

PRESS RELEASE

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Contact: Ruth Hawk
Bear Communications, Inc.
bearpittsburgh@aol.com
Direct: 412-401-1009
Office: 412-531-9509

PROPERTY ASSESSMENT SYSTEM UNCONSTITUTIONAL

Weiss Law Firm Lands Victory in State-Wide Challenge

PITTSBURGH – June 6, 2006 ~ The Law Offices of Ira Weiss won a state-wide victory today after successfully challenging the constitutionality of an inherently flawed base-year system used to determine real estate taxes in Allegheny County. The ruling has implications on systems used for determining property values across Pennsylvania.

Judge R. Stanton Wettick's 94-page opinion declares Pennsylvania's property assessment law allowing the use of a base-year assessment without requiring reassessments violates the Pennsylvania Constitution. The court ruling states base-year assessments are not intended to assess all properties at the same percentage of assessed value to actual value; they inherently cause significant disparities in the ratio of assessed value to fair market value; and they inevitably discriminate against owners of property in lower-value neighborhoods.

"Regardless of the community or neighborhood, in Allegheny County more expensive homes are more likely to be under-assessed and less expensive homes are more likely to be over-assessed," Attorney Ira Weiss said. "This decision is a win-win victory for achieving fairness across the Commonwealth," he added.

In his ruling, Wettick states Allegheny County unsuccessfully mounted a challenge based on a determination its "inherently flawed method of assessing property has not yet produced disparities that are too discriminatory." His decision states "these are not lines that courts are equipped to draw and they are not lines a court should be drawing."

The highly publicized trial was held in December 2006. The argument was whether the Uniformity Clause in the Constitution requires all real property be taxed at the same rate. “Our expert testimony revealed the county’s 2002 base-year system ignored the reality of the market and failed to account for the impact of market forces on the changes in values over time,” Weiss said. Expert witnesses testified about vast inequities in property values in Allegheny County. “Trial testimony revealed it is axiomatic that real property markets are dynamic and that real property values change continually,” Weiss added.

The legal battle involved the 2006 property re-assessment with debate centering on a determination whether a property assessment system using a 2002 base-year system was constitutional. “This method of assessing real estate is invalid on its face because it inevitably produces arbitrary, unjust and reasonably discriminatory results,” the ruling states.

“Today’s ruling confirms this base-year system fails to take into account that property values fluctuate and do so in a non-uniform manner among neighborhoods and communities,” Attorney Robert Max Junker said.

Historically, the legislature has taken a hands-off approach to property assessments. “The laws governing assessments have been silent as to how a county must reassess or what factors need to be considered when a county contemplates a full reassessment,” Weiss spokesperson Ruth Hawk said. “The evidence at trial proved how Allegheny County’s indefinite base-year assessment scheme permitted under law inherently results in non-uniform taxation of property,” Hawk added.

In the ruling, Wettick notes 18 counties in Pennsylvania have not conducted a reassessment in more than two decades. He further states Pennsylvania and Delaware are the only two states that do not require assessments be based on current values.

The ruling notes Allegheny County’s assessments are more uniform than assessments in some other counties, and should not be governed by reassessment standards that do not apply to the state’s other 66 counties. Wettick’s ruling permits the county to continue to assess properties while the anticipated appeal to his ruling is pending in the Supreme Court.

During the trial, the plaintiffs provided overwhelming expert testimony explaining the standards created and maintained by the International Association of Assessing

Officers, illustrated the market conditions and considerations involved in valuing property, and explored hypothetical situations involving different property owners subject to a base-year system.

The legal challenge was spearheaded by prominent tax attorneys Ira Weiss, Robert Max Junker, M. Janet Burkardt and Community Justice Project attorneys Donald Driscoll and Kevin Quisenberry.

“The system sought to deprive both property owners and taxing bodies of the right to raise fair market value at appeal hearings,” Weiss said. “If your neighbors’ house is assessed lower than yours and both properties have the same market value, you are paying too much and your neighbor is benefiting from that system. If assessments had been based on a fair and equitable system, most of the appeals would be unnecessary,” he added.

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