

PROPERTY TAX ASSESSMENT

I. Status Introduction

Despite the fact the last revaluation in West Windsor was conducted more than ten (10) years ago, the ratio remains at about 90%. This is very good compared with other municipalities which have not undergone a revaluation recently. The public is contacting Township employees with questions about our assessment practices. This memo addresses those questions.

II. Assessment Function

Property assessment activity conducted by a municipal Tax Assessor is a legislative function, not a local function. The assessor is “an agent of the Legislature whose basic obligation is to determine full and fair value of each parcel of real property situated in a taxing district at such price as, in his judgment, would sell for at a fair and bona fide sale by private contract.” Horner v. Township Committee of Ocean Tp., 175 N.J. Super. 533 (App. Div. 1980). Accordingly, interference or direction by a municipal governing body regarding specific acts of the assessor is inappropriate. Jeffers v. City of Jersey City, 8 N.J. Tax 313 (1986), affirmed 214 N.J. Super. 584 (App. Div. 1987). An Assessor has the authority to use his or her “knowledge or judgment” in performing the assessment function. Regent Care Center, Inc. v. Hackensack City, 19 N.J. Tax 455 (2001).

This makes sense when one considers what property assessments are used for: county, school, and municipal governments. A municipal property tax levy only represents a small fraction of a property owner’s tax bill. A municipal governing body has authority over only the municipal portion of the total taxes collected. In West Windsor, in 2017, only 15.7% of the total property taxes collected were used for municipal purposes. The rest of the tax levies collected by the Township went to the School District (56.6%) and the County (27.7%).

III. Methods of Assessment

Various methods are available for appraising or valuing property. Selection of the proper method depends on the nature of the property and purpose for which the appraisal is made. In appraising real property for taxation, the appraisal must be made in accordance with the basis of real property value recognized by State law, as interpreted by the courts. There is no judicially approved method of valuation that takes into account the assertions of the property owner as to value in federal securities documents.

The Replacement Cost Approach (commonly used for new construction) estimates the cost of creating a building with the same or equivalent utility as a similarly developed property, as nearly as current prices and standards of material and design allow. The Sales Comparison Approach attempts to find market value through a comparison of the subject property with similar properties which have been sold for a known sum of money by way of verifiable, arms-length transactions. The Income Approach analyzes the future income stream produced by a property to estimate the sum which might be invested to purchase the property in order to receive future benefits. Whenever possible, all three approaches should be used in the valuation of every property. However, one approach may be more relevant than another and have more weight in the valuation process.

Information contained within Security and Exchange Commission (SEC) filings is not meaningful or relevant when applying one of the 3 valid methods for determining property value for tax purposes. In fact, this information cannot be lawfully considered by the Tax Assessor, because such information does not fall into one of the accepted approaches above. The value identified on the form is simply a declaration of the property owner's "belief" of the property's value and can include other factors which bear no importance relative to determining property value. The SEC does not require the property owner to use one of the 3 valid methods for estimating the value of its property. These numbers may be inflated by a property owner to increase perceived value of a company's real estate holdings and to attract potential investors. This information is inherently unreliable and unstable.

IV. Spot Assessment

Spot assessment is the unconstitutional practice of arbitrarily singling out certain property for an assessment increase. Without "just cause," a tax assessor is legally prohibited from taking this action. Berkley Arms Apartment Corp. v. Hackensack City, 6 N.J. Tax 260 (1983). "Just cause" would be present when information becomes available that would allow an assessor to revise the assessment using one of the 3 valid methods for determining property value for tax purposes. Sage v. Bernards Tp., 5 N.J. Tax 52 (1982).

V. Legal Response to Proposed Change in Assessment

If a few commercial properties were reassessed using SEC filings as a basis for the increased assessments, the Township would lose in Tax Court if the property owners initiated litigation. SEC filings are not legitimate, accepted grounds on which to base a property assessment under New Jersey law. The property owner would hire an expert appraiser to apply one of the three accepted methods of valuation. The SEC filings that indicate property value are not stable and inherently unreliable as we have no understanding of the basis upon which the owner's own assessment is made.

The Township would also lose because the reassessment of only those properties that filed the SEC-10k form would be subject to the reassessment. This is unconstitutional spot assessing. The SEC filings do not represent “just cause” to reassess the properties in question.

VI. Conclusion

Determining property assessments, especially for large commercial properties, is an extraordinarily complicated and technical process which, as explained above, in no way depends on statements made in SEC filings. It is unfortunate that misinformation has been spread, and we hope that this memorandum will clear up those misconceptions.