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PENNSYLVANIA COMMONWEALTH COURT DENIES UNIFORMITY CHALLENGES TO TAX APPEALS BASED ON A MONETARY THRESHOLD

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By Joseph F. Kessler

Background: Autozone Development Corporation (“Autozone”) filed an appeal to the Commonwealth Court of Pennsylvania (Case No. 253 CD 2019) after Kennett Consolidated School District (“School District”) had filed tax appeals first to the Chester County Board of Assessment and then to Common Pleas Court, Chester County for Autozone’s property located at 965 West Cypress Street, New Garden Township, Chester County, PA. The trial court made a determination of assessment in favor of the School District. Autozone filed an appeal to the Pennsylvania Commonwealth Court claiming that the School District’s practice in selecting properties for tax assessment appeals was not constitutionally uniform and in violation of *Valley Forge Towers Apartments N, LP v. Upper Merion Area School District*, 163 A.3d 962 (PA 2017).

Decision: On February 28, 2020, the Commonwealth Court concluded that the School District’s action in analyzing property tax appeals on an economic threshold and appealing the assessment of (Autozone’s) property did not violate the Uniformity Clause of the Pennsylvania Constitution (Pa. Const. art. VIII, § 1).

Result: Taxpayers have one less constitutional argument pursuant to the Uniformity Clause unless and until the Pennsylvania Supreme Court addresses this matter.

Key Fact: The School District had requested an appraiser to review all property assessments within its jurisdiction as to all classes of properties – commercial, residential and others having a high probability of being underassessed by more than one million of market value. Autozone’s property was one of twelve properties identified.

Legal Principles:

Valley Forge Towers:

In balancing a school district’s rights under 53 Pa. C.S. § 8885 and the Uniformity Clause, the Pennsylvania Supreme Court stated: “The limitations on disparate treatment imposed by the Uniformity Clause are not merely formal or abstract in nature. Although using public funds wisely and obtaining needed revenues are important objectives, salutary governance also requires attention to other substantive aims. The government must be concerned with ensuring a rough equalization of tax burdens under a structure in which taxes are imposed, adjusted and collected equitably. Thus, as “every tax is a burden,” *[Delaware]*, . . . 73 A. at 430, it is important that the public has confidence that property taxes are administered in a

just and impartial manner, with each taxpayer contributing his or her fair share of the cost of government.”

Punxsutawney Area School District v. Broadwing Timber, LLC (Pa. Cmwlth., No. 1209 C.D. 2018, filed October 29, 2019) (unreported).

In *Punxsutawney*, the PA Commonwealth Court concluded, “that the [d]istrict’s practice thus far has resulted in appeals of commercial or commercially used properties is not determinative where that practice is implemented or carried out without regard to the type or ownership of a property. The [d]istrict relies on the occurrence of a triggering event to bring a potentially underassessed property to its attention. So far, no sale of residential properties has resulted in a high enough realty transfer tax to warrant review, and Broadwing has not presented evidence to the contrary. That is not to say that none will in the future, and, based on [b]usiness [a]dministrator’s credited testimony, if one does, the same process will be used to determine whether that property’s assessment should be appealed. Such result is consistent with *East Stroudsburg [Area School District v. Meadow Lake Plaza, LLC* (Pa. Cmwlth. No. 371 C.D. 2018, filed October 17, 2019), *petition for allowance of appeal pending* (Pa., No. 723 MAL 2019, filed November 15, 2019)], wherein we rejected the taxpayers argument that, even if the threshold was facially neutral, it resulted in the appeal only of commercial properties based on the credited evidence presented by the school district that it would have appealed any residential property’s assessment had any met the threshold.”

In re Springfield School District, 101 A.3d 835 (Pa. Cmwlth. 2014).

The PA Commonwealth Court “concluded that the school district’s use of the \$500,000.00 threshold was based upon the reasonable financial and economic considerations of increasing its revenue, balanced against the costs of filing assessment appeals. *Id.* at 849. Moreover, this Court concluded that, although the monetary threshold would mostly subject commercial properties to assessment appeals, this fact did not warrant a different conclusion. *Id.*”

East Stroudsburg:

The PA Commonwealth Court’s decision in *East Stroudsburg* authorized the use of such thresholds. The holding in *East Stroudsburg* plainly determined that, even though a monetary threshold resulted in only commercial properties having their assessments appeals, such practice did not violate the Uniformity Clause.



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The Pennsylvania Supreme Court has declined to decide the issue of whether monetary classifications would run afoul of the Uniformity Clause. However, the PA Commonwealth Court recently answered that question in *East Stroudsburg* and in this decision.

For more information, contact [Joseph F. Kessler](#).