

A taxing affair for towns as appeals mount

Drop in property values sparks corporate review, attorneys say

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By Andrew Kitchenman

A record number of tax appeals are being filed in state courts, as property owners take advantage of the steep drop in property values since the market crash.



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"You can be properly assessed, and your neighbor under or over" assessed, Duggan said. "The question is whether your property is properly assessed irrespective of what is going on in the market."

Most firms filing tax appeals have offered to be paid on a contingency basis, allowing clients' payments to vary with their success and removing a risk for business owners, according to lawyers.

Thomas J. Cafferty, director of business and commercial litigation for Newark-based **Gibbons P.C.**, said one commercial client saved \$180,000 in taxes by pursuing an appeal. However, that business was in bankruptcy, reflecting the double-edged sword of falling property values.

"It's a difficult position for the clients, and candidly, it can become a difficult position for the towns," said Cafferty, who has seen the appeals rise with economic downturns throughout his 35 years of working on tax appeals.

Tax advisers said it's imperative that property owners file tax appeals by the state's April 1 deadline.

Some of the state's largest law firms have been at the forefront of aiding property owners, while smaller firms have carved out niches in filing property appeals.

On Dec. 31, the state Tax Court's six judges were working their way through 34,782 cases, an all-time high.

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Thomas J. Denitzio Jr., a partner at **Greenbaum, Rowe, Smith & Davis**, in Woodbridge, said that since most towns go at least several years before reassessing properties, “it’s a pretty good bet that they’re overvalued. Many towns don’t have the resources to be absolutely sensitive to the market.”

Denitzio noted that with roughly 35,000 pending in Tax Court, “the courts are very backed up — it doesn’t mean that you’re going to be heard anytime soon.”

Denitzio said this means it can take time to reach a settlement.

“I’ve had a couple of clients frustrated because they need some relief, but there’s no urgency for the towns because we don’t have a trial date,” he said. “I think the courts are doing the best they can under the circumstances.”

Denitzio noted a pair of factors leading to a lag between the drop in property values and the surge in appeals: lawyers have been able to advertise their services and there is now a larger record of homes that have sold at lower values than there was two years ago, when the market was frozen.

David B. Wolfe, of **Skoloff & Wolfe**, in Livingston, agreed the soaring appeals reflect the decline in property values.

“There are more meritorious cases than there ever have been,” Wolfe said.

New Jersey League of Municipalities Executive Director William G. Dressel said the tax appeal issue has added urgency to broader efforts to rein in local government expenses and property taxes.

“This is a major problem in most of our 566 municipalities,” he said, adding that it “dominates my legislative agenda right now.”

Manchester Mayor Mike Fressola said there has been little relief for municipalities forced to pay ruinous tax refunds. Town governments are hit particularly hard because the entire refund must come out of their share of property taxes, while school districts and county governments are not affected by refunds.

Manchester had a township-wide revaluation in 2008 and saw values drop 14 to 26 percent since then.

“Nobody could have predicted that, so here we are holding the bag,” Fressola said.

Another town that struggled with a tax-appeal fiscal crisis is Robbinsville, whose township-wide revaluation took effect in 2007.

“Coming to the close of 2009, when we started to get our arms around the impact of the tax appeals, it was frightening,” said Timothy McGough, township administrator.

The township lost \$1.7 million of \$18 million in projected revenue due to appeals, prompting furloughs where employees had the option of taking one-fifth or one-tenth of their scheduled time off without pay.

Timothy E. Shanley, an attorney with LeClairRyan, in Newark, said while it can be difficult for towns to settle cases, “we’ve come up with creative ways to make the towns and the client happy,” including cases where the appeal of 2010 taxes is dismissed in return for a lower assessment in 2011.

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