

Bill No. 2638-06

No. 15-06-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending portions of Article 207 to clarify the rules and regulations of the Board of Property Assessment Appeals and Review, to make the rules and regulations consistent with a base year valuation system of real property assessment and applicable state law and to provide the Board of Property Assessment Appeals and Review with the flexibility to adopt, in its sound discretion, under its authority to make rules and regulations for the hearing and disposition of appeals, special assessment appeal management orders to address any manner of issue or claim, substantive or procedural, presented for adjudication as part of an appeal or group of appeals concerning the valuation or tax exemption status of a property or properties.

Whereas, the County has transitioned from a fair market valuation system of real property assessment to a base year valuation system of real property assessment, consistent with the relevant portions of the Pennsylvania Constitution, the Allegheny County Home Rule Charter, the General County Assessment Law and the Second Class County Assessment Law; and

Whereas, the County has adopted 2002 as the base year; and

Whereas, the Court of Common Pleas of Allegheny County, Pennsylvania, in the cases James C. Clifton, et al., v. Allegheny County, No. GD 05-028638 and Pierce, et al., v. Allegheny County, Pennsylvania, et al., No. GD 05-028355, specifically validated the 2002 base year valuation system of real property assessment; and

Whereas, under the fair market valuation system of real property assessment, taxing body appellants had filed assessment appeals and for recent sales only have offered as evidence of fair market value a copy of the deed, with the disposition being an increase of the assessment to the sale value; and

Whereas, such a practice is inconsistent with a base year valuation system of real property assessment; and

Whereas, despite the fact that the County has adopted a base year valuation system of real property assessment, many appellant-taxing bodies continue to file assessment appeals premised upon recent sales of real property, which sales occurred

after 2002, which appeals appear to violate the spirit, if not the letter, of the County's base year valuation system of real property assessment; and

Whereas, many of the appellant-taxing bodies who continue to file assessment appeals premised upon recent sales of real property are also increasing their millage rates, thereby exacerbating the tax increases that they are forcing upon their constituents; and

Whereas, state law requires that an adequate local administrative process be established for the hearing and disposition of appeals concerning tax assessments and the tax exemptions; and

Whereas, County Council is of the considered opinion that the Board of Property Assessment Appeals and Review should have the flexibility to adopt, in its sound discretion, special assessment appeal management orders in order to address any manner or type of issue or claim, substantive or procedural, presented for adjudication as part of an appeal or group of appeals concerning the valuation or the tax exemption status of a property or properties; and

Whereas, County Council is also of the considered opinion that the amendments provided herein would clarify the rules, regulations, practices and procedures of the Board of Property Assessment Appeals and Review so that they are more consistent with a base year valuation system of real property assessment and with the relevant portions of the Pennsylvania Constitution, the Allegheny County Home Rule Charter, the General County Assessment Law and the Second Class County Assessment Law; and

Whereas, County Council is also of the considered opinion that the amendments providing herein would provide relief to those taxpayers who experienced an increase in their assessments as a result of a taxing body appeal after a recent sale, at which proceeding the taxing body only offered as evidence of fair market value a copy of the deed.

The Council of Allegheny County hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the Preamble to this Ordinance are incorporated by reference in their entirety herein as findings of fact made by County Council.

SECTION 2. Amendment of Section 5-207.06 of the Administrative Code.

Section 5-207.06 of the Administrative Code is hereby amended, in part, to read as follows:

§ 5-207.06. Rules and regulations for appeals.

B. The rules and regulations adopted by the Appeals Board shall include, but not necessarily be limited to, the following:

- (1) procedures for filing, scheduling and hearing appeals;
- (2) required notices and postponement of hearings;
- (3) rules of evidence governing such appeals;
- (4) the methodology by which appeals decisions are to be made by the Appeals Board including appeals on base year valuation, which methodology shall be ~~reasonably consistent with that used by the Office of Property Assessment~~ the valuation methods provided under state assessment laws for ~~in~~ arriving at assessed values for properties; ~~and~~
- (5) the format and content of the Appeals Board's decisions, including providing in the disposition notice ~~and~~ explanation of the rationale leading to any change in assessed value as a result of the hearing;
- (6) Such special assessment appeal management orders that the Appeals Board, in its sound discretion, believes to be necessary and useful in order to address any manner or type of issue or claim, substantive or procedural, presented for adjudication as part of an appeal or group of appeals of the valuation of a property or the tax exemption status of a property or properties. The Appeals Board may adopt a special assessment appeal management order either upon its own motion, upon advice and recommendation of its Solicitor, or upon the motion of any party to any appeal filed and pending; and
- (7) The Appeals Board, when considering an appeal on a base year valuation, shall make no reference to ratio in its decision and shall express its decision in terms of such base year value. All appeals filed while the County is under the base year form of assessment shall be deemed to include an appeal by the ~~property owner taxpayer~~ of the base year valuation. In addition, the appellant may elect to have the appeal heard solely on the issue of whether the base year value is correct or incorrect. So long as the County is under the base year form of assessment the Board may, but shall not be required to, determine the current fair market value of any property under appeal. Except to correct clerical or mathematical errors or to correct a base year value, the Board may not adjust a base year value unless it is established by clear and convincing evidence that there has been: (1) an addition or removal of improvements on the subject property; or (2) physical changes in the land of the subject property. In no case may the Board permit an increase in the base year value founded, in whole or in part, upon a sale in a year subsequent to the established base year.

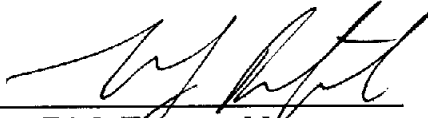
SECTION 3. Severability. The provisions of this ordinance adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the County Council that this ordinance would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

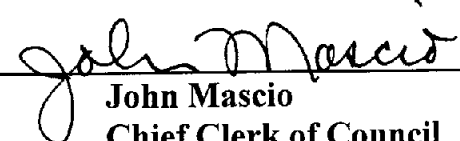
SECTION 4. Repealer. Any Resolution and Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.

PRIMARY SPONSORS: COUNCIL PRESIDENT FITZGERALD AND COUNCIL MEMBER MACEY

Enacted in Council, this 5th day of JULY, 2006,


Council Agenda No. 2638-06.


Rich Fitzgerald
President of Council

Attest: 
John Mascio
Chief Clerk of Council

Chief Executive Office  July 11, 2006.

Approved: 
Dan Onorato
Chief Executive

Attest: 
Donna Beltz
Executive's Secretary