

# APTC: OHIO SCHOOL DISTRICTS PUSH FOR EXCESSIVE PROPERTY TAXES

They attack owners' rights to their confidential business information to get increased valuations.

By Steve Nowak

A recent order from the Ohio Board of Tax Appeals highlights a troubling aspect of real property tax valuation in the Buckeye State, where school districts wield extraordinary authority to influence assessments. In this instance, courts allowed a district to demand a taxpayer's confidential business data, which it can now use to support its own case for an assessment increase.



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Ohio is one of the few states that permit school districts to participate in the tax valuation process, allowing a district to file its own complaint to increase the value of a parcel of real estate, and permitting a school district to argue against a property owner that seeks to lower the taxable valuation of a parcel of real estate.

Generally, school districts looking to increase tax revenue will review recent property sales for opportunities to seek assessment increases. Likely candidates for an increase complaint include real estate that changed hands at a purchase price or transfer value that exceeds the county assessor's valuation. That is not always the case, however.

In the case that gave rise to this article, there was no recent sale of the subject property, which is a multi-story apartment building. The apartment

building owner had done nothing to draw any assessor's attention to their property in recent years — it had not been listed for sale, for example, nor had the owner recently refinanced the property.

## Blind assertions

In the apartment building case, the school district filed a complaint to increase the county's valuation from \$3.85 million to \$4.63 million. At the local county board of revision hearing on the school district's complaint, the school district failed to present any competent and probative evidence that the apartment complex was undervalued as currently assessed.

The school district could not present evidence of a recent sale because there had been no sale. The school district also failed to present an independent appraisal witness to testify that the apartment complex was undervalued. Not surprisingly, the county board denied the school district's request to increase the valuation of the subject property.

This is where things got tough for the property owner, and where other Ohio taxpayers may face similar dilemmas. Having received the county board's denial of its complaint, the school district filed an appeal to the Ohio Board of Tax Appeals (BTA) to relitigate its argument that the apartment complex was undervalued.

Once a case is appealed to the BTA, the parties to the case obtain the right to conduct discovery. This is a process intended to help parties in a legal dis-

agreement to "discover" or learn the case and evidence the opposing side may present against them.

Here, as part of its discovery requests, the school district asked that the property owner provide directly to the school district copies of rent rolls, income and expense information and other business records.

Not wanting to turn over such sensitive information, the property owner filed a motion for protective order and requested the BTA deny the school district's prying requests into the day-to-day operations of the apartment building's financial performance. Because discovery is granted as a matter of right on appeal and the threshold for discovery requests is fairly low, the BTA denied the property owner's request for a protective order.

Facing what it believed to be an unconstitutional infringement of its right to privacy, the property owner appealed the BTA's decision denying the request for a protective order to the next appellate level. The taxpayer laid out its arguments of why the school board's baseless complaint seeking to increase the property owner's valuation was unconstitutional.

The appellate court was unmoved, however, and issued a short order upholding the BTA's decision denying the property owner's motion for protective order.

## Private data shared

Faced with the appellate court's order, the apartment building property owner was left with no choice but to

turn over to the school district years of rent rolls and years of income and expense records for the property. The school district then provided the property owner's own confidential and sensitive business information to the district's appraiser.

Thus, after failing to produce sufficient supporting evidence of its original valuation assertions, the very evidence the school district will now rely upon to increase the property owner's real estate valuation (and tax bill) will have been provided by the property owner itself.

Cases like the one outlined above illustrate the unfettered discretion that school boards have in deciding on what properties to seek increased valuations. This puts Ohio real estate owners' rights at risk, and needs to be responsibly and reasonably curtailed.

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