

Appeal Brochure

Introduction

This brochure was developed to assist taxpayers in properly preparing for tax appeal hearings. The brochure includes general information derived from the New Jersey laws which govern tax appeals: Administrative Code Title 18:12 and New Jersey Statutes Title 54:3 et seq and 54:3 et seq.

The Mercer County Board of Taxation recognizes the appeal process is a complex procedure. This brochure was developed as an aid to the property owner, but it should not be considered as an all inclusive guide. Most importantly, it is essential a taxpayer understand and **MUST** prove an assessment is unreasonable, compared to a market value standard.

Your current assessment is by law assumed to be correct! You must overcome this presumption of correctness to gain an assessment reduction.

What is the basis for my assessment?

In order for an assessment to be deemed excessive or discriminatory, a taxpayer must prove that an assessment does not fairly represent one of two standards:

1. All assessments must represent 100% of true market value as of the previous October 1, in a year following a revaluation or reassessment.

The October 1 pretax date is called the annual "assessment date."

2. In a non revaluation or non reassessment year, the assessment must exceed the common level range determined for your municipality.

To understand the common level range you must consider what happens following a revaluation.

Once a revaluation is completed, factors such as inflation, appreciation, and depreciation cause property values to increase or decrease at varying rates. Other factors may also contribute to changes in property values. Obviously, if assessments are not adjusted annually, a deviation from 100% of true market value may occur.

The New Jersey State Division of Taxation, with the assistance of local assessors, annually conducts a fiscal year sales survey, investigating property transfers that occurred in your community. This sales data is compared individually to corresponding assessments to determine an average level of assessment in a municipality. An average ratio, sometimes referred to as the Director's ratio, is developed to represent the assessment level in every community.

In any year, except the year in which a revaluation or reassessment is implemented, the common level of assessment is the average ratio of the district in which your property is situated, and is used by the Tax Board to determine the fairness of your assessment.

In Mercer County in a revaluation or reassessment year, the common level is 100 % and is used by the Mercer County Board of Taxation to determine the fairness of your assessment. There is no common level range in a revaluation year.

How do I know if my assessment is fair?

In 1973, the New Jersey Legislature adopted a formula known as Chapter 123 to test the fairness of an assessment. Once the Tax Board has determined the true market value of a property during an appeal, they are required to use

this formula and automatically compare the true market value to the assessment.

If the ratio of the assessment to true value exceeds the average ratio by 15%, then the assessment is automatically reduced to the common level. In no case can an assessment be greater than 100%.

However, if the assessment falls within a common level range, + or - 15%, of the average ratio, no adjustment will be made.

If the assessment to true value ratio falls below the common level range, the Tax Board may increase the assessment to the common level!

This test can only be conducted when the taxpayer supplies sufficient evidence to enable the Mercer County Board of Taxation to determine the true market value of the property subject to the appeal.

You should inquire into your district's average ratio before filing a tax appeal. This ratio changes annually on October 1, for use in the subsequent tax year.

Example:

Director's Ratio = 85%

Common Level Range = 72.25% - 97.75%

True Value = \$95,000.

Assessment = \$90,000.

Ratio = 94.74% ($\$90,000 / \$95,000$)

Judgment = No Change

What is a tax appeal hearing and who will hear my appeal?

A tax appeal hearing is a public meeting presided over by a tax commissioner or commissioners. The Mercer County Board of Taxation consists of 3 members appointed by the governor. The Tax Board Commissioners are appointed primarily to hear disputes involving assessments.

Once you have filed your tax appeal, a hearing before the Mercer County Tax Board is scheduled. The municipality is the opposing party and will be represented by the municipal attorney. The assessor or an appraiser may also appear at your hearing as an expert witness.

At the hearing, taxpayers are required to present their opinion of true market value as of October 1 of the pretax year.

Is a hearing always necessary?

Yes, a hearing is always necessary. If the assessor, municipal attorney, and taxpayer agree to a settlement or the issues are otherwise resolved, it may not be necessary for you to attend your hearing, particularly if a signed settlement stipulation is submitted to the Tax Board for their approval, prior to the hearing.

When are tax appeal hearings held?

Tax appeal hearings are generally held after the April 1 and December 1. (for added and omitted assessments only) annual appeal filing deadlines.

Hearings are scheduled during the work week starting at 9 a.m. Adjournments are generally denied. It is suggested that you make every attempt to attend your hearing. If you miss your hearing and have not received a postponement, the case will be dismissed "for lack of prosecution."

Judgments made "for lack of prosecution" are final for the current year and may not be further appealed to the Tax Court of New Jersey.

What is good evidence to convince the Tax Board to reconsider an assessment?

The most credible evidence is comparable sales of other properties of a similar type in your neighborhood. Remember, if you are going to discuss comparable sales, a listing of 3 to 5 sales should be attached to all copies of your appeal at the time of filing. Any evidence to be discussed at the hearing must be submitted to the assessor and the Mercer County Board of Taxation (5 copies) at least seven days prior to your hearing.

Sales of comparable properties used to prove value must have occurred on or before October 1 of the pretax year. Properties that have sold subsequently may be used only to support value, not as direct evidence.

Comparable means that most of the characteristics between your property and the neighboring sale are similar. You should be knowledgeable of the conditions of the sales you cite and be able to give a full description of the properties. Some of the characteristics that would make a similar property comparable are: sales price, similar square footage of living area measured from the exterior, similar lot size or acreage, proximity to your property, the same zoning and same use (e.g. duplex in a duplex zone), and the same age of the structure.

The taxpayer must be persuasive and present creditable evidence. Creditable evidence is evidence supported by fact, not assumptions or beliefs. Photographs of both the subject property (the property subject to the appeal) and comparables are useful in illustrating your argument. Factual evidence concerning special circumstances is necessary. For example, if the property cannot be further developed for some reason, evidence to that effect must be provided.

It is necessary for the taxpayer to prove at the onset that the assessment is in error. It is also necessary for the taxpayer to suggest a more appropriate value. This is accomplished by telling the Tax Board the market value of the property as of October 1, of the pretax year.

You cannot appeal the taxes on your property since the taxes are the result of the local budget process. Nor will other assessments be compared to yours. You must pay the collector all taxes and municipal charges up to and including the first quarter of taxes due for the current year in order to be granted a hearing. Remember, the burden is on you, the appellant, to prove that your assessment is unreasonable, excessive, or discriminatory.

If I recently bought my property, is this purchase price considered?

Yes, but it does not mandate a change in assessment.

An assessment is an opinion of value.

Uniformity of treatment dictates that minor adjustments not be made simply due to a recent sales price. For various reasons the subject's sales price may not be either conclusive evidence of the property's value or binding upon the Tax Board. An examination of the circumstances surrounding a sale is always important.

Will the appeal be private?

No. All meetings of the Mercer County Board of Taxation are open and public meetings.

Are there special rules for commercial properties?

Yes. Commercial property and properties which derive rental income from four or more units must supply an income statement on special forms provided by the Tax Board. Since the income generated by a property has a

direct bearing on the property's marketability and value, this evidence may be useful in arguing both sides of an appeal.

In the event the petitioner is a business entity other than a sole proprietor, such as a corporation, partnership, LLC, etc. whose prior year taxes were more than \$25,000, the appeal must be prosecuted by an Attorney-At-Law admitted to practice in New Jersey.

No person shall be permitted to appear in an appeal in a representative capacity unless said person is duly licensed to practice law in this State; provided, however, that an attorney of any other jurisdiction of good standing there, may appear at the discretion of the board in any matter subject to the provisions of rule 1:21-2 of the Rules Governing the Courts of New Jersey. This rule may be waived in cases of extreme hardship, such as old age and illiteracy.

Who is an expert witness?

Your municipal assessor and any New Jersey licensed or certified appraiser is considered an expert as to valuation of real estate, to the limits of the licensing or certification status from the State of New Jersey. Other appraisers may qualify as experts before the Board of Taxation, subject to the Board's discretion as to the appraiser's education, experience, professional association affiliation and other factors.

If you intend to rely on expert testimony at your hearing, you must supply one copy of an appraisal report to the assessor, and three copies of the appraisal report to the Mercer County Board of Taxation, at least 7 days in advance of the scheduled hearing.

The appraiser who completes the report must be available at the hearing to give testimony and to afford the municipality an opportunity to cross-examine the appraiser.

When will I be notified of the Tax Board's judgment?

The Mercer County Board of Taxation will usually render a decision 6 to 8 weeks after a hearing. Once judgment is rendered, the Tax Board loses its jurisdiction in these matters.

May I further appeal the judgment of the Tax Board if I am still dissatisfied?

Yes. If you are dissatisfied with the judgment rendered by the Mercer County Board of Taxation, you will have 45 days from the date your judgment was mailed to file a further appeal with the Tax Court of New Jersey at CN 972, Trenton, N.J. 08625. (609-292-5082)

Note:

If your property is assessed for more than \$1,000,000, you may file an appeal directly with the Tax Court of New Jersey by April 1 and December 1 (For ADDED or OMITTED ASSESSMENTS only), annually.

Summary

Before filing an appeal, it is strongly recommended the taxpayer check facts and discuss the assessment with the local municipal assessor.

A taxpayer filing an appeal should consider the following questions.

What was the true market value of my property on the preceding assessment date of October 1?

Can I support my conclusion of true market value with credible evidence?

Is my property assessed in excess of its true market value if a reassessment or revaluation was implemented in the current tax year?

In a non revaluation or non reassessment year, does the ratio of my property assessment to its true market value exceed the upper limit of the common level range?

Important Facts:

Tax appeals are on assessments only, not taxes.

Tax appeals must be timely filed before April 1 (December 1 for ADDED or OMITTED ASSESSMENTS) of the tax year. Timely filed means received by the Board of Taxation, not merely postmarked.

You must know and prove the true market value of the appealed property as of October 1, pretax year.

True Market Value is determined by:

1. Sales Comparison
2. Capitalization of Income
3. Replacement Cost

All evidence must be submitted to the Assessor and the Tax Board at least seven days prior to the hearing.

If an appraisal is to be used as evidence, the appraiser must be present to testify.

In order for your case to be heard, all real estate taxes and municipal charges up to and including the February 1 payment must be current. Failure to comply, will result in your case being dismissed.

Filing Fees

Filing Fees must accompany original petition of appeal. The fees are as follows:

- Assessed Valuation less than \$150,000. \$ 5.
- \$150,000 or more, but less than \$500,000. \$25.
- \$500,000 or more, but less than \$1,000,000. \$100.
- \$1,000,000 or more \$150.

Appeal on Classification \$25.

Appeal on Valuation and Classification Sum of 1 & 2

Appeal not covered by 1, 2 or 3 \$25.

No fee is required for a petition contesting denial of application for Veterans and Veteran's / Serviceman's / Service Veteran's / Serviceman's / Servicewoman's / Surviving Spouse deduction, Senior Citizen's or Disabled person's deduction.

Check should be made payable to the County Tax Administrator.

