

REAL ESTATE Connection

IT'S ALL ABOUT HAVING THE RIGHT CONNECTIONS

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A Lawyer's Perspective

Tax appeals - the American way

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Whether you own home in Tuckerton, a store with second-floor apartments in Pleasantville, a campground in Cape May, a shopping center in Vineland or a casino-hotel in Atlantic City, you have the opportunity to challenge your real estate tax assessment. So, if you disagree with that assessment, this is one government decision that you can actually do something about.

In most municipalities, you must file a tax appeal for the current tax year by April 1. The exception is in municipalities where the County Board of Taxation has granted an extension of the appeal deadline. Contact your local tax assessor or County Board of Taxation if you have a question about the deadline.

Reasonableness is the key to a successful tax appeal. Don't criticize the assessor. Almost every assessor I have ever met is sincerely doing their best to be fair and honest with taxpayers. Too often, they have too few resources, too much work and very little appreciation for the difficult job they have. Treat them with respect, for they deserve it. This is true for everyone involved in this process: county board members; Division of Taxation employees; and Tax Court judges. Judges often take reams of paper home on weekends, while they earn a fraction of the money made by their colleagues in private practice.

The appeal process is relatively straightforward. First, determine if you have a valid basis for appeal because your appeal enables

the tax assessor to increase your assessment, if it is too low. In New Jersey, the most common basis for appeal is when your assessment is above a "Common Level Range" based on an "Average Ratio" established for each municipality by the Director of the State's Division of Taxation. That Ratio is established through an annual study of real property sales, in the municipality, by both the local tax assessor and the Division. A knowledgeable state-regulated real estate appraiser can help you to make that determination.

If you own an income producing property, you must respond to the tax assessor's request to fill out and return their form including the property's income and expense information for the previous year. Failure to file such a "Chapter 91 Form" could result in denial of your ability to file an appeal.

A corporation that owns property must be represented by an attorney and a knowledgeable attorney can often negotiate an early settlement. If your property assessment exceeds \$750,000, the appeal can be filed with the Tax Court. Below that figure, initial filing is with the County Board of Taxation for the jurisdiction in which the property is located.

An appeal to the county board is submitted on a form published by that body. The county tax board administrator organizes hearings by municipality. The entire board hears each appeal in public. A judgment is rendered and transmitted to the taxpayer through their attorney, if they are represented.

A Tax Court appeal is filed as a formal

complaint and will usually involve detailed pre-trial discovery, including an exchange of appraisal reports between the plaintiff-taxpayer and defendant-municipality. Cases typically take about two years to go to trial and Tax Court rules provide for a mandatory settlement conference between the attorneys. If the case is not settled, a trial is held and the court renders a judgment.

To have a successful appeal, do your homework. Hire a lawyer who has sufficient experience in real estate tax appeals if the petitioner is a business entity. For others, determine that you have a valid basis for appeal before filing by using the services of an experienced, state-regulated real estate appraiser. If requested, make sure you responded to a Chapter 91 request. Then, make every effort to settle the appeal before a hearing or trial.

Above all, actively recognize that every tax assessor, county board member, Division of Taxation employee and Tax Court judge involved in this process are all due your sincere appreciation for their role in providing you with the opportunity to challenge a decision of your government. God bless America!

Dennis A. Scardilli is an attorney-at-law in the Atlantic City area. The information in this article has been provided only for informational and educational purposes and is not intended to provide legal advice. For legal advice on this or any other topic, contact a qualified attorney.