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Shed No Tears! Sheds are Taxable. Maybe.

By Mark S. Love, Esquire
Assistant Monroe County Solicitor

Sometimes the easiest questions to pose are the hardest to answer. I remember many years ago, while I first started practicing law, my boss, solicitor to the Recorder of Deeds for Monroe County, asked me to research the following question: "Can the recorder move some old records from the first floor to the courthouse attic?"

I didn't even know where to begin to look for an answer. After hours of research, it struck me that perhaps there was no answer to be found, other than the practical one that if the recorder needs the space for more current records, she could move the older ones to a more remote location, as long as they could be retrieved when necessary. Little did I know that the question of storage would come back to haunt me years later in my role as assistant solicitor.

Enter Monroe County resident, John Pederson, who decided to buy a shed for storage on his property. The Monroe County Assessment Office has the following policy governing sheds and outbuildings:

"What home improvements are assessed? For your comfort and resale value you may want to make substantial improvements to your home. The following are examples of improvements that will increase your property assessment -
1) creating additional living space 2) renovating an unfinished basement or attic 3) adding an extra bath, porch, deck or patio 4) adding a garage 5) outbuildings or shed 10 feet by 10 feet and larger and 6) complete modernization and conversion of a home."

The theory behind the inclusion of sheds and outbuildings in assessed valuation of the property was explained by Caroline County, Virginia on its web page as follows:

Q. How can you tax an outbuilding that has no electricity and is not livable?

A. The assessed value is the sum of the value of all the factors on your property. Outbuildings such as sheds, barns, and detached garages add functionality and utility to your property, thereby increasing the market value of your parcel.

Outbuildings have been around for a long time. Daniel Brodhead settled in East Stroudsburg in 1737 and is credited with establishing the community which was known at that time as "Dansbury." By 1755, it was a large frontier settlement. On December 11, 1755, a group of Native Indians attacked Daniel Brodhead's home and burned down the barns and outbuildings.

Outbuildings have been taxed for a long time. In the 1920s, many states began to tax properties based on their building, including their outbuildings. When tough economic times came, real estate taxes often impacted rural areas heavily; outbuilding were intentionally destroyed in order for farmers to be able to save tax money and thus save their properties from foreclosure or tax sale.

Enter our protagonist, Mr. Pederson, who bought a 10' x 20' building with a garage door and wood floors capable of being used as either a shed or a garage, which he claims should not be assessed for real estate taxation purposes. He posed a simple question when he appealed his interim assessment change: "Where in the law does it say that my shed is taxable?"

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Ideas for You

HANDLE COMPLAINERS CONSTRUCTIVELY

Coach any grumblers or whiners on your team to become empowered problem-solvers. Respond to their complaints this way:

Acknowlege how they feel before moving forward. Say: "I understand that is frustrating for you. I'm eager to hear your ideas for resolving the issue." Don't dismiss their emotions.

Express Confidence in Their Abilities. Say: "I know you can find a way to resolve this." Offer to brainstorm with them, but don't take charge of finding the solution yourself. Instead, build their problem-solving skills.

Guide their thinking if they seem stuck on complaining. Ask them to finish a sentence such as "We could . . ." or "I will . . ."

Train your team members to look for solutions by asking for their ideas even when they aren't complaining.

Adapted from "Leaders, 6 Positive Replies to Transform Complaints Into Action", Kate Nasser, SmartSensesAbilities Blog, http://katenasser.com.

What's Inside

President's Message, AAP Education Dates, Legislative Update, AAP People

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President's Message

I can remember my first day in the assessment office - what a scary place! I had come to the job from my previous position as Deputy Prothonotary of Luzerne County and a background in banking. As Deputy Prothonotary, I had a good idea of how local government was structured and had already developed relationships with local attorneys and department heads to at least give me a heads up as to what to expect as I progressed to the next level of my career in county government.

My first days in the assessment office were really an eye opener. Although I had a good background, I was totally blown away by the technical aspect of the job - abatements, KOZ, KOEZ, LERTA, Certification! Wow! Technically, this job really was challenging! I had come to the department as the Operations Director and although I had been in management for quite a while, I realized that all jobs are different and while the universal skills of management are the same. However, I knew that a good basic knowledge of the technical skills and education would be the keys to success.

I needed formal education, and fast. I decided to take the classes offered by the AAP needed to get my CPE license and was not disappointed. The classes educated me on the methods to value but equally as important, it opened my eyes to a networking opportunity that was far beyond any that I had experienced. All my classmates and instructors seemed more than willing to help a fellow classmate in any way possible. I then attended my first AAP Conference which allowed me to expand my network of contacts and to discover fellow assessors' areas of expertise. Then came the list serve - a genius of an idea. Imagine the ability to share experiences and get opinions possibly within minutes of asking.

Tax assessment is a very challenging career choice; a choice that not many people aspire to but usually come to you via life's funny twists and turns, but it is a jewel. I have met many associates in my career and you don't come across many folks in our profession that don't love it with a passion.

I urge all my fellow peers to use the friendships developed through our association and information attained through continuing education to allow us to achieve new heights in our chosen field. Let the AAP serve you! Use the classes, networking and experiences to help you achieve your personal goals in this honorable profession. Together, let's lift each other to achieve goals that we never thought possible.

Tony

Anthony Alu
AAP President



Legislative Update

By Jonathan B. Schuck, Chair
Government Information Committee and
Assistant Director of Assessment/Tax Claim, Chester County

Greetings fellow assessment professionals throughout the Commonwealth of Pennsylvania! By the time you receive this issue of the AAP Journal, it will be well into the summer season. Depending on the timing of vacation plans, you will either be enjoying the sun shimmering off ocean/lake waves or experiencing the heat pouring off asphalt in waves. In either case, the beat goes on in Harrisburg, where elected officials continue to generate a small tsunami of proposed legislation.

Act 2 (Senate Bill 66)

This act repeals the STEB law and redefines STEB under the Community and Economic Development Enhancement Act. The bill the Senate in January, the House in March and was signed by the Governor on April 18.

Senate Bill 4

This constitutional amendment would allow the General Assembly to establish uniform standards and qualifications that would determine if institutions qualify to be purely public charities. Passed 30-20 in the Senate on March 20 and currently in the House Finance Committee.

Senate Bill 638

This amendment would make the structures known as "high tunnels" exempt from taxation for real estate purposes. "High tunnels" are agricultural buildings with a metal, wood or plastic frame and a plastic, woven textile or other flexible covering. Passed 49-0 in the Senate on April 30 and currently in the House Agriculture and Rural Affairs Committee.

New AAP Officers and Board of Governors

AAP held its Annual Conference at the Seven Springs Mountain Resort from April 24 to 26. On April 25, AAP members voted for a new slate of officers and said a fond farewell to some members of the Board of Governors and welcome to new ones.

Larry Shubert, CPE, Philadelphia County, was elected the AAP's new secretary. The following officers moved up the chairs of the Association: **Tony Alu** to President, **JR Hardester** to President Elect, **Melissa Border** to Vice President, **Angelia Tennies** to Treasurer and **Chris Savage** became our Immediate Past President. **Steve Howe**, past president, will stay involved on the board as the Education Committee co chair.

The outgoing members of the AAP Board Governors are: **Danielle Maust** (Laurel Mountain), **Kim Steigerwalt** (North East), **John Innocenzi** (North West), and **John Mavrides** (South Central). **Al Bressi** will be staying on as the North Central representative and **Larry Shubert** will be the new AAP Secretary.

AAP also welcomed the following chapter representatives to the board: **Denyel O'Brien** who is replacing Christine Roland (Laurel Mountain), **Robert Roland** (Laurel Mountain), **Lynda Kyttle** (North East), **Mark Lawton** (North West), **Paul Kreiser** (South Central) and **Herman Siewart** (South East).

Thank you to the outgoing board members for your service to AAP and welcome to our new members. We look forward to working with you!

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Deadline for the Fall 2013 issue is September 9, 2013.

Article submissions are welcome.
Please send to:
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The short answer is that, well, it doesn't say it is, and it doesn't say it isn't.

Authority for taxation of real estate is found at 53 Pa.C.S.A. §8811 of the Consolidated County Assessment Law. However, the list of taxable real property is not exclusive, as the statute has a catch all provision which states that all other things now taxable are also proper subjects of taxation.

Our Supreme Court has stated: The power of a county to tax property derives from a legislative enactment by our General Assembly. To determine whether a municipality possesses the power to tax and, if so, the extent of such power, recourse must be had to the acts of the General Assembly. Specifically, authority for Allegheny County to impose property taxes, to determine the value of property subject to taxation, and to set the rate of taxation for such property is the General County Assessment Law, 72 P.S. §§ 5020-1 to 5020-602, and the Second Class County Assessment Law 72 P.S. §§ 5452-1-5341.21. Under these statutes, "buildings" and "parking lots" are explicitly classified as "real estate" under the plain terms of the assessment law.

The taxing statutes look to the nature of the structure, whether it be permanent or not, rather than to the technical legal distinctions as to what constitutes real estate.

Therefore, upon my advice, the Board of Assessment Appeals denied Mr. Pederson's appeal. Not being satisfied, Mr. Pederson hired an attorney to appeal his case to Monroe County Common Pleas court. It was the first time that any taxpayer had ever contested the taxability of a storage shed in Monroe County, and perhaps the first time in our Commonwealth. Mr. Pederson argued that his shed was not permanently attached to the land, and was not connected to any water, electric or other utility, and could be removed from the property without causing any damage thereto, and thus should not be taxed.

Even though a small amount was involved, due to the vast number of sheds that have been assessed throughout the county, the impact of the decision would be significant.

Judge Mark, in a comprehensive opinion, listed the tree categories of chattels recognized by our courts:

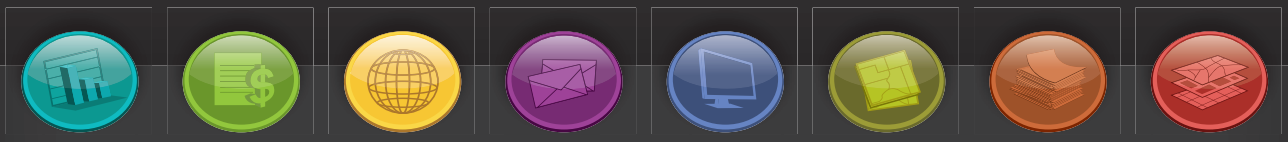
1. Those which are furniture (which always remain personal property and not realty)
2. Those which are so attached to the property that they cannot be removed without material injury to the real estate or to themselves (which is classified as taxable realty), and
3. Those which are physically connected with the real estate but can be removed without injuring themselves or the real estate (which are classified according to the intention of the parties at the time of annexation as either personal property or realty)

Judge Mark applied the following test for property in category three:
The considerations to be applied in determining whether a chattel becomes a real estate fixture include (1) the manner in which it is physically attached or installed, (2) the extent to which it is essential to the permanent use of the building or other improvement, and (3) the intention of the parties who attached or installed it.

Judge Mark found that the Commonwealth Court has ruled that the degree of attachment to evidence permanence is not high, noting that modern construction methods allow material that stays for years on a piece of property to be

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moved with little damage to the property. The Court found that Mr. Pederson's shed was garage sized, of heavy construction with a wood floor that requires a rollback truck and crew to move. It was not bolted to the ground because it need not be, as its own weight was sufficient to hold it securely in place. It did require a bed of rocks and supports so that it would not sink into the ground. Thus, the court held that the shed possessed the requisite degree of attachment.

Using a similar analysis, the Court found that the shed met the other two factors, including intent , noting that the color and style matched the house, thereby indicating an intention that it become a permanent fixture, and noting that the house itself had very little storage area.
So Mr. Pederson lost his case, and his shed remains taxable. But he has asked the Commonwealth Court to review this issue, and we may wind up with a decision of statewide import within the next few months. Stay tuned for further details.

Years of Service Awards

The following service awards were announced at the AAP Annual Conference in April.

Trailblazer Awards (20 - 29 Years of Service)

NAME/COUNTY OR FIRM	YEARS OF SERVICE
John W. Constable, Adams County	20
Jonathan L. King, York County	22
Michelle R. Sowers, Fulton County	24
Cassie Tompkins, Lycoming County	20

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

NAME/COUNTY OR FIRM	YEARS OF SERVICE
Michael P. DeForest, Mercer County	33
Candace McCahill, Fayette County	30
Cynthia L. Payne Porterfield, Evaluator Services and Technology, Inc.	31

Presidents' Award (40 or More Years of Service)

NAME/COUNTY OR FIRM	YEARS OF SERVICE
John Nolan, Wayne County	40
Paulette Sebring, Monroe County	40

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Michael D. Collie

Office Manager/Systems Technician

Berks County

Name: Michael D Collie, MBA, CPE

Position: Office Manager/Systems Technician

Year in Assessment Field: 11 years experience in the assessment field as a tax mapping clerk, tax claim, assessor, and currently office manager. I always envisioned working the whole profession beginning with entry position. The knowledge gained from each position helps to serve the public from many points of view.

County: Beautiful Berks County

Marital Status and Family: Single

What Irritates Me Most in the Assessment Business: I think it's funny how property owners will get into great stories of how their home is worthless. You go onto the Internet and their home is on sale for more than it's assessed and has additions that were not assessed.

Most People Would be Surprised to Know: I have my own art hanging in my home. I ran 7 5K's this year. Last year I did a Tough Mudder, 12 ½ mile obstacle course designed by British Special Ops. I am one Tough Mudder!

Biggest Challenge as an Assessor: Being able to adjust to new conditions, laws etc.

First Job: My first job was working after school cleaning and repairing typewriters.

If I Couldn't be an Assessor, I'd be: Some place else with a smile and a positive outlook.

If I Won Millions in the Lottery, I Would: I would go on adventure vacations. Set up a trust fund. Make sure all of my taxes were paid!

Favorite Food and Drink: Chewy brownies smothered with chocolate chips. I bake a mouthwatering chewy, gooey brownie. I just love baked goods and chocolate. Cold refreshing water.

Favorite vacation: Sedona, Arizona was an amazing vacation. Gorgeous views of Red Rock. Four wheeling on a Pink Jeep Tour. Lots of trails! Amazing food.

Favorite Movie: Any movie with action and comedies.

Three People Living or Dead that I Would Invite to Dinner: My Great-grandfather, my Grandfather and my Dad.

The Hardest Lesson I Ever Learned as an Assessor was the Time: When I was bittten by a dog. The paperwork to fill out was more painful than the dog bite.

If I Could Live in the Past for One Day, I Would Change . . . I would not change a thing. Everything happens for a reason. We may not understand why at the time. If it weren't for all of my past successes and missed successes, I would not be here today.

My Best Friend: All of my closest friends are my best friends.

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MEMBERABILIA

AAP People & Chapter News

Crawford County

Sandy Cupper will be retiring on June 28th after 34 years of county service. Best wishes for a wonderful retirement.

Juniata County

Larry Woodling passed his CPE exam on May 14th. Congratulations, Woody!

McKean & Westmoreland Counties

Congratulations to Mark Lawton (McKean County) and Denyel O'Brien (Westmoreland County) on their wedding on May 11, 2013.

Philadelphia County

Congratulations to Joe Granato, Robert Luciani and James Russo for passing the CPE exam.

Tioga County

Kevin Witmer, CPE, Tioga County Cartographer, and his wife welcomed a beautiful baby boy, Ebner, on Friday, March 29, 2013 (Good Friday). All are doing well!

South East Chapter

The South East Chapter holds quarterly education meetings at the Indian Valley Country Club. The next meetings are:

September 18 - Forclosures & Fraud - Effect on Market Value taught by Michelle Bradley

December 11 - Hotel/Motel Valuation for Assessment Purposes taught by Richard Drzewiecki

For more information, please contact Mark Jackowski at (215) 348-6219 or *keyjazz5@hotmail.com.*

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Please send your news to Terry Cochran at *tcochran@pacounties.org*.

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New CPE Certification Period - Check Your Transcript

The new CPE certification period begins on July 1. Current certificates expire June 30, 2013.

Notices are mailed to the most recent address the certificate-holder has reported to the Board. *Please note: The Postal Service does not forward licenses.*

If you need to check your certification hours, please log on to the AAP website (you must be registered on the website), look under Members Only section and then click on Education Transcripts. Click on the certification period you want to review and your AAP classes will appear.

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