



Real Property Tax Appeals Alert

February 2011

Property Tax Appeals Can Save Money

One obvious reason for filing a real estate tax appeal is to obtain a lower assessment on your real property and thereby save significant tax dollars. An equally important reason to keep taxes low is to help maintain the value of the property making it more saleable in the event that the tax appeal is successful.

It would be wise to review the assessment on the property each and every year to see whether a tax appeal is warranted. The problem is that most owners of industrial, commercial and apartment properties, as well as tenants under net leases, are not aware that they may be prime candidates for successful tax appeals even after looking at their new assessment.

For obvious political reasons, many tax assessors discriminate against non-residential properties. Studies published each year by the New Jersey Division of Taxation prove this point clearly. Furthermore, although all municipalities in the state are supposed to assess real property at 100 percent of fair market value, these studies show that only a handful, in fact, do. Indeed, few property owners are even aware of the actual assessment/true value ratio in their municipality.

Property owners often feel that their property is worth an amount equal to the assessment on the property. This misconception leads owners to overlook the different ratios of assessed value to true value applicable in each of the assessing districts of New Jersey and to overlook the fact that these ratios generally decline each year. For example, if a property worth one million dollars this year is located in a municipality with a 60 percent ratio, it should be assessed at \$600,000 this year. If that ratio drops to 54 percent next year, its assessment should be \$540,000. If the ratio drops, but the assessment remains high, it may be time for an appeal.

Because of the inherent desire to keep residential taxes low, the revaluation of all property within a municipality may increase the possibility of over-assessment on larger commercial and industrial parcels. New Jersey municipalities that have been revalued or reassessed for 2011 include: Allentown, Barnegat, Bedminster, Belleville, Bernards, Bernardsville, Blairstown, Boonton Town, Branchburg, Bridgewater, Califon, Chester Borough, Cliffside Park, Edgewater, Emerson, Englewood, Fairview, Far Hills, Flemington, Franklin Lake, Franklin Township (Somerset County), Garfield, Guttenberg, Hackensack, Hampton Borough, Highlands, Hillsborough, Ho-Ho-Kus, Kingwood, Lambertville, Lebanon Borough, Loch Arbour, Mahwah, Mantoloking, Maplewood, Middletown, Milford, Millstone Borough, Mine Hill, Monroe, Mount Olive, Newton, North Arlington, Northvale, Norwood, Oakland, Old Tappan, Park Ridge, Peapack and Gladstone, Ridgefield Park, Rocky Hill, Somerville, Tenafly, Teterboro, Wallington, Warren, Watchung, West Caldwell, West Orange, and Upper Freehold.

Another factor that may lead to an assessment error includes environmental contamination of the property.

Taxpayers with assessments in excess of \$1,000,000 are allowed to file an appeal for direct review of their property's assessed valuation by the Tax Court of New Jersey, without first filing an appeal with the local county tax board. This not only saves on filing fees and costs, but also expedites the appeal process. A complaint for direct review may include - in separate counts, separately assessed - contiguous properties in common ownership, in the same or different taxing districts, providing that the assessed valuation of one of the separately assessed, contiguous properties exceeds \$1,000,000. Tax appeals on assessments of less than \$1,000,000 must first be filed with the county tax board.



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If the taxpayer prevails in securing a tax appeal judgment reducing its assessment, the so-called "Freeze Act" binds the municipality for the years covered by the tax appeal plus two additional years, subject to two exceptions. The first exception is a complete revaluation of all real property in the municipality. The second exception is proof by the municipality of a substantial increase in the property's value (such as an addition qualifying as an added assessment, a condominium or cooperative conversion, a subdivision or a zoning change). These exceptions aside, the assessment is frozen at the reduced level, at the taxpayer's sole option. Thus, if a taxpayer wishes to appeal for a further reduction during the freeze period, he or she is free to do so.

The foregoing points are merely intended to scratch the surface of this area of the law. However, it should be clear that there is a tax for the informed and a separate higher tax for the uninformed. This should also help to explain why the sophisticated property owner should have his tax assessment reviewed by competent counsel every year to determine whether a tax appeal is warranted.

The filing deadline for tax appeals each year is April 1st, except the filing deadline for properties in a revalued or reassessed taxing district is May 1st.

NORRIS MC LAUGHLIN & MARCUS TAX APPEAL MEMBERS

CARL G. WEISENFELD has devoted his practice to real property tax appeal law for over 35 years and is recognized as one of New Jersey's leading practitioners in the field. Based upon his experience, he is able to perform an analysis of whether or not a tax appeal is warranted for a particular piece of property by reviewing a copy of the property owner's or tenant's Notice of Assessment and approximate square footage of their facility. He joined the firm in 1999 after spending over thirty years with the law firm Hannoch Weisman. Carl earned his A.B., *cum laude*, from Dartmouth College in 1955, his LL.B. from Columbia University Law School in 1958, and his LL.M. in Taxation from New York University Law School. He is a member of the Essex County, New Jersey State and the American Bar Associations.

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WALTER G. (SKIP) REINHARD has regularly prosecuted tax appeals before many County Boards of Taxation and the New Jersey Division of Tax Appeals, predecessor to the Tax Court. Typically, these appeals have involved special purpose properties such as public utility facilities, but they have also included more generic types of real property such as office buildings and massive manufacturing facilities. Skip earned his A.B. from the University of Pennsylvania in 1967 and his J.D. from Dickinson School of Law in 1970. In 1970-71, Skip served as a Law Secretary to New Jersey Supreme Court Justice Nathan L. Jacobs. He served as Chair of the Public Utility Law Section of the New Jersey State Bar Association in 1988-89. Skip appears in the energy law section of the current edition of *The Best Lawyers in America*.

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