

Participating In Tax Assessment Appeals Protects Your District's Dollars

With no mandate relief in sight, school districts in New York are struggling financially under the property tax cap. This is not news. Unlike so many other states (and even New York City), our school districts are funded mainly through real property tax levies. The school district sets its budget using the municipality's assessed values for each property within the school district. For this reason, school districts rely heavily on assessors to properly value properties.

When a property is over-assessed, the property owner can file an action to correct the assessment. Often assessment challenges are not resolved prior to the property owner paying its school tax bill. If an assessment challenge is later resolved in favor of the property owner, the school district will have to refund any excess school tax paid by the property owner with interest. This result could be devastating to a school district's already tight budget, especially if the action involved a large commercial property where the owner was entitled to tens or hundreds of thousands of dollars in school tax refunds. The result could be even more damaging if challenges for several tax years have accrued and the school district suddenly finds itself having to pay refunds and interest on excess taxes paid for all of those years at once.

The assessing unit may purport to protect school district interests in these proceedings – but it may not in all cases, and it is not ethically obligated to do so. Even if the municipal attorney tries to act in the school district's best interests, at some point the school district's interests may not be aligned with those of the municipality. For instance, a settlement may be suggested that waives municipal refunds, but not school district refunds. Since it would likely be in the best interests of the municipality to accept that settlement offer, they would have to do so without consulting with the school district about the settlement offer.

Because neither the assessor nor the municipal attorney are obligated to protect school district interests in any pending tax assessment case, a school district must be vigilant and protect its own interests. For example, in a case decided in December 2010 (see *Board of Managers v. Town of Ossining*, 79 A.D.3d. 1032 [2nd Dep't 2010]), a school district successfully argued that the property owner did not properly serve litigation papers on the school district and that defect in service warranted the dismissal of six pending proceedings. Without the school district's diligence, this case could have gone to trial and resulted in refund payments from the school district for the six tax years at issue, plus interest!

If a school district wants to be involved in tax assessment cases it must take affirmative steps to intervene in each case every tax year. This is relatively inexpensive to do. If a school district does not intervene, it has no say in the course or outcome of the case and it will have to abide by whatever result is reached between the property owner and the municipality.

Taking an active role in tax assessment review proceedings allows a school district to defend its position based on its own needs and know at every stage the full extent of its potential liability. Intervening in the proceedings:

- (1) Establishes a collaborative environment and solid working relationship between the school district, the assessor, and municipal attorney;
- (2) Protects the school district and its revenue by analyzing settlement offers to determine if settlement seems appropriate or preferable to trial, with only the school district's best interests in mind;
- (3) Gives the school district access to property records, case files and records, analyses and status reports including thorough evaluations of each matter individually in a timely manner;
- (4) May allow sharing of necessary resources and expenses, including the burden of the case, expert fees and even attorneys' fees;
- (5) Eradicates reliance upon municipal attorneys who are not ethically obligated to act in the school district's best interests; and
- (6) Gives the school district a voice in all aspects of litigation.

Defending a tax assessment challenge is complex and requires a specific knowledge of the law and expertise in property valuation methodologies. Bond, Schoeneck & King, PLLC has a practice group dedicated to defending assessment challenges and all other property valuation issues. This group has worked with hundreds of school districts and municipalities across New York State with great success. This practice group knows the special needs of school districts in property valuation/assessment review cases. Even as the school district's counsel, Bond's lawyers routinely aid assessors in resolving cases without litigation so that any reduction to the tax base can be accounted for during the budget process. We also provide guidance relative to establishing and funding tax certiorari reserves. We routinely guide our clients through the tax cap calculations and provide analysis of how tax appeals and PILOTs impact those complex calculations. Recent successes have resulted in savings in the millions in refunds for our clients eliminating millions from reserve funds.

For more information on what you can do to protect your school district's budget, please contact any member of our Tax Assessment, Condemnation and Property Valuation Practice Group:

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