

A GUIDE TO TAX APPEAL HEARINGS

1. INTRODUCTION

This guide was developed to assist taxpayers in preparing for tax appeal hearings. It is intended as an aid to property owners, **but should not be considered as all-inclusive**. The general information provided is derived from New Jersey laws governing tax appeals: N.J.S.A. 54:3 et seq. and 54:4 et seq. and N.J.A.C. 18:12A et seq.

Property taxes are the result of the local budget process and may not be appealed. A property's assessment may be appealed. A taxpayer considering an appeal should understand that he/she must prove that his/her assessed value is unreasonable compared to a market value standard. By law, the current assessment is assumed to be correct. The taxpayer must overcome this presumption of correctness to obtain an assessment change.

2. WHAT IS THE BASIS FOR MY ASSESSMENT?

An assessment is an opinion of value by a licensed professional. For an assessed value to be considered excessive or discriminatory, it must be proved that the assessment does not fairly represent one of two standards:

A. True Market Value Standard

After a revaluation, all assessments in the municipality must be 100% of true market value as of October 1 of the previous year. October 1 of the pre-tax year is the annual "assessment date." All evidence for a tax appeal should precede the October 1 assessment date, especially property sales used for comparison.

B. "Common Level Range" Standard

To explain the common level range you must consider what happens after a revaluation in your town is completed. External factors such as inflation, recession, appreciation, and depreciation cause values to increase or decrease at varying rates. Other factors such as physical deterioration may change property values. If assessments are not adjusted annually, a deviation from 100% of true market value occurs. The State Division of Taxation, with local assessors assisting, annually conducts a statewide fiscal year sales survey, investigating most real property transfers. Sale value is compared to assessed value individually to determine an average level of assessment in a municipality. An average ratio is developed from all bona fide, arm's length property sales to represent the assessment level in your community. In any year, except the year a revaluation is implemented, the common level of assessment is the average ratio of the district in which your property is situated, and is used by the County Tax Board to determine the fairness of your assessment.

3. How do I know if my assessment is fair?

In 1973, the NJ Legislature adopted a formula known as Chapter 123 to test the fairness of an assessment. Once the Tax Board determines a property's true market value during an appeal, they are required to compare true market value to assessed value.

Example 1

If the ratio of assessed value to true value exceeds the average ratio by 15%, the assessment is reduced to the common level

Director's Ratio = 85%

Common Level Range = 72.25% - 97.75%

True Value = \$95,000

Assessment = \$94,000

Ratio = 98.95% ($\$94,000 \div \$95,000$)

Judgment = Reduction in assessed value

New Assessment=\$80,750 ($95,000 \times 85\%$)

Example 2

If the assessment falls within this common level range, no adjustment is made.

Director's Ratio = 85%

Common Level Range=72.25% - 97.75%

True Value = \$95,000

Assessment = \$90,000

Ratio = 94.74% ($\$90,000 \div \$95,000$)

Judgment = **No change in assessed value**

Example 3

If the assessed value to true value ratio falls below the common level, the Tax Board must increase the assessment to the common level.

Director's Ratio = 85%

Common Level Range=72.25% - 97.75%

True Value = \$95,000

Assessment = \$67,000

Ratio = 70.53% ($\$67,000 \div \$95,000$)

Judgment = Increase in assessed value

New Assessment=\$80,750 ($95,000 \times 85\%$)

The Chapter 123 test assumes the taxpayer will supply the Tax Board with sufficient evidence to determine the true market value of the property subject to appeal. Appellants should inquire into their district's average ratio before filing a tax appeal. This ratio changes each October 1 for use in the next tax year.

4. What is a tax appeal hearing; when may I appeal; who hears my appeal?

Tax appeals must be filed annually on or before April 1st or within 45 days of the bulk mailing of the Assessment Notices; or May 1 where a municipal-wide revaluation or municipal-wide reassessment has been implemented. Once filed, a hearing before the County Tax Board is scheduled. The Tax Board consists of members (commissioners) appointed by the Governor. Tax Board Commissioners primarily hear disputes involving assessments. Hearings are usually scheduled during the day, but some Boards schedule differently. Individual taxpayers may represent themselves. Business entities other than sole proprietorships must be represented by an attorney if the prior year's taxes exceeded \$25,000. The taxing district is the opposing party represented by the municipal attorney. The assessor or an appraiser may appear at the hearing as an expert witness.

At hearings, all questioning must be done by either the petitioner (only if the petitioner is not represented by an attorney), the petitioner's attorney, the municipality's attorney or a Board of Taxation Commissioner. Persons appearing as witnesses, including municipal assessors and appraisers, will not be permitted to ask questions of any party or witness.

5. Will the tax appeal hearing be private?

No. All meetings of the County Board of Taxation are public meetings.

6. Who is an expert witness?

Besides your municipal assessor, an expert witness is anyone employed as a real estate appraiser, and designated as such from a legitimate association of professionals, according to licensing or certification requirements of the State of New Jersey. An expert's qualifications may be challenged by the municipal attorney at the hearing.

If you intend to rely on expert testimony at your hearing, you must supply a copy of the appraisal report for the assessor and the County Tax Board **at least 7 days before the scheduled hearing**. The appraiser who completes the report must be available at the hearing to testify and to afford the municipality an opportunity to cross-examine the witness.

7. Is a hearing always necessary?

A hearing is not always necessary. If the assessor, municipal attorney, and taxpayer agree to a settlement or otherwise resolve the issues, it may not be necessary for you to attend your hearing **if the Board has a fully signed Stipulation of Settlement prior to the day of the hearing**. Settlement stipulations must also be submitted to and approved by the County Tax Board. Should the Tax Board disapprove the stipulation, a formal appeal hearing would then be scheduled.

8. When are tax appeal hearings held?

Tax appeal hearings are generally held annually within 3 months of the April 1 or May 1 filing deadline, although some years the large volume of appeals has extended that schedule to September. Because adjournments are ordinarily denied, you should make every effort to attend your hearing. If you miss or do not attend your hearing without receiving a written notice of postponement, you may assume the case has been dismissed "for lack of prosecution".

9. What is good evidence to convince the Tax Board to reconsider an assessment?

As the appellant, the burden is on you to prove that your assessment is in error, unreasonable, excessive, or discriminatory. You must suggest a more appropriate value by showing the Tax Board the market value of the property as of October 1 of the pretax year. To proceed with an appeal, all taxes and municipal charges up to and including the first quarter of the tax year must be paid.

The taxpayer must be persuasive and present credible evidence. Credible evidence is supported by fact, not assumptions or beliefs. Photographs of both the subject property (the property under appeal) and comparable properties are useful in illustrating your argument. Factual evidence **INCLUDING DATED PHOTOGRAPHS** concerning special circumstances is necessary **TO SUPPORT YOUR SPECIAL CIRCUMSTANCES**. For example, if the property cannot be further developed, e.g. conservation restriction, supporting evidence must be provided. In the context of an appeal, taxpayers can review Property Record Cards which are available at the local assessor's office.

The most credible evidence is recent comparable sales of other properties of a similar type in your neighborhood. When using comparable sales, a listing of 3 to 5 sales should be attached to your appeal at the time of filing. Your assessor and County Tax Board must receive copies of your comparables at least 7 days before your hearing for them to be discussed. Sales ratio forms, called SR-1A's, (available at the County Tax Board and your assessor's office) and deeds (available at the County Clerk's office) are public records and can be used to identify comparable sales and their significant characteristics. Comparable means that most of the characteristics of your property and the neighboring properties sold are similar. Be able to give full property descriptions and be knowledgeable of the conditions, including financing, of the cited sales. Some characteristics that would make a property comparable are: recent sale price, similar square footage of living area measured from the exterior, similar lot size or acreage, proximity to your property, the same zoning use (e.g. duplex in a duplex zone), and similar age, construction and style of structure.

10. If I recently bought my property, is this purchase price considered?

Yes, but it does not dictate a change in assessment. Uniformity of treatment requires that value adjustments not be made simply due to a recent sales price. The subject property's sales price may not necessarily be conclusive evidence of true market value, e.g. foreclosure or estate sale, and is not binding upon the Board of Taxation. The circumstances surrounding a sale are always important.

11. Are there special rules for commercial properties?

Yes. Owners of rental income properties must supply an income statement when filing an appeal on special forms provided by the Assessor. Net income generated by a property has a direct bearing on the ability to market the property, and therefore its value. This evidence may be used in arguing both sides of an appeal.

An appeal by a business entity, other than a sole proprietor, e.g. partnership, corporation, LLC, must be prosecuted by an attorney admitted to practice law in New Jersey if the prior year's taxes exceeded \$25,000.

12. When will I be notified of the Tax Board's judgment?

By law, the Tax Board must hear and determine all appeals within 3 months of the last day for filing appeals, unless the Director of the Taxation Division grants an extension. Judgments are issued by mail usually within four weeks after the hearing date.

13. May I appeal the Tax Board judgment?

If you are dissatisfied with the judgment of the Tax Board, you have 45 days from the date your judgment was mailed to file a further appeal with the Tax Court of New Jersey. If your property is assessed for more than \$1,000,000 you may file directly with the State Tax Court by April 1 annually; 45 days from date of bulk mailing of Assessment Notices, whichever is later; May 1 if in a revalued district.

SUMMARY

A. What was the market value of my property on the preceding October 1, the statutory assessment date?

B. Can I support my opinion of market value with credible evidence?