



PA Supreme Court Addresses Main Concern of SB 334

The Pennsylvania Supreme Court issued a very important decision in 2017 related to school district initiated property assessment appeals, commonly referred to as reverse appeals.

In *Valley Forge Towers Apartments v. Upper Merion School District*, 163 A.3d 962 (Pa. 2017), the Court held that a school district's practice of filing reverse appeals against only commercial properties and not other types of properties, such as single-family homes, would violate the Pennsylvania Constitution's Uniformity Clause.¹

Uniformity Clause

To fully understand the decision and its impact on school districts, some background on the Pennsylvania Supreme Court's interpretation of the Uniformity Clause, as it relates to property assessment appeals, is required.

First, taxpayers are entitled to relief under the Uniformity Clause when their property is assessed at a higher percentage of fair market value than other properties in the taxing district. This is based on the general principle that taxpayers should pay no more and no less than their proportionate share of the cost of government.

Second, under the Uniformity Clause, all real estate in a taxing district is a single constitutionally designated class entitled to uniform treatment and consequently, taxing authorities are prohibited from creating property sub-classifications and treating them differently.

¹ PA Constitution, Article VIII Section 1.



Valley Forge Towers

In *Valley Forge Towers*², the Court found that the assessment practice would, if proven, violate the Uniformity Clause because a system of only appealing the assessments of one sub-classification of properties, when that sub-classification is based on property type (in this case, commercial), would result in members of the sub-class knowing that they alone have been chosen for scrutiny solely based on their membership in the sub-class, which leads to the sub-class paying more than its proportionate share of property taxes.

Impact on school districts

This decision will have numerous impacts on school district reverse appeal strategies.

- School districts cannot implement a program or practice of only appealing the assessment of one type of property – i.e., commercial property, single-family residential, etc.
- School districts cannot ignore or concentrate reverse appeals on one type of property based on political considerations – i.e., appealing only commercial property values to not upset voters.
- School districts do not have to appeal every property or seek a countywide reassessment. School districts could use some other method of selecting properties for reverse appeal, such as a monetary threshold or some other selection criteria if it were implemented without regard to the type of property in question or the residency status of its owner.

The bottom line for school districts is that their reverse appeal strategies need to ensure a “rough equalization of tax burdens under a structure in which taxes are imposed, adjusted, and collected equitably.” School districts should consult their solicitors with any questions as to the legality of their current reverse appeal strategies.

The impact of this case on SB 334

Pennsylvania courts have universally recognized the right of taxing authorities like school districts to file reverse appeals. The decision in *Valley Forge Towers* once again expressly affirmed that right so long as the methods of deciding which properties to appeal are nondiscriminatory.

By eliminating the right to initiate reverse appeals, SB 334 will help owners of apartment complexes and large commercial properties that are significantly under-assessed to avoid paying their share of property taxes. This restriction in the ability to generate future local revenues will harm schools and unfairly shift the property tax burden to fairly assessed properties. SB 334 can be seen as a measure to protect businesses and other commercial properties from being unfairly targeted for reverse appeals – a concept directly addressed in *Valley Forge Towers*. With the key issue in SB 334 already decided by the courts, the bill now only serves as a means to increase the difficulty for school districts to use their right to file reverse appeals.

For example, SB 334 would prohibit a school district from appealing the assessment of a property based on the sale of the property. However, the Court in *Valley Forge Towers* suggests that using recent sales information as part of a system of identifying properties for appeal based on a monetary threshold would be valid as long as it is implemented without regard to the type of the property or residency status of the owner. This strategy would seem to make sense for school districts in identifying properties for appeal. It not only recognizes that school districts should be concerned with the revenue to be generated from the appeal and the costs of filing the appeal to ensure an efficient use of school district resources, but can also be done in a way that is neutral to the types of property involved. However, such a practice would be illegal under SB 334.

Help preserve the right of school districts to file reverse appeals. Contact your legislator today and ask your legislator to oppose SB 334.

²Because the complaint filed by *Valley Forge Towers* was dismissed by the Court of Common Pleas, upon appeal, the Supreme Court is required to view all allegations made in the complaint as true in reaching its decision.