to assessments in cities and counties of the first class).

<sup>5</sup> The General County Assessment Law; Second Class County Assessment Law, Act 294 of 1939 (72 P.S. § 5452.1 et seq.); Second Class County Code, Act 230 of 1953 (16 P.S. § 3101 et seq.).

<sup>6</sup> 11 Pa.C.S. § 12522.

<sup>7</sup> “Board.” The board of assessment appeals or the board of assessment revision established in accordance with section 8851 (relating to board of assessment appeals and board of assessment revision). The term, when used in conjunction with hearing and determining appeals from assessments, shall include an auxiliary appeal board.” 53 Pa.C.S. § 8802.

the tax year on appeal before the board under the act of June 27, 1947 (P.L.1046, No.447),<sup>8</sup> referred to as the State Tax Equalization Board Law.<sup>9</sup>

**“Established predetermined ratio.”** The ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.<sup>10</sup>

**“STEB.”** The State Tax Equalization Board.

## Uniformity

Pennsylvania has a constitutional requirement for uniformity of taxation.<sup>11</sup> Since 1909, the courts have held that real estate is a taxable subject of one class and taxes must be uniform upon the same class of subjects.<sup>12</sup> A uniform assessment rate means that all properties in a county, whether residential, commercial or industrial, will be assessed at the same ratio of assessed value to market value. The Pennsylvania Supreme Court stated:

. . . the principle of uniformity is a constitutional mandate to the courts, to the legislature, and to the taxing authorities, in the levy and assessment of taxes which cannot be disregarded. The purpose of requiring all tax laws to be uniform is to produce equality of taxation. Absolute equality is difficult of attainment, and approximate equality is all that can reasonably be expected. Hence it has been held that where there is substantial uniformity the constitutional requirement has been met...<sup>13</sup>

The controlling principle in matters of valuation is that no one taxpayer should pay any more or less than their proportionate share of the cost of government. An often-quoted phrase from the court’s decision in that 1909 case explains the crux of this issue:

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 is not an idle thought in the mind of the taxpayer, nor is it a mere speculative theory advocated by learned

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<sup>8</sup> Repealed by the Act of April 18, 2013 (P.L. 4, No. 2). Consolidated, as amended, into the Act of June 27, 1996 (P.L. 403, No. 58).

<sup>9</sup> Definition from 53 Pa.C.S. § 8802.

<sup>10</sup> *Id.*

<sup>11</sup> “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.” Pa. Const. art. XIII, § 1.

<sup>12</sup> *Delaware, Lackawanna & Western Railroad Company's Tax Assessment (No. 1)*, 73 A. 429 (Pa. 1909); *Clifton v. Allegheny County*, 969 A.2d 1197 (Pa. 2009).

<sup>13</sup> *Delaware*, at 430 (citations omitted).

writers on the subject; but it is a fundamental principle written into the Constitutions and statutes of almost every state in this country.

## Valuation of Property

In Pennsylvania, county government is responsible to value and assess all properties. Unlike other states, Pennsylvania does not have a state oversight agency with a direct role in property valuation and assessment or with responsibility for supervision of counties as they perform this duty.

Pennsylvania's constitution and court rulings require that all properties be evaluated using the same set of standards and all properties in the county must be reassessed at the same time.<sup>14</sup> Section 8842(a), (b) of the assessment law prescribes the method by which real property is to be valued:

. . . In arriving at actual value, the county may utilize the current market value or it may adopt a base-year market value. . . . [T]he following apply: (i) In arriving at actual value, the price at which any property may actually have been sold, either in the base year or in the current taxable year, shall be considered but shall not be controlling. (ii) The selling price shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the county . . . .

The courts have interpreted actual value to mean market value.<sup>15</sup> Market value has been defined by the Pennsylvania State Supreme Court as “the price in a competitive market a purchaser, willing but not obligated to buy, would pay an owner, willing but not obligated to sell, taking into consideration all the legal uses to which the property can be adapted and might reasonably be applied.”<sup>16</sup>

In arriving at the actual value, three approaches to value must be considered in conjunction with one another: cost, comparable sales and income. All property values must be equalized by the county before applying the county's established predetermined ratio (EPR). A property's assessed value, or the value upon which the millage rate is applied, is then calculated by multiplying the

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<sup>14</sup> *City of Lancaster v. County of Lancaster*, 143 Pa. Cmwlth. 476, 495, 599 A.2d 289, 299 (1991).

<sup>15</sup> *Baldwin-Lima-Hamilton Corp.*, 412 Pa. 299, 194 A.2d 434 (1963); *Buhl Foundation v. Board of Property Assessment, Appeals and Review of Allegheny County*, 407 Pa. 567, 180 A.2d 900 (1962).

<sup>16</sup> *Buhl Foundation v. Board of Property Assessment, Appeals and Review of Allegheny County*, 407 Pa. 567, 180 A.2d 900 (1962); *U.S. Steel Corp. v. Board of Assessment and Revision of Taxes of Bucks County*, 422 Pa. 463, 223 A.2d 92 (1966).

current market or base-year market value by the EPR.<sup>17</sup> Trends and factors that influence property values include:<sup>18</sup>

- Physical (environmental) characteristics of the property such as age, appearance, maintenance level, depreciation, quality of construction, architectural style, workmanship, lot size or acreage, new construction, remodeling, nuisances, hazards, damages, and the characteristics of surrounding properties may influence change in property values. Without regular maintenance and remodeling, a typical property loses its value as it gets older.
- Economic fluctuations, such as business cycles, purchasing power, wage levels, employment rates, inflation, recession, housing shortages/surpluses, tenant mix, rent concessions, lease terms, construction costs for materials and labor, and interest mortgage rates, can also influence property values.
- Social trends, such as population characteristics and shifts, crime, and neighborhood cohesiveness, may influence residential property values, while factors such as neighborhood standard of living, income levels, and attitudes towards spendable income may influence commercial property values. Property market shifts (e.g., gentrification) may also occur in certain areas within a county.<sup>19</sup>
- Governmental considerations, including public services, such as schools, police and fire protection, and trash collection, building codes, zoning, easements and covenants, insurance requirements, transportation networks, and taxes may also influence changes in property values. Changes in uses permitted by zoning may substantially increase or decrease the value of property.

## Change of Assessment<sup>20</sup>

The county assessment office is authorized to revise the assessment roll at any time in the year. Notification of a change of assessment must be provided to the property owner of record.<sup>21</sup> All

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<sup>17</sup> For example: If the current market value or base year value of Property A is \$100,000 and the county's predetermined ratio is 40 percent, then the assessed value is \$40,000 (\$100,000 x 40 percent). Hypothetically, the county may levy 5 mills for the real estate tax; the township in which the property is located may levy 10 mills for the real estate tax; and the coterminous school district may levy 20 mills for the real estate tax. The owner of Property A would, therefore, be liable to pay real estate taxes in the amounts of \$200 to the county (\$40,000 x .005), \$400 to the township (\$40,000 x .01) and \$800 to the school district (\$40,000 x .02). This is the general method by which property is valued and assessed throughout the Commonwealth.

<sup>18</sup> *Property Assessment Valuation*, 3rd ed., International Association of Assessing Officers (IAAO), Kansas City, Mo., June 1, 2010, pp. 73-88.

<sup>19</sup> Gloudemans, R.J., and R.R. Almy, *Fundamentals of Mass Appraisal*, IAAO, Kansas City, Mo., 2011, p. 29; *Property Assessment Valuation*, p. 78;

<sup>20</sup> This does not refer to an assessment that is incorrect due to a clerical or mathematical error pursuant to 53 Pa.C.S. § 8816.

<sup>21</sup> 53 Pa.C.S. § 8841(c).

additions and revisions are deemed a “supplement to the assessment roll for levy and collection of taxes for the tax year for which the assessment roll was originally prepared.”<sup>22</sup>

Apart from a countywide reassessment, the county assessment office may only initiate a change of assessment when a “triggering event” occurs: (1) a property has been subdivided; (2) a physical change has been made to a property, such as new construction or removal or change of existing improvements; (3) a catastrophic loss has occurred to the property; or (4) a change in use of the property (e.g., tax-exempt status) has taken place.<sup>23</sup> The sale of the property solely cannot lawfully trigger a change of assessment by the county assessment office regardless of the indicated purchase price as this action is deemed to be “spot reassessment”<sup>24</sup> under the provisions of the assessment law and declared by the courts to be in violation of both the federal<sup>25</sup> and state<sup>26</sup> constitutions.

## Appeal of an Assessment

Another instance in which the assessment of a property can be altered is through the appeal process. The assessment law affords the right to any property owner<sup>27</sup> or taxing district to annually appeal an assessment.<sup>28</sup>

Although the county assessment office as the assessing entity does not have the power to selectively reassess a property absent a triggering event,<sup>29</sup> a taxing district which does not have the power to revise assessments itself but does have the same explicit appeal rights under the law as a property owner may appeal a property assessment without a triggering event.<sup>30</sup> The practice by some taxing districts to target certain properties for appeal<sup>31</sup> has been limited by the Pennsylvania Supreme Court in its holding in *Valley Forge Towers Apartments N, LP v. Upper Merion Area School District*.<sup>32</sup> In this case, the court held that a school district’s intentional targeting of commercial

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<sup>22</sup> 53 Pa.C.S. § 8844 (a), (b).

<sup>23</sup> 53 Pa.C.S. § 8841(c).

<sup>24</sup> 53 Pa.C.S. § 8843.

<sup>25</sup> The United States Supreme Court ruled in *Allegheny Pittsburgh Coal Co. v. County Com’n of Webster County, W. Va.*, 488 U.S. 336 (1989), that the practice of placing a new assessment on property which was recently sold, while effecting only minor changes to real estate which has not been sold for a number of years, was a violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution.

<sup>26</sup> Pa. Const. art. XIII, § 1.

<sup>27</sup> 53 Pa.C.S. § 8844

<sup>28</sup> 53 Pa.C.S. § 8855.

<sup>29</sup> See *Supra*, section titled “Change of Assessment.”

<sup>30</sup> See, e.g., *In re Springfield School District*, 879 A.2d 335 (Pa. Cmwlth. 2005); *Vees v. Carbon County Bd. of Assessment Appeal*, 867 A.2d 742 (Pa. Cmwlth. 2005); *Millcreek Twp. School Dist. v. Erie County Bd. of Assessment*, 737 A.2d 335 (Pa. Cmwlth. 1999); *Richland School Dist. v. County of Cambria Bd. of Assessment*, 724 A.2d 988 (Pa. Cmwlth. 1999).

<sup>31</sup> E.g., due to a recent sale of the property or other methodology of appeals.

<sup>32</sup> 163 A. 3d 962 (Pa. 2017). distinguished by *Bethlehem Area Sch. Dist. v. Bd. of Revenue Appeals of Northampton Cty.*, 225 A.3d 212 (Pa. Cmwlth. 2020).

property for appeals was an impermissible sub-classification of real property prohibited by the Uniformity Clause of the Pennsylvania Constitution:

From the . . . precepts we have discussed—that all real estate in a taxing district forms a single collective class to be treated uniformly, and that systematic disparate enforcement of the tax laws based on property sub-classification, even absent wrongful conduct, is constitutionally precluded—it follows that a taxing authority is not permitted to implement a program of only appealing the assessments of one sub-classification of properties, where that sub-classification is drawn according to property type—that is, its use as commercial, apartment complex, single family residential, industrial, or the like.

The court qualified that this opinion should not be construed as “suggesting that the use of a monetary threshold—such as the one challenged in *Springfield*—or some other selection criteria would violate uniformity if it were implemented without regard to the type of property in question or the residency status of its owner.”<sup>33</sup>

## Training Requirements for Members of Assessment Appeals Boards

Act 155 of 2018 amended the CCAL to establish, among other things, training and qualification requirements for members of a Board of Assessment Appeals/Revision and auxiliary appeal boards. Effective January 1, 2020, members of a board of assessment appeals/revision must complete nine hours of training,<sup>34</sup> within six months of appointment of taking the oath of office, on the following topics, generally:

- Assessment valuation process in Pennsylvania (3 hours).
- Legal and constitutional issues relating to the assessment process in Pennsylvania, and duties and responsibilities of assessment appeal board members (3 hours).
- Real estate exemptions (3 hours).

Failure to obtain the training within six months of appointment shall result in disqualification of the member and shall create a vacancy.

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<sup>33</sup> These methodologies were not before the court. *Valley Forge* 640 Pa. 489, 517, 163 A.3d 962, 979 (2017). See also *Kennett Consolidated School District v. Chester County Board of Assessment Appeals*, 228 A.3d 29 (Pa. Cmwlth. 2020); unreported decisions *Punxsutawney Area Sch. Dist. v. Broadwing Timber, LLC* (Pa. Cmwlth., No. 1209 C.D. 2018, filed Oct. 29, 2019), slip op. at 18, 2019 WL 5561413; *East Stroudsburg Area Sch. Dist. v. Meadow Lake Plaza, LLC* (Pa. Cmwlth., No. 371 C.D. 2018, filed Oct. 17, 2019), slip op. at 10-11, 2019 WL 5250831.

<sup>34</sup> Exempts from training a member of the permanent board or auxiliary appeal board who holds an active Certified Pennsylvania Evaluator certification; exempts a member of the board or auxiliary appeal board who holds an *inactive* Certified Pennsylvania Evaluator certification from the three hours of training on the assessment valuation process.

Requires initial six hours of training for members of auxiliary appeal boards on the following topics, generally:

- Assessment valuation process in Pennsylvania (3 hours).
- Legal and constitutional issues relating to the assessment process in Pennsylvania, and duties and responsibilities of the assessment appeal board members (3 hours).

An individual is prohibiting from serving on any auxiliary appeal board until trained. An auxiliary appeal board may NOT hear exemption appeals.

Each county is responsible for paying for the training that has been developed by the Assessor's Association of Pennsylvania and the County Commissioners Association of Pennsylvania, with training assistance from the Local Government Commission.