



Legal and Constitutional Issues Relating to the
Assessment Process

Duties and Responsibilities of Board Members
Revised 5-28-19
by LGC Staff

www.pacounties.org

Curriculum Agenda

- **Consolidated County Assessment Law (CCAL)**
 - 53 Pa.C.S. § 8801 et seq.
 - A small booklet will be distributed to the class that contains CCAL and a glossary of commonly used terminology.
- Establishing a Board
- Statutory Requirements / Duties of the Board
- Types of Assessment **Appeals**
- Assessment Appeal Hearing Process

www.pacounties.org

Glossary

- **Appeal.** A process in which a property owner contests an assessment either informally or formally.
- **Appraisal.** (1) The act of estimating the monetary value of property. (2) The monetary value of property as estimated by an appraiser. (3) Of or pertaining to appraising and related functions, for example, appraisal practice, appraisal services.
- **Arm's-Length Transaction.** (1) A sale between a willing buyer and a willing seller that are unrelated and are not acting under duress, abnormal pressure or undue influences. (2) A sale between two unrelated parties, both seeking to maximize their positions from the transaction.

Glossary

- **Assessed Value.** The assessment placed on real property by a county assessment office upon which all real estate taxes shall be calculated.
- **Assessment.** Assessed value.
- **Assessment Base.** The total assessed value of all property within a designated area; the property tax base.

Assessment Level. The common or overall ratio of assessed values to market values.

Base Year. The year upon which real property market values are based for the most recent countywide revision of assessment of real property or other prior year upon which the market value of all real property of the county is based for assessment purposes. Real property market values shall be equalized within the county and any changes by the board shall be expressed in terms of base-year values.

Glossary

- **Certification Date.** The statutory date by which formal real property valuations [post informal reviews, if applicable] are certified by the county assessment office. [In counties of the second class A through eighth class, this date is November 15. See 53 Pa.C.S. §8844(f).]
- **Certified Pennsylvania Evaluator (CPE).** A person responsible for the valuation of real property for ad valorem taxation purposes who has satisfied the qualifications for certification as a Certified Pennsylvania Evaluator pursuant to the Assessors Certification Act and the Professional and Vocational Standards under Title 49 of the Pennsylvania Code, Chapter 36, Subchapter C (Certified Pennsylvania Evaluators).
- **Clean and Green.** See **The Pennsylvania Farmland and Forest Land Assessment Act of 1974.**

Common Level Ratio (CLR). The ratio of assessed value to current market value used generally in the county and published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year on appeal before the board under the act of June 27, 1947 (P.L. 1046, No. 447), referred to as the State Tax Equalization Board Law.

Countywide Revision of Assessment. A change in the established predetermined ratio or revaluation of all real property within a county.

Id.

www.pacounties.org

Farmstead Property Exclusion. *See Homestead Property Exclusion Program Act.*

Final Assessment Roll. A document containing property owner(s) name, mailing address, property location and uniform parcel identifier, or reference to the tax map, and taxable status, and real property assessment of all parcels in a County. *See Certification Date.*

Highest and Best Use. A principle of appraisal and assessment requiring that each property be appraised as though it were being put to its most profitable use (highest possible present net worth), given probable legal, physical, and financial constraints.

Homestead Property Exclusion Program Act.

The act of May 5, 1998, P.L. 301, No. 50 (53 Pa.C.S. §8581 et seq.).

International Association of Assessing Officers (IAAO). A professional membership organization of government assessment officials and others interested in the administration of the property tax.

Level of Assessment; Assessment Ratio. The common or overall ratio of assessed values to market values.

Glossary

Market Area. A geographic area, typically encompassing a group of neighborhoods, defined on the basis that the properties within its boundaries are subject to similar economic forces and supply and demand factors. A separate valuation model is often developed for each market area. Smaller or mid-sized jurisdictions may constitute a single market area.

Parcel. A separate, tax map-designated piece or portion of all real property, taxable or nontaxable, or eligible for preferential assessments.

Preferential Assessments. The total use value of land qualifying for assessment under the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (commonly referred to as the Clean and Green Act, Act 319).

Glossary

Reassessment. The revaluation of all real property within a county. Also called a revaluation or reappraisal.

Tax Base, Property. The total of all the assessed values in a given community.

Uniformity. The equality of the burden of taxation in the method of assessment.

Glossary

Valuation. Developing and reviewing a new determination of market value for each parcel, based on current data for the County's identified base year of valuation by the appropriate use of one or more of the accepted three approaches to value (cost, market and income).

Valuation Date. All real property is valued as of this date. In Pennsylvania, also known as the base year date.

Zoning. The exercise of the police power to restrict land owners as to the use of their land and/or the type, size and location of structures to be erected thereon.

www.pacounties.org

Establishing a Board

Board of Assessment Revision¹

- County commissioners in counties of the fourth through eighth classes when serving as an assessment appeals board.
- The longest-serving county commissioner will be the chairman of the board.

¹ 53 Pa.C.S. § 8851.

Establishing a Board

Board of Assessment Appeals²

- The assessment appeals board in counties of the second class A and third class, and in counties of the fourth through eighth classes where the county commissioners do not serve as a Board of Assessment Revision.
- Board of Assessment Appeals shall be composed of three members, appointed by the county commissioners. The commissioners will select one member to be chairman of the board.
- Board members are appointed for a term of 2 or 4 years each, concurrent with the county commissioners.
- Board members may not be employees of or contractors with the county assessment office.
 - The compensation of the member of the Board shall be fixed by the members of the County Salary Board.
- County commissioners will fill vacancies on the board for the unexpired terms.

² 53 Pa.C.S. § 8851.

Establishing a Board

Auxiliary Appeals Board³

- Provides the county commissioners with the discretion to establish any number of temporary auxiliary appeal boards, as needed, in their particular county.
- Authorizes the commissioners to create a “pool” of trained auxiliary appeal board members who may be appointed and reappointed to serve on any auxiliary appeal board in consideration of a member’s expertise and availability.
- Clarifies that each auxiliary appeal board consist of three members, all of whom must be present for an appeal hearing.

³ 53 Pa.C.S. § 8853.

Statutory Requirements/ Duties of the Board

- Hear and determine appeals⁴
 - All appeals, other than appeals brought under § 8841(c), shall be heard and acted upon no later than the last day of October.
- May adopt rules and regulations for hearing and filing appeals⁵
- Organization of board meetings; action by majority⁶

⁴ 53 Pa.C.S. § 8851.

⁵ 53 Pa.C.S. §§ 8851, 8852.

⁶ 53 Pa.C.S. § 8852 (d).

Statutory Requirements/ Duties of the Board

Regulations and Training of Boards⁷

- The board can adopt rules and regulations for hearing and filing appeals, subject to the approval of the county commissioners.
 - Such regulations can include compelling a witness to disclose whether their compensation is contingent on the outcome of the hearing.
- All regulations must be in writing, are considered public record, and are subject to the Right-to-Know Law.⁸
- Members of the board may only hear appeals after all statutorily required training has been completed. Effective January 1st, 2020

⁷ 53 Pa.C.S. § 8852.

⁸ 2008, P.L. 6, No. 3.

Statutory Requirements/ Duties of the Board

Organization of Board Meetings; Action by Majority⁹

- The board shall have its organizational meeting at the same time and place that the county commissioners have their organizational meeting.
- Any member may call the board to meet at additional times, with personal notice to all other members.
- All actions of the board must be approved by a majority vote, and must be recorded in writing.

⁹ 53 Pa.C.S. § 8851 (d).

Statutory Requirements/ Duties of the Board

Other Statutory Requirements

- Appoint, with the approval of the county commissioners, employees as necessary.¹⁰
- Establish assessment rolls.¹¹
- Establish permanent system of records.¹²
- Board must determine fair **market value** as of date the appeal was filed and applicable **Common Level Ratio** at the time of appeal.¹³
- Certification of tax roll.¹⁴

¹⁰ 53 Pa.C.S. § 8852 (b)(1).

¹¹ 53 Pa.C.S. § 8841.

¹² 53 Pa.C.S. § 8834.

¹³ 53 Pa.C.S. § 8844 (e)(2).

¹⁴ 53 Pa.C.S. § 8844 (f)(3).

Types of Assessment Appeals

1. Annual Appeals
2. Change of Assessment Notice Appeals
3. **Clean and Green** Appeals
4. Exemption Appeals
5. **Countywide Revision of Assessment** Appeals
6. Miscellaneous Appeals
 - a. Catastrophic Loss
 - b. Clerical and Mathematical Error
 - c. Spot Assessment
 - d. **Homestead Exemption** Appeals
 - e. **Uniformity** Appeals
 - f. PURTA Appeals
 - g. Class Action

www.pacounties.org

Types of Assessment Appeals

Annual Appeals¹⁵

- Initiated by an aggrieved party regardless of any change in the assessment.
- Written intent to appeal is filed with the Board of Assessment Appeals or Board of Assessment and Revision.
- Appeals must be filed no later than September 1st or the date designated by the County Commissioners, which can be no earlier than August 1st.¹⁶
- All appeals, other than appeals brought under § 8841(c), shall be heard and acted upon no later than the last day of October.

¹⁵ 53 Pa.C.S. § 8844 (c).

¹⁶ 53 Pa.C.S. § 8844 (c)(3).

Types of Assessment Appeals

Change of Assessment Notice Appeals ¹⁷

- An **assessor** can change the assessed value for the following reasons:
 - Parcel of land is subdivided;
 - Improvements are made to real property; or
 - Painting and normal regular repairs less than \$2,500 will not cause a change in valuation.
 - Improvements are removed or destroyed.
- The county assessment office will mail changes in assessed value notices to property owners and taxing districts within 5 days of the date the assessment office makes the change to its official records.
 - Appeals must be filed to the board within 40 days of the date of the notice.

¹⁷ 53 Pa.C.S. § 8817.

Types of Assessment Appeals

Change of Assessment Notice Appeals¹⁸

- The County Assessment Office is authorized to make additions and revisions to the Assessment roll at anytime in the year to change the assessment of existing properties pursuant to section 8817 or add properties and improvements to properties mistakenly omitted from the assessment rolls as long as notice is provided in accordance with section 8844.

¹⁸ 53 Pa.C.S. § 8841 (c).

Types of Assessment Appeals

Clean and Green Appeals

- Land enrolled in **Clean and Green** is assessed according to its use value rather than its prevailing market value.
- The applicable uses of real property under Clean and Green are:¹⁸
 - Agricultural Use
 - Agricultural Reserve
 - Forest Reserve
- Property owners who have applied for **preferential assessment** under Clean and Green, and the affected taxing authority, may appeal a decision of the county assessor regarding the application and method used to determine preferential assessment.¹⁹
- Property owners may also appeal the decision that imposes rollback taxes on the property owner for a violation of Clean and Green.

¹⁸ 1974, P.L. 973, No. 319 § 3.

¹⁹ *Id.* at § 9; 7 Pa.Code § 137 b.133.

Types of Assessment Appeals

Exemption Appeal

(Detailed training on this will be provided in the *Real Estate Exemptions Module*.)

- Churches or actual places of regularly stated religious worship;
- Burial grounds not used or held for private or corporate profit;
- Hospitals, institutions of learning or charity, *including fire and rescue stations* maintained by public charity, provided any revenue obtained goes to support the entity;
- All schoolhouses belonging to any borough, county, or school district;
- All courthouses, jails, and poorhouses;
- All public parks;
- All other public property *used* for a public purpose;
- All property owned, occupied, and used by any branch or post, or camp of honorably discharged servicemen or women *actually and regularly used* for benevolent, charitable, or patriotic purposes;

Types of Assessment Appeals

Exemption Appeal (cont.)

- Real estate owned by institutions of purely public charity;
- All playgrounds maintained by public or private charity;
- All property maintained by public or private charity and used for libraries, museums, art galleries, or concert music halls;
- Silos used for processing or storing animal feed on a farm;
- All fire and rescue stations maintained by public or private charity along with their social halls.

Types of Assessment Appeals

Exemption Appeal

(Detailed training on this will be provided in the *Real Estate Exemptions module*.)

- “Institutions of purely public charity” are generally exempt from taxation if they first pass the Constitutional test²⁰ and then also satisfy the criteria set forth in the Institutions of Purely Public Charity Act.²¹
- Real property owned by governmental entities, and used for public purposes, is also generally exempt (or immune²²) from taxation.
- Veterans with 100% permanent disability can be eligible for property tax exemptions.²³
- Affected parties can appeal the determination of exemption.

²⁰ *Hospital Utilization Project v. Commonwealth*, 507 Pa. 1 (1985) (HUP).

²¹ 1997, P.L. 508, No. 55 (10 P.S. §§ 371-385).

²² See: *Real Estate Exemptions* module for detailed analysis of exempt versus immune property.

²³ Pa. Const. art. XIII, §2(c); 51 Pa.C.S.A. § 8902.

Types of Assessment Appeals

Countywide Revision of Assessment Appeal²⁴

A certified final value change/formal determination of value notice must be mailed to each property owner on or before July 1st.

- The last day to appeal an assessment is 40 days from the date stated on the notice.
- Appeal hearings may begin 40 days following the mailing of the notice.
- The new assessment rolls must be certified to the taxing districts no later than November 15th.
- Note that in the year of a reassessment, the deadline to apply for “Clean and Green” changed from June 1st to October 15th, or “within 30 days of the final order of the county board for assessment appeals,” whichever is earlier.²⁵

²⁴ 53 Pa.C.S. § 8848.

²⁵ 1974, P.L. 973, No. 319 § (4) (b.1).

Types of Assessment Appeals

Miscellaneous Appeals - Catastrophic Loss²⁶

- A loss caused by a natural disaster which damages the physical state of the real property and exceeds 50% of the market value of the real property.
- A loss which exceeds 50% of the market value of the real property incurred by residential property owners who qualify under the delineated statutes in §8815.
- Property owners suffering a catastrophic loss may appeal before the board by the end of the county's fiscal year in which the loss occurred, or within 6 months of the loss, whichever period is longer.
- The board must reassess the property to reflect the loss in value from the date of the loss to the end of the taxable year. Any property improvements made subsequent to the catastrophic loss in the same tax year shall not be added to the assessment roll for the remainder of that tax year but shall be added for the following year.
- Any adjustments made by the board must be reflected by the taxing authorities in the form of a credit in the succeeding year or, upon application of the property owner, a refund.

²⁶ 53 Pa.C.S. § 8815.

Types of Assessment Appeals

Miscellaneous Appeals -

Clerical and Mathematical Errors²⁷

- County assessment offices can correct improper assessments due to clerical and mathematical errors.²⁸
- Clerical and mathematical errors are errors of fact (i.e., 1500 sq. ft. versus 150 sq. ft.) and not errors of judgment.
- For example, "...the Assessment Office can correct mathematical or clerical errors regarding the number of stories and, thus, the amount of square footage in a building, thereby correcting the assessment record...the Assessment Office [may not] change the grade based upon information from the field crew because no clerical or mathematical error was shown in this respect."²⁹

²⁷ 53 Pa.C.S. § 8816.

²⁸ *Callas v. Armstrong County Board of Assessment*, 70 Pa.Cmwlth. 272, 453 A.2d 25, 27 (1982).

²⁹ *Blanda v. Somerset Cty. Bd. of Assessment Appeals*, 131 A.3d 560, 565–66 (Pa.Cmwlth. 2016).

Types of Assessment Appeals

Miscellaneous Appeals

Spot Reassessment³⁰

- Spot reassessment is an assessment “which creates, sustains or increases disproportionately among properties’ assessed values”³¹ and therefore violates the constitutional requirement of tax uniformity.
- Apart from a countywide reassessment, the county assessment office may only initiate a change of assessment when a “triggering event” occurs:
 - a property has been subdivided;
 - an appeal of a property assessment has been undertaken;
 - a physical change has been made to a property, such as new construction or removal or change of existing improvements;³² or
 - a catastrophic loss has occurred to the property.³³

³⁰ 53 Pa.C.S. § 8843.

³¹ 53 Pa.C.S. § 8802.

³² 53 Pa.C.S. § 8817.

³³ 53 Pa.C.S. § 8815.

Types of Assessment Appeals

Miscellaneous Appeals -

Homestead/Farmstead Exclusions

- Any property owner who is aggrieved by the decision of the county assessor may appeal to the Board of Assessment Appeals in a manner consistent with the applicable county class assessment law.³⁴
- Scope of appeal is limited solely to the following issues:
 - Whether the application meets the requirements delineated³⁵ in the **Homestead Property Exclusion Program Act**, or
 - Whether the parcel meets the definition of **farmstead**³⁶ or Homestead³⁷ property under the Act.

³⁴ 53 Pa.C.S. § 8584 (e).

³⁵ 53 Pa.C.S. § 8584 (a), (b).

³⁶ 53 Pa.C.S. § 8585.

³⁷ 53 Pa.C.S. § 8401.

Types of Assessment Appeals

Miscellaneous Appeals

Uniformity Appeals

- “If taxpayer claims that assessment violates principle of uniformity, taxpayer admits that fair market value assigned to property is correct but claims that other comparable properties are assigned substantially lower fair market value, and, when ratio is applied to that lower value, owners of comparable properties pay less than complaining taxpayer.”³⁸
- “A property owner claiming that his assessment is not uniform must carry his burden of proof by showing that a lower ratio of assessment to actual value has been applied to comparable properties.”³⁹

³⁸ *Fosko v. Bd. of Assessment Appeals*, Luzerne Cty., 166 Pa.Cmwlt. 393, 646 A.2d 1275 (1994).

³⁹ *Albarano v. Bd. of Assessment & Revision of Taxes & Appeals, Lycoming Cty.*, 90 Pa.Cmwlt. 89, 93, 494 A.2d 47, 49 (1985), citing *McKnight Shopping Center, Inc., v. Board of Property Assessment*, 417 Pa. 234, 209 A.2d 389 (1965); *Brook Building Tax Assessment Case*, 391 Pa. 94, 137 A.2d 273 (1958). See also: *Smith v. Carbon Cty. Bd. of Assessment Appeals*, 10 A.3d 393, 401 (Pa.Cmwlt. 2010); *Downingtown Area Sch. Dist. v. Chester Cty. Bd. of Assessment Appeals*, 131 A.3d 152, 157 (Pa.Cmwlt. 2015); *Valley Forge Towers Apartments N, LP v. Upper Merion Area Sch. Dist.*, 640 Pa. 489, 513, 163 A.3d 962, 977 (2017).

Types of Assessment Appeals

Miscellaneous Appeals

Pennsylvania Public Utility Realty Tax⁴⁰ (PURTA)

- The PURTA tax is based on the current market value of the utility, as determined by the counties under their normal assessment procedures.
- Properties that are used in the regulated utility business will continue to be exempt from local real estate taxes, but will continue to be taxed by the State under PURTA.
- Examples: Gas, telephone, water and railroads.

⁴⁰ Tax Reform Code, 1979, P.L. 60, No. 27, Article XI-A (Authorized by Pa. Const. art. VIII, § 4).

Types of Assessment Appeals

Miscellaneous Appeals

Class Action⁴¹

- In addition to individual aggrieved parties, a party to an appeal may also be a group of two or more persons acting on behalf of a similarly situated class.
- As long as one member of the class files a timely appeal with the board, the entire class is considered timely.⁴²

⁴¹ 53 Pa.C.S. § 8844 (d).

⁴² *Lower Merion Sch. Dist. v. Montgomery Cty. Bd. of Assessment Appeals*, 164 Pa.Cmwlth. 15, 25, 642 A.2d 1142, 1147 (1994), citing *Garret v. Bamford*, 582 F.2d 810 (3d Cir.1978).

⁴³ *In re Mackey*, 687 A.2d 1186.

Assessment Appeal Hearing Process

Notice of Appeal⁴⁴

- Once an appeal is filed, the county assessment office mails notice to the property owner, each affected taxing district and any other aggrieved parties of the date, time and place or address of the appeal hearing.
- The notice shall be mailed no later than 20 days preceding the appeal hearing.
- Attorneys filing an entry of notice of appearance on behalf of an interested party must also be notified by writing.

⁴⁴ 53 Pa.C.S. § 8844.

Assessment Appeal Hearing Process

Aggrieved Parties Who Can File and Present Evidence During an Appeal:

- “Any person who has a direct immediate, pecuniary and substantial interest in the subject matter is a person aggrieved.”⁴⁵
 - For example, property owners, deeded owners, certain leaseholders, and relevant taxing authorities.
- Taxing authorities may appeal a decision of the board, even if it was not a party to the original appeal hearing.
- If the property owner cannot attend an appeal hearing, an authorized representative with a Power of Attorney (POA) may attend in his place. The POA should be submitted to the board prior to the appeal hearing. Counties should establish procedures for the submission of a POA.
- Only attorneys-at-law licensed to practice in the Commonwealth of Pennsylvania may represent aggrieved parties.

⁴⁵ *Appeal of Marple Newtown Sch. Dist.*, 70 Pa.Cmwlt. 365, 367, 453 A.2d 68, 69 (1982), citing *Louden Hill Farm, Inc. v. Milk Control Commission*, 420 Pa. 548, 217 A.2d 735 (1966).

Assessment Appeal Hearing Process

1. Assessor is sworn in.
2. Appellant is sworn/affirmed signed in.
3. Chairman calls the appeal to order.
4. Prima facie case presented – assessment record:
 - Assessment Value
 - Implied Fair Market Value per Common Level Ratio
 - Tax Map
 - Property record
 - Images
5. Appellant presents case – evidence.
6. Taxing district or property owner may also offer rebuttal evidence.
7. Appeal hearing is open to the public and subject to the Sunshine Law.

www.pacounties.org

Assessment Appeal Hearing Process

Assessment Appeal Hearing Process⁴⁶

- a) Burden of Proof: The law presumes that the assessor's value is correct until an appellant provides competent or credible evidence.
- b) All evidence is subject to cross examination by the board.
- c) Assessor has opportunity to rebut appellant's information, but **cannot provide an opinion on value.**

More training on this will be provided in the *Assessment Valuations Process* module.
- d) The board considers all evidence, establishes current market value, and applies the applicable common level ratio when rendering its decision.

⁴⁶ 53 Pa.C.S. § 8844 (e).

Assessment Appeal Hearing Process

Post Hearing Duties of the Board⁴⁷

- Mail notice of decision to the appellant and affected taxing authorities on or before November 15th.
- Notice of decision must include:
 - The mailing date of the notice.
 - Right to appeal to Court of Common Pleas no later than 30 days from the mailing date stated on the notice, but the board cannot provide legal advice on that filing.
 - Appellant must provide each affected taxing district or property owner a copy of the appeal to Common Pleas.

⁴⁷ 53 Pa.C.S. § 8844 (e)(2.1).

Assessment Appeal Hearing Process

Post Hearing Duties of the Board:

- Mail Notice of Abandonment to appellants who fail to appear at hearing.
- A Withdrawal Notice or courtesy letter may be mailed by the Assessment Office or board for appellants who withdraw their appeal on or before the date of the hearing.
- Mail notice of continuance/postponement to all affected parties.

Assessment Appeal Hearing Process

Appeal Board's Decision to Court of Common Pleas:

- Following a decision of the board, any appellant, property owner, or affected taxing district may appeal the board's decision to the Court of Common Pleas.⁴⁸
- Abandoned appeals – no right of appeal to Court of Common Pleas⁴⁹
- The filing deadline is 30 days from the mailing date stated on the board's decision.⁵⁰

⁴⁸ 53 Pa.C.S. § 8854 (a).

⁴⁹ 53 Pa.C.S. § 8844 (e)(1) and 8844 (c)(3).

⁵⁰ 42 Pa.C.S. § 5571 (b).