Issue 3 Volume 5
An affiliate of the County Commissioners Association of Pennsylvania

Planning for Disaster and Recovery

One hurricane-battered county shares the successes and shortcomings of its pre-storm disaster plan

By Gregory S. Brown and Kimberly Sessi

When, not if, may seem to some like a doomsday prophecy or a pessimistic outlook at best, but unfortunately, disaster planning and recovery has become an all-too-common activity for those of us in government in Santa Rosa County, Florida. On the night of September 15, 2004, Hurricane Ivan roared into our county leaving behind $1.3 billion in property damage and creating tax revenue loss of nearly $10 million. Then, in the 2005 hurricane season, Tropical Storms Arlene and Cindy, followed by Hurricane Dennis, a category three storm, all came ashore in Santa Rosa County.

As we look toward the 2006 season, the record-setting incidence of named storms may not be a historical anomaly. Forecasters have predicted that these overactive storm seasons could occur for another 10 to 15 years. It is incumbent upon all of us to be prepared.

In fact, every governmental jurisdiction needs a plan, even if the possibility of suffering a catastrophic event is remote. The perfect plan could not have prepared us for what we were about to experience. Without a plan of action, the resulting confusion and chaos is unimaginable.

Unfortunately, there were no hurricane pre-planning seminars or damage assessment appraisal courses that could prepare us for the realities of Hurricane Ivan. Florida offered no manuals on office preparation or recovery. We had to rely on our own experiences and intuition. We hoped our pre-planning would prove accurate and valuable in the post-storm hours, days, and weeks.

Thankfully, our plans worked. This article will discuss several areas of outstanding successes as well as areas where we were deficient. It will tell how we prepared our disaster plan, not just for weather events but for any crisis; how we integrated our strategies into our normal operations plan; and how a new software program, FITS (Field Inspection Tracking System), enabled us to conduct over 50,000 field inspections in the three months following Hurricane Ivan. This innovation enabled us to repurpose staff, create immediate efficiencies, and provide real-time flexible reporting including productivity statistics.

Pre-Crisis Preparation

Effective damage assessment will depend upon the successful implementation of a crisis management plan. Time is always of the essence during a disaster so any plan should be in place well in advance of a storm or other crisis. The plan should include levels of emergencies which can be categorized by the amount of destruction anticipated. For instance, a level one emergency might be a threat to life, health, or safety affecting the entire county. Level two might be a tornado or wildfire causing destruction in a more limited area. Level three might be a crisis within the office or the administrative complex such as a bomb threat, a bio-materials hazard, or similar potentially harmful circumstance. These levels, as well as the response to each one, should be defined in advance. For example, it may not always be necessary, cost effective, or appropriate to put a level one plan into action if the crisis is not extensive.

. . . continued page 7

IDEAS FOR YOU

The best kept secret in motivational management

It's not money, or recognition, or praise. One of the best-kept secrets in motivating employees is this: People really care about their careers. Managers sometimes forget that when it comes to motivating employees. Until retirement age nears, the average workers care more about where a job is going to lead them than whether or not it is "fair" or "pays enough." That's why so many workers are willing to tolerate jobs that leave a lot to be desired if they really believe it will "lead to something better." Remember this when trying to motivate employees. Offer them training, opportunity for advancement and career guidance, and employees will work harder and smarter!

Hire the best

Ask candidates to respond to the query: "Tell me about the best service you have ever received and what made it so?" If they can talk about this, you know they are capable of delivering top notch service to your customers.

WHAT'S INSIDE

The President's Report,
Legislative News,
Annual Conference photos
Legal Update,
AAP People,
and more!

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The President's Message

AAP Means Being In The Loop!

The value of good friends and close connections should never be taken for granted. As we all know those things can change in an instant.

My becoming president of the AAP was the result of bonding with members of my chapter back in 1985, attending the AAP conferences and learning what was what, who was who and how the AAP machine ran.

I offer much thanks to my office staff for holding down the fort while I was spending many hours working on AAP Board projects that require so much time and effort , especially as one works their way up the AAP ladder. Without their dedication to the job, I would never have been able to become president.

And of course to all of you that supported me all these years I am deeply appreciative.

The primary function of the AAP is to serve all of you. Getting the best education for you that we can to improve your ability to function in your positions is our primary goal. Keeping up on pertinent legislation and proposed changes to existing assessment laws is one of our primary functions as well. I owe much thanks to the CCAP/AAP staff for keeping us informed and heading in the right direction.

The AAP committees are an important part of the process of working for all of you. I encourage you to at least get involved with a committee at some point in your careers. You can obtain a list of these committees from your Chapter president or representative. Their job is to bring information back to your chapters to keep all of you apprised of what we are doing so we can get your thoughts, ideas and feedback.

I encourage all of you to have meaningful conversations with your county commissioners about the importance of attending the AAP conferences in the spring or the fall. The classes are a necessity, but the information exchanged with other county personnel, business vendors and government representatives who attend the conferences is an educational experience that goes far beyond the classroom. Let your commissioners know about the information you have gained and express your appreciation of their trust in you to represent your county professionally at these functions.

It is truly an honor to be following in the footsteps of all those individuals that have been AAP president. Their dedication to the Association never stops. They are always there to help and are a valuable resource to all of us.

Your opinions matter to me, so give me a call when you need to, and I will offer my experience and the experience of those great individuals that have preceded me.

Have a great summer everyone and hope to see you in State College this fall.

Eric

Eric Brown

Annual Conference 2007

Seven Springs Mountain Resort

AAP recently held its Annual Conference.
Awards were presented to individuals for their years of service.







Top Left: Ed Rupert (r) gets his photo taken with the Hanisits Award Recipient, Bernie Camins: Top right, the 2007 AAP officers (l to r) Tom Hill, Eric Brown, Randy Wagonner, James Hercik, Paulette Sebring and Steve Howe; Bottom: Becky Reed, Clarion County totes off the goodies she won at the AAP auction.

Years of Service Awards

Trailblazer Awards (20 to 29 Years of Service)

Name/County or Firm	Years of Service
Timothy R. Barr, 21st Century Appraisals, Inc	25
William Gaines, Bucks County	22
Tamra W. Forgan, Cambria County	21
Jolaine Herman, Carbon County	29
Jeff Klugh, Lancaster County	20
Richard Madison, Butler County	22
Joanmarie Morgano, Allegheny County	20
Tanya Rankin, Lancaster County	20
Cris Savage, Butler County	20
Joseph Staruch, Cambria County	21
Cindy L. Treible, Monroe County	20
Clifford Wilson, Tioga County	20
Gary Yorlets, Cumberland County	20

Board of Governors' Awards (30 to 39 Years of Service)

Name/County or Firm	Years of Service
Vincent Casciato, Allegheny County	30
James A. Hercik, Fayette County	30
Russell Otto, Allegheny County	30
John M. Samick, Elk County	31
Cathy Waters, Cumberland County	30

President's Awards (40+ Years for Service)

Name/County or Firm	Years of Service
David S. Barr, 21st Century Appraisals, Inc.	40

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The *AAP Journal* is published four times each year.

DEADLINE for the Summer issue is September 6, 2007

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Solicitor's Commentary

Uniformity and the Assessment Process

Pennsylvania Supreme Court Issues Its Determination

By
Bert M. Goodman, Esquire

The Pennsylvania Supreme Court in *Downingtown Area School District v Chester County Board of Assessment Appeals*, 913 A.2d 194 (2006) issued a landmark decision on the statutory assessment scheme in the Commonwealth and its relationship to the uniformity of taxation mandate contained in Article VIII Section 1 of the Pennsylvania Constitution, This case marks a departure from the existing understanding of the assessment system and overturns a myriad of Commonwealth Court decisions dealing with the uniformity of assessments in Pennsylvania.

The facts giving rise to this case show that Lionville Station S.C. Associates is the owner of a strip shopping center in Chester County. The property was assessed at $5,800,000 for 1998 pursuant to a county wide reassessment of all property in Chester County. In March 1999, Lionville Station purchased the property for $10,400,000 substantially above the assessment on the property. The Downington Area School District appealed the assessment on the property seeking an increase to the sales price paid by Lionville for tax year 2000. It should be noted that this property was the only property the school had appealed within the last two years, and it had no written criteria governing when it would take any assessment appeals. The Chester County Board of Assessment Appeals raised the assessment on the property to $6,500,000 or $77.86 per square foot. The School District, unsatisfied with this increase, appealed to the Chester County Court of Common Pleas seeking an even higher assessment increase to $8,500,000 or 101.81 per square foot. At the trial before the Court of Common Pleas of Chester County, the parties stipulated that the fair market value of the property for tax year 2000 was $8,500,000 and that the common level ratio of the county as last determined by STEB was 85.2%. The predetermined ratio for the county was 100%. The Chief Assessor of the county testified that the average assessment of shopping centers similar to the subject was $64.29 per square foot and that in his opinion $77.86 per square was the appropriate value to achieve uniformity with other commercial properties in Chester County. Taxpayer presented an appraiser who had prepared an analysis comparing the subject property with seven other shopping centers in Chester County. He determined that the assessments for the comparables ranged from $47.87 to $89.62 per square foot and that their ratio of assessed value to actual value was in the range of 34% to 69%. Based upon the above, taxpayer argued that the increased assessment sought by the school district would violate the constitutional requirement of uniform taxation as mandated by Article VIII Section 1 of the Pennsylvania Constitution. The trial court rejected the taxpayer's argument concerning the comparable assessments because the controlling class of properties consisted of all real estate located in the taxing district and that the use of the common level ratio as calculated by STEB was the proper way to achieve uniformity.

The Pennsylvania Commonwealth Court affirmed the lower court in *Downingtown Area School District v. Chester County Board of Assessment Appeals*, 819 A.2d 615 (Pa.Cmwlth 2003) and the Pennsylvania Supreme Court granted allowance of appeal. The appeal was limited to two issues: Whether the assessment law pertaining to the use of the established predetermined (EPR) ratio supersedes the methods of determining uniformity utilized by the Pennsylvania Supreme Court and

whether if the EPR does not apply did the lower court err in disregarding the taxpayers' evidence of comparable shopping center assessments.

The taxing authorities argued that the traditional method of mounting a uniformity challenge is no longer valid since the enactment of Section 8(d.2) of the Assessment Law provided that a court must utilized the established predetermined ratio unless it varies by more than 15% from the common level ratio as last determined by the State Tax Equalization Board (STEB).

The Court gave the history of the methodology that existed prior to the 1982 Legislation for acting uniformity and stated:

A taxpayer my prove non-uniformity by presenting evidence of the assessment to value ratio of "similar properties of the same nature in the neighborhood." *In Re Brooks Bldg*. 391 Pa 94, 137 A2d 273 (1958). In *Deitch Co. v. Board of Property Assessment Appeals & Review of Allegheny County* 417 Pa 213, 209 A.2d 397 (1965) the Court acknowledged that all properties in the relevant taxing district are comparable properties for purposes of calculating the appropriate ratio of assessed value to market value (as all real estate is a class which is entitled to uniform treatment). . .

The Court observed that in the context of a uniformity challenge, the parties and the trial court may only rely upon evidence concerning the assessment to value ratio of similar properties as was done in *Brooks Bldg*....(stating that. . .

the tax must be applied with uniformity upon similar kinds of business or property") because such "similar properties" evidence while not comprehensive, is nonetheless relevant to the uniformity analysis: further, it would be a practical impossibility to require taxpayers to evaluate the assessment-to-value ratio of every parcel in the taxing district. See *Keeebler Co. V. Board of Revision of Taxes of Phila*. 496 Pa 140, 436 A.2d 583 (1961)Moreover, given that is it relevant, such proof must be considered. See *Deitch*, ... (where the taxpayer's evidence is relevant, credible and unrebutted it must be given due weight and cannot be ignored by the court). . .

This led to a situation in which courts determined the CLR by expert testimony, which ordinarily consisted of statistical analysis. In such cases where a property owner was able to demonstrate that the parcel in question was assessed at a percentage of value exceeding the percentage applied generally throughout the taxing district, the property owner was entitled to a reduction in assessment in conformance with the previously applied percentage.

The Appellate Court examined the impact of the 1982 amendments (72 P.S. 4656.1-4556.17) to the assessment law and whether they overruled the traditional approach to establishing uniformity. Previously the Pennsylvania Commonwealth Court in *Hromisin v. Board of Assessment Appeals of Luzerne County*, 719 A.2d 815 (Pa. Cmwlth. 1998) ruled that this traditional approach was no longer valid and in *Downingtown* that the statutory 15% rule eliminates any uniformity challenges in the margin of error. The Supreme Court citing the dissenting opinion in *Vees v. Carbon County Board of Assessment Appeals*, 867 A.2d 742 (Pa. Cmwlth 2005) was troubled by the fact that anyone who fell within the 30% deviation range as outlined by the statute was not entitled to any tax relief for non uniformity of assessment.

The Court pointed out that the uniformity of the base year assessment system can be upset by appeals taken by taxing authorities. The Court stated:

"The difficulty illustrated by the present case arises because a taxing authority

. . . continued page 10

21st Century Appraisals
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In today's economy, Pennsylvania communities urge fiscal restraint and accountability. At the same time, they demand more and better quality services. Since the primary source of revenue for local government is the real estate tax, it falls to public policy decision-makers to build a constitutionally-acceptable taxing infrastructure that is both fair and equitable. Since 1976, 21st Century Appraisals has helped county officials meet the challenges of tax fairness.

MEMBER-ABILIA



Name: Marian Miziorko-Ciliberti

Position: Real Property Evaluator II

Years in assessment field: 23

County: Philadelphia

Marital status and family: Married 5 years 8/31 to Jim Ciliberti. Zosia ("Zush") Ciliberti is our 5-½ year old golden retriever/collie mix that keeps us going.

What irritates me most in the assessment business: People who come in and want paperwork(that should have been submitted by them a while ago) processed for them immediately and the corresponding adjustments made to their account, and then get annoyed when they find out the procedures that must be followed.

Most people would be surprised to know: I am a survivor of three different cancers, diagnosed in 1993, 1995 and 1999, and somehow, am still here! Go figure!

Biggest challenge as an assessor: Going from field assessment and learning mass appraisal programming.

First Job: Cashier-clerk at a Rite Aid 1976

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

If I won millions in the lottery, I would: Take care of family and then leave with Jim for an "undisclosed location."

Favorite vacation: Tied between North Cape May NJ and Ogunquit Maine

Favorite food and drink: Combination broiled seafood platter at the Lobster House in Cape May with a draft of Yuengling.

Favorite movie: Rudy

Three people living or dead that I would invite to dinner: Edward, the late Duke of Windsor, Joe Paterno and Pope John Paul II (who I met when he was a cardinal and visiting in Doylestown PA –1966)

Fall CPE Classes

The Assessors' Association of Pennsylvania (AAP) will be offering the required courses of study for the CPE designation. Successful completion of these classes will satisfy the educational requirement for the State Board of Certified Real Estate Appraisers-administered CPE exam.

The Fall 2007 classes will be held at the Mountain View Inn & Conference Center located at 121 Village Drive, Route 30 East Greensburg, PA 15601; Phone - 1-800-537-8709 or 724-834-5300; Website — *www.mountainviewinn.com*

Each day starts at 8:30 AM and ends at 4:30 PM. Lunch is not included in the registration fee. There are several restaurants in the vicinity of the Mountain View Inn.

Here are the classes being offered at the Mountain View Inn:

Introduction	September 25 - 28
Site/Market	October 2 - 5
Cost	October 9 - 12
Income	October 23 - 26

If you are planning to attend any of these classes, please send your registration and fee(s) to AAP by September 14. The class size is limited so be sure to register as soon as possible. The fee for each class is $330 for members and $550 for non members. The required text for all classes is "Property Assessment Valuation." The fee for the textbook is $45. The fees covers facility rental, breaks, instructor fees and class materials in addition to the textbook.

For a course flyer and more information, please visit the AAP website, *www.pacounties.org/aap* or call the AAP office at (717) 232-7554.

Chapter Notes and Other News

SOUTH CENTRAL CHAPTER NEWS . . . Upcoming meetings are Friday, September 21and Friday, December 7. We meet quarterly. Business meetings begin at 9:00 AM, with seminars beginning at about 9:30 AM and are held at the Adams County Agricultural and Natural Resources Center, 670 Old Harrisburg Road, Gettysburg, PA 17325. Please contact Barb Walter at 717-337-9837, for more information.

Lebanon County News

Congratulations to the county's newest CPE, Tanya Kipp.

Perry County News

Congratulations to Connie Lesh on her retirement after 18 years in the assessment office.

STEB News

Thomas J. Connolly, Executive Director for STEB, retired after 32 years of service. He will be enjoying his family, especially, all of his grandchildren. We want to thank Tom for his many years of service to the AAP and local chapters, always being available to teach the Common Level Ratio seminar and share his expertise on the subject.

Good Luck to George M. Yurovich on his retirement. George worked for STEB for 37 years and was the Director of Certifications. He plans to take the remaining summer off, spending a lot of time in South Jersey at the shore (hopefully, he won't run into Tony Soprano and his gang), he also hopes to do some traveling, finish a list of home-improvements his wife has created for him and after that, just take one day at a time.

George also has a secret desire to work on a reassessment - so give George a call if you need help!!! We hope he enjoys his retirement!

. . . continued from page 1

It is also incredibly important that the plan be placed into operation prior to any disaster, that it is reviewed annually, and that it includes both strategic and tactical details. Enacting the plan in advance will ensure every member of the response team knows their role, can perform it adequately, and has the necessary resources for execution. In this way, the plan will run smoothly upon implementation.

Santa Rosa County takes a unique approach to restoration of operations following a major weather event. An alliance between two county entities, the Santa Rosa County Property Appraiser's Office and the Santa Rosa County Board of County Commissioners, builds upon the strengths of each one and has proven to be the cornerstone of success. Within the Santa Rosa County Board of County Commissioners' hierarchy is the county's Building Department. Following a destructive event, an appraiser in the Property Appraiser's Office and an inspector from the Building Department are paired to go into the field. The Building Department focuses on identifying which homes are eligible for power restoration, issuing building permits, and performing the accompanying inspections, while the Property Appraiser's Office concentrates on damage assessment. This approach doubles the number of experts working toward the common goal. The result is an expedient and efficient return to normal operations and is a proactive approach that provides phenomenal results for both the citizens and government agencies.

Each two-person team has well defined responsibilities and understands its contribution to the overall goal. For the Property Appraiser's Office, this on-the-ground model enables real time data to be collected and incorporated daily into the tax roles and empowers the office to play a vital role in communicating the community's level of distress to federal and state government agencies. Often aid and federal disaster declarations are based, in significant part, upon the information provided by the Property Appraiser. County officials, local taxing authorities, and benevolent associations also turn to the Property Appraiser to help identify the hardest hit areas. In addition, the Property Appraiser can provide valuable assistance in benchmarking revenue expectations for coming tax seasons. Understanding this strategic role in the recovery and aid of the community is paramount and must remain at the forefront of planning.

Creating Your Own Plan

Here are some basic elements to consider when developing your own plan:

Protect Facilities. The first order of business is to protect your physical facility. Pack up all important documents, unplug and move equipment away from the windows and off of the floor, and cover important items with plastic. If electricity

. . . continued page 10

Info Com Ad

Legislative Update

Phil Light, AAP Government Information Chairman

We are a quarter of the way through the 2007/2008 legislative session and the chance of me being able to write that once in a lifetime Pulitzer prize award winning article based on the actions of the General Assembly of the Commonwealth remains remote, to say the least. However, now that Judge Stanton Wettick of the Allegheny County Court of Common Pleas has established himself as the second legislative branch of state government, perhaps I have a chance after all.

For those tax assessment professionals who were not paying attention, the Honorable Wettick, Jr., on June 6, 2007 ordered, adjudged and decreed that the provisions of the General County Assessment Law (72 P.S. Section 5020-402(a)) and the Second Class County Assessment Law (72 P.S. Section 5452.4(a.2)), which allow a county to arrive at actual value by using a base year market value, violate the Uniformity Clause of the Pennsylvania Constitution. It violates that simple little statement, written in 1874, found in Article VIII, Section 1 of the Pennsylvania Constitution? "Uniformity of Taxation – 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." It is a simple statement written in simpler times that has become very burdensome and complex due to the myriad of related court decisions rendered over the last 133 years. Many of those previous court decisions have been incorporated into state law by the General Assembly and there is a real danger that this one could be, too.

I say this because I feel that the judge in this case went way beyond the evidence presented to him and established a body of evidence on his own. I suppose that, if I was a rational individual, I would not make such a rash statement as I simply do not pretend to have the proper credentials to make such legal opinions. At this point in time, I am not rational because the judge saw fit to base his opinion on such things as IAAO Standards, COD's, PRD's and computer-assisted reassessments. It offends my sensibilities that he would use synonyms rather than saying coefficient of dispersion or price-related differential and so on. His order then goes on to require Allegheny County to complete a "computer-assisted" reassessment by March 31, 2008, backed up with another one to be completed by March 31, 2009, which seems very similar to the timeframe that got them in trouble to begin with. They also must obtain "independent verification" that these reassessments resulted in a coefficient of dispersion of 15 or less and a price-related differential between .98 and 1.03. This decision could very well go down in history as the mathematician and statistician employment act of 2007.

Maybe I am the only one that sees a problem? You start your first reassessment now and complete it in nine months. You then begin to collect data to determine if it meets the IAAO standards in regards to the COD and PRD requirements plus appeals and such and, let's not forget, we have to start the next reassessment that's due March 31, 2009. I guess that's doable. Just turn it over to the Information Technology people. I know that if I had encouraged the IT people in my county to rectify our GIS system by simply making things fit rather than taking the time to determine why they didn't fit, it would have taken a lot less time and money to complete the project and I'm sure they could do a computer-assisted reassessment in nine months. They are really good at making things fit. COD's and PRD's would not be a problem as I know that someone has a computer program that automatically verifies sales data and computes statistics any way you want. There are most certainly programs that automatically grade and measure structures from photographs and all that other stuff. Field review, neighborhood review, the human element, who needs it? Uniformity, here we come.

After the 2006 fall election there was a lot of talk about how the significant number of new legislators elected could change the direction of legislation this session. But, so far, I don't see a lot of evidence of that. At least, it doesn't appear to have had much affect in the area of property tax legislation. In the spirit of nothing new, there have been nine bills introduced so far that would provide for increased property tax reduction for senior, low income and disabled citizens. Eight bills would extend additional property tax reduction or exemption to firefighters, emergency personnel, disabled veterans and surviving spouses of military personnel killed in action. And, of course, there are at least nine bills that would mess with school property taxes in one way or another. The most extreme is House Bill 440 which would, if enacted, prohibit school districts from levying a real property tax for any purpose effective June 30, 2008. I wonder if our state legislators saw the report published by the Pennsylvania Economy League that stated that 45% of the General Assembly considered property tax reform to be a top priority while less than 15% of the public still considered it that important? It may be interesting to see how they react to the results of the May sixteenth primary voting on the school district tax shifting referendums. At least in my county, there is a large effort by various groups and school board candidates to defeat the changes proposed by the present school boards.

In the area of Clean and Green, there is a mixture of new and old in three bills proposing to amend Act 319. On the House side, House Bill 656 would allow owners to lease ground to wind farm operators without fear of losing preferential assessment on their remaining ground. Rollback taxes would be assessed on the leased portion and that land would be removed from preferential assessment. House Bill 667 would allow a property owner to remove property from Act 319 preferential assessment upon proper notification and payment

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Legislative Update

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of rollback taxes. It also contains provisions that would allow removal without rollback under certain conditions. On the Senate side we have SB708 which would be a major revision to Act 319 and would raise the minimum acreage from 10 to 30 acres on agricultural and forest reserve land. There would also be changes to the definition of forest reserve land and a significant increase in the amount of paperwork required on the part of the property owner and the assessment department.

Some returning items of legislation that deserve some attention are House Bills 213 and 214 which would allow someone, other than an attorney, to represent an appellant before an appeals board with a signed power of attorney in third through eighth class counties. House Bill 297 and Senate Bill 61 would give the property owner the right of first refusal on the sale of mineral rights. Senate Bills 190, 191 and 192 would prevent appeal boards from charging any type of fee relating to assessment appeals in counties of the second through eighth class. And, House bills 949 and 953 along with Senate Bills 485 and 721 are worth rereading in their present form as they deal with changing the structure of the State Board of Certified Real Estate Appraisers, increasing the amount of civil penalty that may be assessed on an infraction and would broaden the language regarding offenses. House Bill 175 would require an extremely detailed report to be submitted by all local government units to the DCED each year concerning tax abatements, reductions and exemptions. Failure to do so would cause certain payments to be withheld. Senate Bill 727 would change the Errors and Refunds section in the General County Assessment Law by removing the six year limitation on refunds. And, Senate Bill 413 would bring second class counties in line with the rest of the world by prohibiting assessment of signs and sign structures. As you may remember, Act 142 of 2006 prohibited assessment of such property in all other counties.

There is one new initiative that I don't remember seeing before but, please remember, my memory isn't as good as it used to be. House Bill 939 would provide for a uniform percentage phase-in of the increased taxation of each property resulting from a county wide revaluation over a period of five years in counties of the first class. That, along with a few miscellaneous bills that attempt to straighten out the language in previous acts, makes up the property tax legislation introduced so far.

If, for whatever reason, you feel an overwhelming desire to contact me, I'm still Phil Light, AAP Government Information Chairman, 724-830-3104 or reach me at email, *plight@co.westmoreland.pa.us.*

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Solicitor's Column continued from page 5

within a county (such as the School District here) may disrupt this equalization scheme premised solely upon a determination that it feels aggrieved by a specific property's assessment as it currently stands. See 72 P.S. Section 5349(c). In this event, so long as the CLR is no less than 85 percent of the EPR, such taxing authority is able to force the board to increase the assessment to the fair market value as of the year the appeal was taken. See 72 P.S. Section 5349(d.1). (d.2) and merely apply the EPR to that figure, rather than to a figure expressed in base-year dollars. Because, however for all other properties no corresponding adjustment is made, only the property owners targeted for appeal by the taxing authority are burdened with assessments representing the EPR as applied to present-year dollars." In other words, based on the mere fact that a tax assessment appeal is filed, the benefit of any effort at equalization is lost over a thirty percent range

The Court held herein:

Thus in allowing use of the EPR rather than the CLR the General Assembly has in effect carved out a class of taxpayers who are subjected to an unfairly high tax burden-namely, those whose assessment is appealed by any taxing district in which the property is located. Because this classification is not based on any legitimate distinction between the targeted and non-targeted properties, it is arbitrary, and thus unconstitutional.

The case was remanded back to the Chester County Court of Common Pleas with instructions for the lower court to rule on the taxpayer's uniformity challenge in light of the Deitch construct and as elaborated by the case of *Fosko v. Luzerne County Board of Assessment Appeals* 646 A.2d 1275 (Pa. Cmwlth 1994) (This case spelled out rules and procedures for uniformity challenges)

In summary; (1) the Pennsylvania Supreme has questioned the right (but has not ruled on the issue) of taxing districts to take assessment appeals by targeting some taxpayers and not all taxpayers, (2) found unconstitutional the provision of the Assessment laws that allow a no appeal zone for property owners whose STEB ratios fall within 15% of the established predetermined ratio and (3) resurrected the common law uniformity challenge procedures in *Deitch* and *Keebler* which had been thought to be cast into the shadows by *Hromsin* and (4) in any uniformity case the evidentiary standards in *Fosko* should be followed by the Court

This case is a substantial change in the existing practices within the Commonwealth and creates as many questions as answers to future assessment practice. The holding itself is narrow and the case was remanded for further adjudication. It seems clear that where a taxpayer appeals an assessment he is now entitled to the STEB ratio event if he is within the 15% tolerance range from the established predetermined ratio. If the STEB statistics indicate a ratio of 89% in a 100% EPR County the taxpayer should be allowed to have his fair market value multiplied by 89% rather than 100% is establishing his fair market value. That seems to be the clearest part of the case.

The case also indicates that a taxpayer may present evidence outside the STEB ratio under the older common law cases to show that a different ratio to assessed value exists within the county for all property. He may also be able to present a ratio study for a smaller area or for a certain class or sub class of property. It is very unclear is what constitutes a class or sub class or property and what geographical area should be considered. This was the most difficult issue in handling uniformity cases in past eras and will become so again in the future. These cases will become time consuming and costly for all parties involved. An extremely important aspect of this case is the Court adoption of the rules and procedures in the *Fosko* case to common law uniformity litigation. Meeting the Fosko test is not easy and involves a great deal of evidence. Mere comparison of assessments is insufficient. There must be sound credible evidence of the value of the comparable properties in your assessment matrix. This involves either verifiable sales data or expert opinions of value properties that have not sold.

The *Dowingtown* decision has opened a new avenue of litigation which had been thought closed by 1982 statutory scheme cited above and a thorough determination of the meaning of this case awaits future litigation and appellate court interpretations.

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…continued from page 7

might be compromised, it is wise to clean out and unplug the staff refrigerator.

Data Backup. Put procedures in place to backup your computer data and make numerous copies. Agencies can't wait until the last minute to begin this task because it can be time consuming to backup data and graphic files from your Computer-Assisted Mass Appraisal (CAMA) system, your Geographic Information System (GIS) data, and other documents you may be storing. Conduct a trial run to determine when to start the backup in the event of an impending natural disaster. Storms are unpredictable and go/no-go decisions are often made at the last minute. Know how much time you need and perform the backups as a precaution. It is worth the time investment.

Off-site Secure Storage. You should arrange to store one or two copies of your data-file backups off-site in case of major damage to your office facility. Use a bank vault if you can secure a partnership in advance. If that is not feasible, then distribute copies of the data with your senior leadership team or others based on their locales.

Additional Backups. You should also make a backup of your personal computer files including word processing, spreadsheets, and other work-related files.

Communication. Prepare a phone list of all employee's home and cell phone numbers. Know evacuation plans, routes, and contact information for evacuees. Establish a call tree in which each person calls the next one on the list. In times of crisis, communication is most important, but there is little time to devote to it. If possible, arrange with your local cellular provider to heighten your numbers to an emergency frequency so when lines become overloaded you can still communicate with your team. Invest in satellite phones for critical staff and consider checking out two-way radios from your local Emergency Operations Center (EOC).

Don't focus your communications plan narrowly by only including your internal office staff. Rather, extend outward to other government agencies. Build communication channel contingencies to those that support you and to those you support. Make sure the county manager knows your plan.

Post Hurricane Ivan, the local cell phone providers lost use of their cell towers. Communication could only be conducted by word of mouth or by those outside of the area. The limited and ever changing information became a source of frustration for the field appraisers. There was no way to reach them in the field. They resorted to distributing information to citizens via print material, which was outdated almost as soon as it was printed.

You can't do too much to plan your communication strategies. It is vital to an effective recovery.

Part II of this story will continue in the next AAP Journal

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