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Consolidated County Assessment Law Project

by Joan Righter Price, Esquire
Solicitor to Montgomery County Board of Assessment Appeals
Chair, AAP Assessment Reform Committee

Our project began in 2001 when I was asked to chair AAP's Assessment Reform Committee. Our first meeting was May 17, 2001 during which we decided that our first step was to consolidate all of the assessment laws into one place. Four and a half years and nine drafts later, on November 28, 2005, our finished project was introduced in the Pennsylvania House of Representatives as House Bill 2273. The new law will be known as the Consolidated County Assessment Law. It was referred to the House Local Government Committee and the Subcommittee on Counties is currently working on the bill.

—The Process—

First, a little history on our work before I discuss the changes proposed by the Consolidated County Assessment Law. Our committee decided early in the process that we would not attempt to reform the assessment law; our focus was to consolidate assessment law into one place and clarify the sometimes confusing language. We wanted the new consolidated law to read the way most assessment offices work. We also decided that the new law would not apply to Philadelphia and Allegheny counties because they already have a separate law that governs their assessment administration. In addition, we were aware of the ongoing political friction in those counties over county-wide reassessments and did not want the consolidation effort to get bogged down. We chose to focus on the General County Assessment Law, Third Class County Assessment Law and the Fourth to Eighth Class County Assessment Law.

Due to the technical nature of the work involved with merging three assessment laws, it was recommended that a subcommittee work on preparing an initial draft of the uniform assessment law. The Local Government Commission[1] graciously agreed to assign two of their best staff members to work on this project. Danette Hobbs Magee, Research Analyst, and Patrick Kielty, Esquire, Staff Attorney, worked tirelessly as part of the subcommittee. Our subcommittee created an outline of suggested articles and sections and placed all of the provisions of the existing laws in the outline. We then moved onto the time-consuming part of the project: we merged and edited existing assessment laws so they were readable, logical and concise. The subcommittee worked to preserve the administrative and functional powers that currently exist in the various classes of counties. We also reviewed other statutes and cases decided by the Commonwealth and Supreme courts of Pennsylvania that directly impact the assessment process. Finally, we created derivation and disposition tables. A derivation table shows the existing law source from which the various sections of the new consolidated law were derived. A disposition table shows what happened to various sections of existing law. We also prepared a lengthy commentary that offers an explanation of each section of the new proposed law and what changes, if any, were made to existing law.

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IDEAS FOR YOU

Provide employees with helpful handouts!

On a regular basis, supply employees with handouts that will improve office productivity. The handouts can be specific to your office (staff charts, mission statements, project updates) or general (telephone time-saving tactics, lists of area codes, postal rates). Also, don't be afraid of giving out the occasional humorous handout—it's a great way to lighten things up during tense times.

Make an employee's failure work for you

An employee's failure can be a good thing—if you treat it in the right way. If a project flops, sit down with the employees responsible. Rather than assigning blame, examine the failure. Determine its cause. Was it bad planning? Poor timing? Insufficient resources? Erroneous data? You may find that the failure be traced to specific personality traits—then correct the problem at its root.

WHAT'S INSIDE

The President's Report,
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The President's Message

"How to Say Thanks?"



Wow, who can believe another year has passed? Moreover, it has been quite an interesting one at that, not just from our local level of government, but also the nation and the world. There have been some sorrowful and challenging events as well as wonderful experiences. Life experiences from which we need to learn and grow, no matter how painful or joyful, right or wrong, no matter who is in charge of governing our state of affairs.

But how truly fortunate we are to be living in this great nation. How fortunate we are to have good and devoted people serving as our officers, committee chairs and members, representatives, liaisons, educators, director, staff, and many, many more in various areas of commitment. We are indeed blessed. I am indeed thankful.

I wish I could use the whole AAP Journal to recognize each and every name because there have been so many. But Terry would probably comment on the lack of space left for the remaining articles. I would like to list the names of individuals that are seen at conferences and other business meetings actively serving, or individuals who have previously served and supported the association, individuals who have quietly or not so quietly left their mark by making the AAP what it is today. Some have moved on. Some will not be back. So how might we express our appreciation for what they have done? Become involved. Follow their example.

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AAP President

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Wendy Cook
Wes Graham

What Is New For Clean And Green

by Mary Lou Rudolph,C.P.E.
Fulton County Chief Assessor

In reviewing participation in Clean & Green for Pennsylvania, it appears that approximately 82% of the 67 Counties participate. Some Counties have numbers as low as five participants, while others reach near 8,000.

There have been numerous changes to the program in the 32 years that it has been in existence and there will continue to be changes.

There are new regulations that are in the development phase that will be coming out to help guide us through the new legislation. I would also like to make you aware that the AAP has a Clean & Green committee that can be used to help counties that are developing the Clean & Green program in their counties, or if you are experiencing problems, the committee can be used as a reference tool. Just when you think you are comfortable answering questions on Clean & Green, the rules change.

The Clean & Green committee met with the Department of Agriculture on Tuesday March 28, 2006 to discuss changes that need to be implemented to the Clean & Green regulations because of the Act 235 legislation. Once legislation is adopted, the Department has approximately 18 months to work on the changes to the regulations. Act 235 of 2004 has made major changes in definitions, and record keeping for the assessor. The reporting on land use categories was requested since the implementation of Act 156 of 1998, but Act 235 has made it a requirement. The record keeping requirements of Act 235 have made much more work for the assessor. At one time, the Clean & Green program was given to an assessor as an addition to their other duties. With all the changes and record keeping that is now required, most counties with large numbers of enrollments will need to hire someone just to handle the Clean & Green program.

In the near future, you will probably see legislation that will permit wind energy (windmills), the operation of cervidae livestock (white-tail deer) as a farm animal, and the voluntary removal from Clean & Green with the payment of roll-back taxes. These bills are currently being proposed, but I feel that there is a good chance they will pass in the near future.

Clean & Green Committee

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DEADLINE for the Summer issue is July 7, 2006

Article ideas and submissions are welcome. Send them to:

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MEMBER-ABILIA



Denyel O'Brien
Westmoreland
County

Name: Denyel O'Brien

Position: Tax Assessor

Year in assessment field: 10

County: Westmoreland County

Marital status and family: Single, I have a son Michael (13)

What irritates me most in the assessment business: Not always having access to the latest technology

Most people would be surprised to know: I write poetry, and I love to garden.

Biggest challenge as an assessor: Trying to educate the public about the complicated assessment process.

First Job: Florist

If I couldn't be an assessor, I'd be: A teacher

If I won millions in the lottery, I would: Go back to graduate school, and give a lot of money away.

Favorite vacation: The sand, the ocean, and no telephone

Favorite food and drink: Vincent's Pizza and Coca Cola

Favorite movie: Second Hand Lions

Three people living or dead that I would invite to dinner: Walt Whitman, Claude Monet, Henry David Thoreau

The hardest lesson I ever learned as an assessor was: No matter how nice and helpful you try to be there are some people that you can never please

If I could live in the past for one day, I would change: Nothing. The past makes us stronger, and defines who we are now.

My best friend: My fiancee, John Pastors

Chapter Notes and Other News

South Central Chapter News

Lebanon County welcomes new employee, *Tanya Kipp,* Property Appraiser.

Congratulations to the **York County's** newest CPE, *Mike Altland*, Residential Appraiser. Also the County welcomes two new Residential Appraisers who have joined their staff, *Bill Moul and Mike Bruggeman.*

Get Well Wishes to *Renee Reynolds* (The STEB Representative for the South Central Area) who had surgery in March and will be off work for several weeks.

Northeast Chapter News

Northampton County - Assistant Manager *Mark Santoro* retired on January 20, 2006. **Wayne County** recently hired two new assessors, *William Harrison and Thomas Maher.* Thomas and his wife are expecting their second child in May.

New officers for the **Northeast Chapter** for 2006 are: President, *Jim Gustas,* Schuylkill County; Vice President, *Maryann Ace,* Monroe County; Secretary/Treasurer, *Darlene Beers*, Monroe County Education Director; *Tony Alu*, Luzerne County

Upcoming Chapter Education—The upcoming **Northeast Chapter** meetings are as follows: June 16th, Monroe County at the Great Wolf Lodge—September 16 in Schuylkill County— December 15 in Luzerne County. Topics for classes at these meetings have not yet been announced.

The **South Central Chapter** Meeting schedule for the remainder of 2006 is as follows: June 2, 2006; September 15, 2006; December 1, 2006. The meetings begin at 9:00 AM, with seminars beginning immediately after the meeting, and are held at the Adams County Agricultural and Natural Resources Center, 670 Old Harrisburg Road, Gettysburg, PA. Please contact *Barb Walter* at 717-337-9837, for more information.

Congratulations to *Paul Miller*, Sales Executive with Tyler Technology Assessment and Tax Division, and *Dawn Collier*, former assessor with **Centre County**, who were married in December of 2005. Paul says that he is "the luckiest man in the world."

Wyoming County—*Brad Killian* of Tunkhannock has joined the assessment staff.

Pam Smiley, also from Tunkhannock. Pam will be working with assessment, tax claim, voter registration and the commissioners office.

A big **thank you** is in order for *Kelley Cosner*, who came out of "retirement" to help.

Nancy Myers is home after another long hospital stay. She is determined to get back to work and figures about one year from now she will be valuing properties in Wyoming County.

Tracy Irish will be going home in the next month. She remains paralyzed and will require special facilities at home. Tracy's communication skills are redeveloping little by little and she is improving.

Nancy and Tracy and their families would like to say "thank you" to all of their friends and colleagues in AAP for all of their help and support over the past year.

Assessment Law continued

A draft of the consolidated county assessment law was presented to members of the Assessment Reform Committee and the Committee approved the draft on May 4, 2005. Doug Hill, the Executive Director of CCAP, also reviewed the draft and provided many helpful comments and suggestions. I would like to thank Doug for his assistance.

I attended a meeting of the Local Government Commission on September 28, 2005 to review the final draft. The Commission voted unanimously to sponsor the legislation. It was introduced in the House by members of the Local Government Commission as House Bill 2273.

—Significant Changes—

* The Consolidated County Assessment Law will apply to all counties the 2-A through 8th class;
* Telecommunication towers are added as a subject of real estate taxation;
* Clarification that if provisions of the assessment law are inconsistent with the Institutions of Purely Public Charity Act (Act 55 of 1997), the IPPCA controls;
* Spot reassessment provisions specifically state that they do not apply to a board ruling on an appeal by either a taxpayer or taxing district;
* Anti-windfall provisions are made uniform for all counties. More specifically, taxing districts must first adjust their millage rates so that there is no tax increase. They may hold a second vote to increase their tax collections by up to ten percent;
* Language relating to the appointment, compensation and duties of the chief assessor has been revised and updated. Most significantly, a chief assessor must comply with the Assessors Certification Act (Title 63 P.S. §458 et seq.);
* The office of elected assessor is abolished;
* The annual deadline to appeal in all counties is the first day of September. All counties will have the option to set an earlier deadline no earlier than August 1st;
* The deadline to appeal from a county-wide reassessment notice is forty (40) days from the mailing date stated on the notice;
* Prior to implementing a county-wide reassessment, a county representative or their designee (reassessment contractor) may meet informally with property owners to review the proposed assessment prior to the values being certified by July 1st;
* All reference to "base year appeals" is eliminated;
* County assessment offices would no longer be required to maintain an occupation tax assessment roll if no taxing district in the county levies an occupation tax.

Along with Danette and Patrick, I attended a work session of the House Local Government Subcommittee on Counties on March 8, 2006. We met with subcommittee members and reviewed the provisions of HB 2273 explaining any changes to current law. We hope the legislation will move quickly in the next few months. HB 2273 is not a vehicle for assessment reform. If everyone keeps that in mind, we are hopeful that HB 2273 will be signed into law and we will have a consolidated county assessment law everyone can understand[2].

(1) The Local Government Commission is a bipartisan legislative service agency affording research assistance to the General Assembly and a source of information for local government. (2) I wish to thank the members of the Assessment Reform Committee for their assistance with this project. There are too many names to be listed, but I want to mention Thomas Brauner, Chief Assessor of Montgomery Co. who served on the subcommittee and helped prepare the initial draft along with Danette Hobbs Magee and Patrick Kielty, Esquire.



An Analysis

Moyer v Berks County Board of Assessment Appeals

by Edwin L. Stock, Esquire

The case of *Moyer v. Berks County Board of Assessment Appeals*, 803 A.2d 833 (2002), has generated much discussion among those interested in real estate tax assessment law. The following will provide an analysis and explanation of the Commonwealth Court's decision.

Mr. and Mrs. Moyer owned three tracts of agricultural land, all of which were enrolled in the Clean & Green Program. Two of the tracts, known as the Moyer Farm and the Woodland Tract, were enrolled by the Moyers through a single application. The third tract, known as the Christman Farm, had been enrolled by a prior owner under another application.

The Moyers recorded a subdivision plan, which created a 5.362-acre parcel, which was part of the Christman Farm. Because of a Township Zoning Ordinance requiring agricultural properties to be a minimum of 25 acres in size, the subdivision plan also provided for the annexation of 2.789 acres from the Moyer Farm to the Christman Farm in order for the Christman Farm to remain above 25 acres in size. The Moyers then re-conveyed the Christman Farm to themselves, less the subdivision of 5.362 acres. All parties agreed that the change in the use of the 5.362-acre parcel from agricultural to residential constituted a split-off and that rollback taxes were properly imposed on the Christman Farm.

The primary issue, which was in dispute, concerned the annexation of 2.789 acres from the Moyer Farm to the Christman Farm. It was the position of the Berks County Assessment officials that the annexation of the 2.79-acre parcel from the Moyer Farm to the Christman Farm constituted a split-off, thereby triggering rollback taxes for the Moyer Farm and Woodland Tract. It was the position of the Moyers that the aforesaid annexation constituted a separation, since the Moyer and Christman Farms both remained in agricultural use and were both more than ten acres in size.

At trial, the undisputed facts disclosed that the Moyer Farm and Christman Farm continued to be used for agricultural purposes; that both the Moyer Farm and Christman Farm exceeded ten acres; and that both farms continued to be owned by the same property owners.

Most importantly, the 2.789 acres annexed from one farm to the other was never a separately existing tract. As the Commonwealth Court reported in its decision, as dawn broke on July 5, 2000, the 2.789-acre parcel was part of the Moyer Farm, and that at some moment later that day, when the new Christman Farm deed was recorded, it became part of the Christman Farm. It never had a separate existence. The 2.789-acre parcel was never separately assessed; it was never given a separate tax parcel number; it never existed in the Subdivision Plan as a separate parcel.

The Commonwealth Court determined that the act of annexing, by subdivision plan, the 2.789 acres from the Moyer Farm to the Christman Farm constituted a separation, as defined in the Clean & Green Act, and therefore rollback taxes should not be imposed on the Moyer Farm and Woodland Tract. The Court determined that the subdivision plan and the revision of the boundary between the Moyer and Christman Farms did not form a tract of 2.789 acres. The Commonwealth Court found, "Thus, it is inescapable that neither the subdivision plan nor the revision of the boundary between the Moyer and Christman Farms 'formed' a tract of 2.789 acres. The two tracts 'so formed' by the division were a somewhat smaller Moyer Farm and a somewhat larger Christman Farm, each exceeding ten acres. Thus, we hold that this transaction meets the statutory definition of separation set forth in Section 2 of the Clean & Green Act, 72 P.S. Section 5490.2." The Commonwealth Court acknowledged that a property enrolled in the Clean & Green Program may be divided by a split-off or by a separation and that; the tax consequences of each action are quite different. The Court reiterated that a split-off is a newly created tract of less than ten acres and, regardless of whether that tract continues in an agricultural use, will subject the property owner to roll-back taxes on the land from which the division was made and the new tract created by the division. The Court also stated that a new tract created by separation, i.e., one that is larger

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than ten acres and continues in agricultural use, does not create liability for rollback taxes.

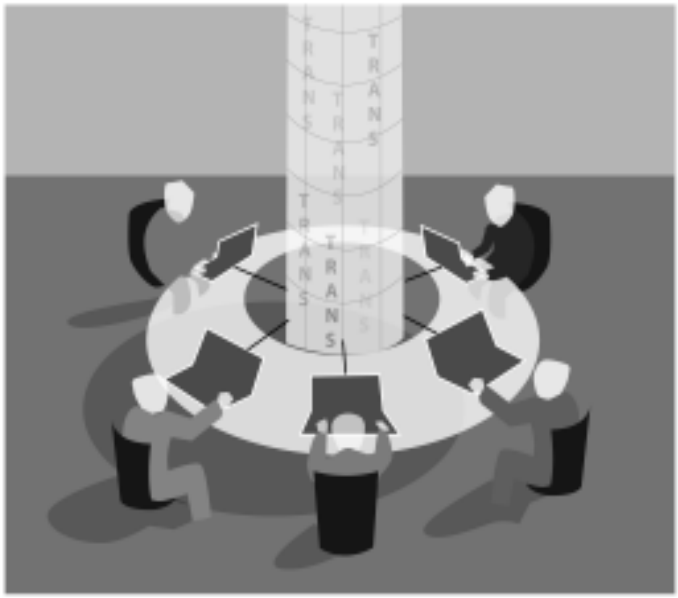
Under the unique facts of *Moyer*, the Commonwealth Court was forced to choose between whether the annexation constituted a split-off or separation. The Commonwealth Court was clearly influenced by the determination that the 2.789-acre parcel never existed as a separate, independent tract, but rather existed only because the subdivision plan changed the boundary line between the Moyer and Christman Farms. Since the properties remained in agricultural use and retained common ownership, the Commonwealth Court decided that the definition of separation under the Clean & Green Act, defined as, "A division, by conveyance or other action of the owner, of lands devoted to agricultural use, . . . and preferentially assessed under the provisions of this Act, into two or more tracts of land, the use of which continues to be agricultural use, . . . and all tracts so formed meet the requirements of Section 3.", was met. The Commonwealth Court rejected the Berks County Assessment Board's position that the annexation of 2.79 acres, when it moved from the Moyer Farm to the Christman Farm by subdivision plan, should be considered a split-off, defined as, "A division, by conveyance or other action of the owner, of lands devoted to agricultural use, . . . and preferentially assessed under the provisions of this Act into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of Section 3." The Commonwealth Court emphasized, when looking at the definition of split-off, that a division into two or more tracts of land must occur, and since the annexation never created a separate, independent tract, the definition of split-off was not satisfied.

There were several other issues decided by the Commonwealth Court, including that the Christman Farm should be allowed to retain its preferential use assessment status, even though a split-off had occurred with respect to the 5.362 acre parcel; that the landowner's failure to give the statutorily required notice to the Assessment Office of a proposed change in use therefore did not require the Assessment Office to give notice and calculate roll-back taxes within five days after receipt of the Christman Farm deed by the Assessment Office; and whether interest on roll-back taxes should have been calculated based on simple interest or compound interest. The Commonwealth Court also, in dicta, cast doubt on whether imposition of roll-back taxes, had such been allowed, on the Moyer Farm would also have required roll-back taxes to be imposed on the Woodland Tract, even though both tracts were enrolled under one Clean & Green application.

"What does the *Moyer* case mean for the assessment community? Imposition of rollback taxes will still be determined based on the concepts of split-off and separation and these definitions should continue to be applied by those administering the Clean & Green Program in determining whether rollback tax liability should be imposed."

What does the *Moyer* case mean for the assessment community? Imposition of rollback taxes will still be determined based on the concepts of split-off and separation and these definitions should continue to be applied by those administering the Clean & Green Program in determining whether rollback tax liability should be imposed.

The facts in *Moyer* are quite unique and *Moyer* should be followed only when an Assessment Office is presented with a set of facts closely aligned to the facts of *Moyer*. This author believes that the holding in *Moyer* would only apply to those situations where a subdivision plan and recording of a subsequent deed would cause annexation of land from one tract to another to occur and where the land so annexed is not specifically identified in a separate deed. Where land so annexed never has a separate existence, is never separately assessed, never has a separate tax parcel number, and never existed in a subdivision plan as a separate parcel will the holding in *Moyer* dictate a finding by an Assessment Office of a separation, as opposed to a split-off. On the other hand, if the act of division is accomplished by a separately deeded parcel and/or where the situation involves properties not commonly owned or used for identical purposes, then a split-off will have occurred and rollback taxes should be imposed. For instance, in the case of *Close v. Berks County Board of Assessment Appeals*, 839 A.2d 462 (2003), the Commonwealth Court held that a transfer by deed between different owners of .21 acres from one property enrolled in Clean & Green to another property enrolled in Clean & Green, constituted a split-off. Without facts identical to or analogous to those contained in *Moyer*, the holding of the Commonwealth Court in the *Moyer* case should have limited applicability.



Technology Management Issues In Assessment

By Michael Piper, MBA, CPE,
Philadelphia Board of Revision of Taxes

Like most segments of public and private industry, local government agencies face a multitude of challenges related to the constant and rapid advances in information technology and technology management. Our particular area of concern, the real estate assessment field, is no different. Last year, I noted several challenges that specifically affected those of us in the real property tax assessment field:

· The increased need for accurate public information, due to the proliferation of Internet users, and a more informed public;

· Training in how to effectively use the latest appraiser/assessor computer-based tools, such as hand held devices, software programs;

· The transition from older, COBOL-based systems to more robust database management systems, including those (such as Oracle) that may require the additional hiring of employees with advanced technical backgrounds;

· Possibility of job redundancy in areas where some functions formerly delegated to staff members become more (or completely) automated.

With the introduction of a new CAMA software system, an integrated GIS application, and the acquisition of various computerized field tools, Philadelphia's Board of Revision of Taxes is in the process of implementing department-wide technological changes. While these changes will result in long-term cost savings as well as an overall increase in data accuracy, the implementation of these changes continues to reveal other related issues.

Technology-related Changes In Workflow

In most assessment offices, workflow processes are often related to one of the following, separately-defined areas: valuation issues (ad valorem appraisal and the application of basic valuation methods to assessing real property), assessment administration issues (the tracking and scheduling of appeals, the administration of property-related local and state laws as they relate to exemption requests, abatements, etc.), or administrative issues (human resources, payroll).

However, while some aspects of the assessor's job remain constant, additional responsibilities may accompany the arrival of newer, more powerful tools. Integrated software packages such as those sold by *Manatron, Cole Layer Trumble Company*, and *Colorado Customware, Inc.* merge many multi-layered functions into simplified, logically organized tasks. Automated access to, and printability of property-related information can be made available to assessors in the field as well as in the office, and clerical duties and database updates that may have been "non-assessor" responsibilities may become part of an assessor's adjusted workflow.

If the overall goal is increased productivity and enhanced job performance, then the addition of these tools must be accompanied by task-specific training. As I mentioned last year, many of us working in the assessment field have extensive, fundamental real estate backgrounds, but little or no computer-technology skills beyond those needed for basic word-processing or mathematical tasks. But hand-held devices for measuring property and managing or warehousing data, integrated software systems, and other technical tools are now a fact of modern, 21st century working life, and a necessary addition in the tool box of any assessment office looking to demonstrate a level of progressive-

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ness in its efforts to better serve the public.

Web-based Appeals: Unlimited Convenience?

Enhanced web sites, especially those used by the public to acquire information or conduct government-related business, are judged by their usability. Richard Tombelli, in *Usability Guidelines for e-Government Applications* (Department of Information Technology, State of Michigan) writes: "…Unique to many (government) IT projects is the idea that transferring complex, paper based processes to the Internet will streamline agency operations and reduce the cost of overhead, all while increasing customer satisfaction by opening another communication or transaction channel."

Several tax assessment offices in Pennsylvania have developed web sites of note, with applications that allow taxpayers to not only view assessment and tax balance information, but submit market value appeal applications online. The added convenience for Internet users represents progress and is certainly a timesaving feature of technological advancement in local government.

However, while this development is sure to please property owners and their representatives, this may bring about an unexpected consequence. The ability to file tax appeals online, coupled with the steady rise in real estate prices and market values, could lead to a record number of appeals in the upcoming year(s).

Positive Developments

Over the past year, I've heard from several assessors who, while acknowledging some of the same technology-related concerns mentioned here, have also noted some very positive developments. The addition of computer-based, hand-held devices, for example, is a welcome improvement for assessors looking to bring information from the office into the field. Also, because younger job seekers are attracted to work environments that stress the more high-performance, computer-based tools and media that they've become accustomed to, offices that make those tools available tend to attract people that would not ordinarily consider a career in public service.

Finally, for licensed Certified Pennsylvania Evaluators, the ability to renew our CPE licenses online is, by all accounts, a welcome development.

Golf Property Tax Assessments



With local governments increasingly squeezed for operating revenues, real estate owners are asked to bear a larger burden. Golf courses are an easy target.

Recently, Montgomery County (an area with many upscale daily fee and private clubs) experienced reassessment and in Beaufort County, South Carolina (Hilton Head Area) reassessment resulted in increases for golf properties of between 300% and 900%.

How can the assessor most accurately value these complex properties, which often do not follow more traditional real estate markets? Here are some ideas.

1. **Do Your Homework**–Approach the golf property as the unique and complex property that it is. Use the most modern and up-to-date techniques for valuation, used by those who do this every day, or hire someone who does as a consultant. UNDERSTAND the market.
2. **Evaluate Each Property Individually**–All golf holes are NOT worth the same. Take the time and care necessary to look at the property's ability to generate revenue and expenses.
3. **Try to "Work" with Owners**–Both sides need to do a better job cooperating with each other in sharing information.
4. **Preparation**–Both sides have to be prepared to "go the distance." This is the best way to avoid litigation. Hire experienced, respected counsel, be prepared to have your appraiser prepare a complete appraisal report on the property and be ready to litigate, if necessary. The owner will recognize that you've done your homework and want to achieve a fair assessment and may be more likely to work something out.

A thorough evaluation of any case is considered critical and can be the most important element in your decision.

Valuation

The choice of valuation methodologies depends on which side of the equation one sits. Taxing authorities, assessors and their legal advisors often argue that the cost approach is the only valid method for measuring the value of a golf property, especially when the subject property is a private club operated not for profit.

Golf property owners argue that the income approach is the only reliable way to estimate the value of golf properties and as a result, golf property owners and prospective owners often rely exclusively on the income approach when they consider properties for acquisition or disposition.

A third approach, is the sales comparison approach. In the sales comparison approach, an analysis of golf property sales competitive to the subject property is conducted.

After considering the above value alternatives, the income approach is typically the most applicable valuation method for most golf properties. This is because most golf properties are bought and sold based on income generating potential – even private clubs. The exception, nevertheless, always exists. Defined procedures for valuing specific property types exist such as in Florida, where the cost approach is, by direction of the state Department of Revenue, the primary indicator of value for tax assessment. An appellant must overcome the presumption of correctness given to the assessor and a court unfamiliar with golf properties and appraisal methodology. Conversely, a 1991 New York decision in the Supreme Court of Nassau County, The New Country Club of Garden City v. The Board of Assessors, et. al.), June 4, 1991, Rosetti, J., stated ". . . . . we find that a proper consideration of the applicable statutory and case law warrants valuation of the subject golf course according to its existing valuable and income producing use." The case also stipulates that valuation of the property based on an alternative use could produce an unfair and legally erroneous use. Id.

While The New Country Club of Garden City, seems to support valuation by income approach, as well as the other arguments mentioned above, other factors may warrant deeper consideration of the sales comparison or cost approaches. For instance, is the subject a "trophy" property or in a market where few substitutes are available or development is unusually difficult or expensive? To illustrate this, consider New York and California where sales (sometimes to overseas buyers) have been recorded which bear no relationship to income and appear to relate only to the supply of and demand for ownership of golf properties. Consequently, unrealistic prices can occur, the income (and cost) approaches fail and the sales comparison approach becomes more reliable.

While it is widely perceived that the cost approach sets the upper limit of the value range, such does not always hold true with golf courses. Just as many courses cost too much to build, golf courses by nature become more valuable as they age. Physical maturity as well as historical significance can create value that cannot be reproduced elsewhere. For example, a trophy property like Pebble Beach could easily be constructed for much less than the amount of either of its last two sales.

As the battle in many local jurisdictions continues to increase revenue dollars, tax assessors are contemplating the reassessment of all golf course properties. In some areas, taxing districts are engaging experienced golf property consultants to assist in achieving fair assessments, while in others jurisdictions, golf property owners are mobilizing in groups to respond to the reassessments by engaging legal counsel and consultants. The science (or art) of golf property valuation has come a long way and there are specialists and literature that can help.

Lawrence A. Hirsh, CRE, MAI, SGA is the president of Golf Property Analysts, a leading golf property appraisal consulating brokerage firm in Harrisburg. He is the author of two articles on golf/property valuation and is a frequent lecturer on the topic.

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LEGISLATIVE UPDATE

Information was accurate at press time, but the legislature was still in session.



by Philip Light, CPE and Westmoreland County Commissioner

The General Assembly's 2005/2006 legislative session is more than half completed and, in the area of property tax and assessment reform, very little has been accomplished. The Governor wanted a workable school tax reduction bill on his desk by the end of 2005 and, obviously, he did not get it. It was not from lack of trying as the General Assembly has been tied up with a special session on taxation since October of 2005. To date, that session has produced 79 special session house bills and 25 special session senate bills along with a number of associated resolutions. The process started to get serious on December 20, 2005 with the defeat of Special Session Senate Bill 30 in the House by a vote of 52 to 143. The bill would have been the Taxpayer Relief Act and would have repealed the Senior Citizens Rebate and Assistance and Act 72, the Homeowner Tax Relief Act. These acts would have been replaced with an act full of homesteads, farmsteads, referendums, school tax reductions, replacement taxes, slot machine money and increased senior citizen property tax and rent rebate assistance. The attention has now shifted to Special Session House Bill 39, which would repeal the Senior Citizens Rebate and Assistance and Act 72, the Homeowner Tax Relief Act. These acts would then be replaced with an act full of homesteads, farmsteads, referendums, school tax reductions, replacement taxes, slot machine money and increased senior citizen property tax and rent rebate assistance.

Special Session House Bill 39 breezed though the House and, following the defeat of Senate Bill 30, passed the Senate with amendments. The House rejected the amendments, the Senate insisted on the amendments and the House insisted on the rejection of the amendments. So, they appointed a conference committee. To date, the conference committee has met twice and managed to widen the gap between the House and the Senate versions. The main sticking points appear to be how much power school boards will retain in regards to their budget, the level of assistance to elderly homeowners, the amount and type or replacement taxes necessary and, last but certainly not least, how quickly they want to get this all wrapped up. Unfortunately, it is not going to reduce the burden on the assessment department or the burden on the county's budget no matter which way they go.

The main sticking points appear to be how much power school boards will retain in regards to their budget, the level of assistance to elderly homeowners, the amount and type or replacement taxes necessary and, last but certainly not least, how quickly they want to get this all wrapped up.

We cannot forget about the regular session, as there are 86 house bills and 39 senate bills out there that could cause us some sort of grief if they would happen to pass. Some of them are a direct result of the special session and mimic bills introduced in that session. Most of them deal with altering Act 72 or eliminating it and some of them deal with providing more relief for low-income senior citizens. A couple of the more interesting ones are House Bill 2193 that would change the definition of "Homestead Property" to include property not being used as the domicile of the owner if it does not generate an income. House Bill 2227 would establish the Commission on Property Tax Reform and Restructuring to help the General Assembly with this troublesome issue. Are there any volunteers? In addition, finally, a real effort towards meaningful tax assessment reform is House Bill 2273 that would consolidate the specific county assessment codes pertaining to 2A through eight class counties. However, it would not affect 1st and 2nd class counties and the Pennsylvania School Boards Association is presently attempting to amend the bill to include sections that could put additional duties on the assessment department and further restrict assessors' ability to do their job. In the clean and green area, House Bill 2321 would allow landowners to remove their property from preferential assessment under certain conditions and would offer them protection from statutory changes that would result in an increased assessment.

Finally, the General Assembly did manage to pass two new acts of some interest. Act 71 of 2005, originally House Bill 1743, requires all 2nd class county municipalities to establish a millage reflecting no increase in taxes upon a reassessment or revaluation before voting to establish a mileage of no more than 105% of taxes collected prior to the reassessment or revaluation. This act makes appeal criteria such as payment in protest, etc. similar to the other assessment codes in the Commonwealth. The second new act, Act 91 of 2005, which started out as Senate Bill 573 requires school districts and municipalities in 4th through 8th class counties to set their millage following a reassessment of revaluation based on the amount of taxes levied the previous year before considering an increase

If you require any additional information on anything in this article or otherwise, except for the Westmoreland County voting machine crisis, please contact me at 724-830-3104 or via email at plight@co.westmoreland.pa.us.



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