

# Pennsylvania Court Confirms That School Districts May Target High Value Properties When Appealing Tax Assessments For The Purpose Of Increasing Revenue Without Violating The Uniformity Clause Of The Pennsylvania Constitution

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Valley Forge Towers Apts. N, LP v. Upper Merion Area School District, 124 A.3d 363, 365 (Pa. Commw. Ct. 2015). The Pennsylvania Commonwealth Court holds that when a school district has reasonable and financial considerations of increasing its revenue, its decision to appeal certain high-valued properties does not violate the Uniformity Clause.

## **SUMMARY AND FACTUAL INFORMATION**

The Upper Merion Area School District (“District”) filed annual assessment appeals with the Montgomery County Board of Assessment Appeals (“Board”) challenging the assessments of apartment buildings owned by certain taxpayers (“Taxpayers”).

While the assessment appeal was pending, the Taxpayers filed a Complaint alleging that the District contracted with Keystone Realty (“Keystone”) to identify and recommend property assessment that the District should appeal. Taxpayers alleged that Keystone targeted commercial property assessments, including apartment buildings, but did not target residential property assessments. Finally, Taxpayers alleged that the District and Keystone’s actions were part of a scheme to generate more tax revenue for the District. In sum, Taxpayers claimed that the above-described actions violated the Uniformity Clause.

The District filed preliminary objections to the Complaint. The trial court sustained the preliminary objections and dismissed the Complaint with prejudice. Taxpayers appealed to the Commonwealth Court.

## **DISCUSSION**

The primary issue before the Court was whether the District’s selective assessment appeals violated the Pennsylvania Constitution’s Uniformity Clause.

The Pennsylvania Constitution’s Uniformity Clause provides: “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.” Pa. Const. art. VIII, § 1. Statutory assessment laws generally permit school districts to appeal assessments within their jurisdictions in the same manner as a home owner. See, e.g., 53 Pa.C.S. § 8855 (Consolidated County Assessment Law); 72 P.S. § 5020-520 (General County Assessment Law). Accordingly, “it is now well settled that municipal tax authorities, such as school districts, may appeal a property’s assessment.” Valley Forge, 124 A.3d at 366.

After conducting a detailed analysis, the court held that when a school district has reasonable and financial considerations of increasing its revenue, its decision to appeal certain high-valued properties is not, as a matter of law, arbitrary, capricious or discriminatory and does not violate the Uniformity Clause. Id., at 367, 372. Accordingly, the court affirmed the dismissal of all of the Taxpayers’ claims.

The court rejected Taxpayers' claim of improper classification. The Uniformity Clause precludes real property from being divided into different classes for purposes of systematic assessment: 'The Pennsylvania Constitution requires all real estate to be treated as a single class entitled to uniform treatment.' Clifton v. Allegheny County, 969 A.2d 1197, 1212 (Pa. 2009). In other words, properties cannot be divided into classes for assessment and taxation purposes. However, a school district is expressly authorized to initiate assessment appeals, and such appeals do not constitute impermissible classifications or spot reassessments. Moreover, the court explained that adopting a methodology that narrows the class of properties evaluated for appeal based upon considerations such as financial and economic thresholds or by classifications of property do not demonstrate deliberate, purposeful discrimination. Valley Forge, 124 A.3d at 367.

The Court also rejected the Taxpayers' allegations that the District deliberately discriminated against them. The court acknowledged that the Complaint contained an allegation that the District "failed to appeal the assessments of single family homes because many if not all are owned by residents who vote in local elections and it would be politically unpopular to appeal such voters' property assessments." However, the Complaint also alleged that the District was, in fact, targeting high valued properties for the purpose of increasing revenue.

When a taxpayer believes that he has been subjected to unequal taxation, he must demonstrate that: (1) the enactment results in some form of classification; and (2) such classification is unreasonable and not rationally related to any legitimate state purpose.' Taxpayers' admission that the District imposed the appeals to raise revenue proved fatal to Taxpayers' claims because the judicial use of resources to legally increase revenue is a legitimate governmental purpose.

Because the Complaint demonstrated the District had a valid, rational basis to take the appeals, the claim for deliberate discrimination was dismissed. Id.

## **PRACTICAL ADVICE**

Where a school district has reasonable and financial considerations of increasing its revenue, identifying properties for appealing tax assessments is not arbitrary, capricious or discriminatory. However, a school district's right to appeal from assessments is not absolute. When a classification is not based on any legitimate distinction between the targeted and non-targeted properties, it is arbitrary, and thus, unconstitutional. Downingtown Area Sch. Dist. v. Chester County Bd. of Assessment Appeals, 913 A.2d 194, 205 (Pa. 2006). The result of the Valley Forge case may have been different if the Taxpayers presented proof that the District was targeting those who could not vote in upcoming elections. Accordingly, school districts should consult with their solicitor prior to implementing any tax assessment appeals policy.

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