

Tax Appeals Based on Property Type May Violate State Constitution

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Valley Forge Towers Apartments N, L.P. v. Upper Merion Area School Dist., 2017 Pa. LEXIS 1520, 163 A.3d 962 (Pa. July 5, 2017). (The Pennsylvania Supreme Court holds that school district's tax assessment appeal policy violated state uniformity clause).

Summary and Factual Background

The Upper Merion Area School District is located in Montgomery County, Pennsylvania, where the most recent countywide assessment of real property occurred in 1996. Since then the market value of many of the parcels in the County changed, including properties within the School District, leading to significant discrepancies in assessments.

To remedy this, the School District decided to appeal assessment of some of the properties within its boundaries, and the District contracted with a third party, Keystone Realty Advisors, to identify and recommend property assessments that the School District should appeal. On Keystone's suggestion, the School District concentrated solely on commercial properties, including apartment complexes. The School District took this approach because commercial property values were generally higher than those of single family homes, and therefore raising commercial assessments would result in greater tax revenue than doing the same with under assessed single family homes. Another alleged factor motivating the School District's decision was that most residential homes are owned by School District residents and appeals on such residential assessments might be politically unpopular.

Valley Forge Towers Apartments N, L.P. owned apartment complexes in the School District and the School District filed appeals to increase their assessments. The Montgomery County Board of Assessment Appeals denied the appeals, resulting in no assessment change. The School District then appealed to Common Pleas Court. While the appeals were pending, Valley Forge filed a separate lawsuit against the School District on the basis that its actions violated the Pennsylvania Constitution's Uniformity Clause. Under this Clause, "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." The constitutional violation allegedly occurred because the School District appealed only the assessments of commercial properties. Valley Forge argued that its claim was directed to combat an overall strategy of the School District to discriminate against commercial properties by targeting them for administrative appeals while ignoring similarly under-assessed single family homes. Valley Forge sought a declaration that the School District's actions were an unconstitutional application of the laws allowing tax assessment appeals by taxing bodies.

The School District filed preliminary objections to this complaint on the basis that it had a statutory right to appeal property assessments and that selective appeals do not violate the uniformity clause as a matter of law. Common Pleas Court sustained these preliminary objections and dismissed Valley Forge's complaint on the basis that the filing of selective appeals does not result in a uniformity violation. In this regard the trial court concluded that the Uniformity Clause did not require equalization of all sub-classifications of real property.

Valley Forge then appealed the matter to Commonwealth Court which affirmed the trial court's decision, holding that equalization of assessments was not required across all property sub-classifications. Commonwealth Court recognized that the School District did create sub-classifications of properties which it treated differently from others, but the Court concluded that no constitutionally-suspect classification was made and therefore was constitutionally permissible as long as it satisfied the deferential rational basis test. This test was met because the School District's purpose was to increase

revenues. Moreover, the Court opined that Valley Forge failed to raise a substantial constitutional challenge in the manner in which any tax statute was applied. In this respect, Commonwealth Court found the constitutional claim insubstantial because, under prior cases, taxing districts could select properties for appeal based on financial considerations. Further, the Court found that pursuant to state general county assessment law a party that appeals to court from a property board decision may always allege a Uniformity Clause violation.

Upon petition by Valley Forge, the Pennsylvania Supreme Court granted review to consider whether the Uniformity Clause permitted the School District, pursuant to its right to appeal individual property assessments, to concentrate solely on commercial properties while foregoing appeals as to single family residences.

Legal Reasoning

As an initial premise, the Pennsylvania Supreme Court noted that, under the Uniformity Clause, all property in a taxing district is a single class and is entitled to uniform treatment. The Court found that the lower courts erred in concluding that different treatment of certain property sub-classifications for appeal purposes was permissible if there was a rational basis for such treatment. While it was without dispute that the appeal policies could not be based on clearly wrongful conduct (e.g., race discrimination), the Court explained that the prohibition against disparate treatment of any class or sub-class of property applies to any intentional or systematic enforcement of the tax laws.

Accordingly, the Supreme Court explained that school districts and taxing bodies could not implement a systematic program of only appealing the assessments of one sub-classification of property, when that sub-classification is drawn according to the residency status of the property owner or the property type. The Court indicated that nothing in its opinion should be construed as suggesting that the use of a monetary threshold or some other collection criteria would violate uniformity if it were implemented without regard to the type of property in question or the residency status of the owner.

The Supreme Court observed that limitations imposed by the Uniformity Clause are not formal abstract arguments. The Court noted that as “every tax is a burden,” it was important that the public has confidence that property taxes are administered in a just and impartial manner, with each taxpayer contributing his or her fair share of the cost of government. Where there is a conflict between maximizing revenue and insuring a fair, nondiscriminatory tax system, the Uniformity Clause requires the latter be given more importance, but the objectives do not necessarily conflict. A particular appeal policy employed by a taxing district lies within its discretion but the Court’s task is limited to enforcing the constitutional boundaries of any such approach. Thus, the Court concluded that the preliminary objections of the School District should not have been granted and remanded the case for further proceedings before the trial court.

Practical Advice

Because the Valley Forge case was technically remanded, the matter is far from closed. However, the Court’s opinion makes clear that tax appeal programs by schools that focus on certain business properties, or only on business properties, are invalid. Appeal programs with uniform standards that encompass all types of properties are allowable and the decision implies that monetary minimum thresholds for appeals would be found proper.

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