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HOW SOON AFTER YOU WIN A TAX APPEAL REDUCING THE ASSESSED VALUE OF REAL ESTATE MUST THE TAX COLLECTOR REDUCE YOUR TAX BILL?

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At first glance, a cooperative corporation, condominium unit owner or condominium association which successfully appeals a property tax assessment may believe that it has no choice except to wait many months for an actual reduction in the taxes it must pay. Reason and common sense, however, suggest that a reduction in assessed value should result in a reduction in taxes as soon as the tax court judgment reducing the assessed value becomes final. Recently, a co-op and a municipal tax collector narrowly avoided a collision in the New Jersey Tax Court over this issue.

In 1993, the cooperative corporation filed a tax appeal for that year. The co-op and municipality settled the appeal, agreeing to reduce the co-op's assessed value by over \$8,000,000.00. Their agreement was formally embodied in a Consent Judgment entered in the County Tax Board in mid-August 1993. The municipal Tax Collector, however, ignored the Consent Judgment and instead issued a final 1993 tax bill that demanded payment of \$271,000.00 more than the co-op actually owed based on the reduced assessed value.

The municipality's third and fourth quarter tax bills for 1993 had not yet been prepared at the time the Consent Judgment was entered because the municipality had previously adopted the state's fiscal year. The Tax Collector had possessed at least "constructive" notice of the reduction in the co-op's assessed value for many weeks when she finally began preparing the municipality's second half 1993 tax bills. She received actual notice from the co-op's counsel while the bills were still being prepared. Three weeks later, however, citing personnel shortages and the municipality's urgent need for revenue, the Tax Collector defiantly mailed a final 1993 tax bill to the co-op based upon the assessed value that existed prior to entry of the Consent Judgment. The bill was approximately \$271,000.00 higher than it would have been if the reduced assessed value had been used.

The co-op calculated the balance of taxes that it owed for 1993 using the reduced assessed value, tendered payment in full, and demanded that its tax bill be corrected and receipted as paid in full. The Tax Collector refused. The co-op then prepared to take the municipality and the Tax Collector to court on an expedited basis, relying on N.J.S.A. 54:51A-7, which allows a taxpayer to sue in the Tax Court for the purpose of correcting an error in an assessment appearing on its tax bill. The co-op

also planned to rely upon N.J.S.A. 54:4.2, which prescribes when tax refunds are to be made, together with several Tax Court decisions interpreting this statute.

The co-op's attorney, by telephone, then notified the municipality's tax counsel that he had obtained permission from the Tax Court to appear before it the next day to seek an order immediately restraining the Tax Collector from taking any action to collect additional money from the co-op for 1993, and ultimately for an order correcting the co-op's final 1993 tax bill. At this point, reason and common sense started to surface around town hall. Without the participation of the intractable Tax Collector, and presumably over her objection, the municipality and governing body quickly drafted a resolution correcting the final 1993 tax bill and acknowledging that the co-op's tax obligation for 1993 had been paid on time and in full. The co-op was spared the dilemma of choosing between making a \$271,000.00 "interest-free loan" to the municipality for some indeterminate period, or being declared delinquent in the payment of \$271,000.00 of real estate taxes for 1993.

But, given the Tax Collector's conduct, the co-op's concern did not end there. The co-op believed that the Tax Collector might again refuse to use the reduced assessed value in preparing the first and second quarter 1994 tax bill. If the Tax Collector did not use the reduced value, then in each of these quarters the co-op's tax bill would be almost \$70,000.00 higher than warranted by the reduced assessment.

The municipality was concerned, too, but for a very different reason. If the reduced assessed value were used, the municipality would suffer an irretrievable loss of revenue for the municipal portion of the first half 1994 bill. The loss would be irretrievable as an unanticipated consequence of the municipality's decision to operate on the state's fiscal year. The municipality was further concerned with the logistical problem posed. The tax bill computer program used by New Jersey municipalities reputedly cannot accept and integrate changes in individual assessed values.

For assistance in resolving its two-pronged dilemma, the municipality turned to the Division of Local Government Services. The Division directed the municipality to prepare the co-op's first half 1994 tax bill by hand and to use the reduced assessment. The Division's direction was consistent with an informal 1980 opinion of the Attorney General which advised that where a "traditional" final current year/preliminary following year tax bill had been issued, and the assessed value of a taxpayer's property was subsequently reduced, the preliminary bill was to be corrected and the preliminary tax was to be based upon the reduced assessment. As it turned out, Division personnel had told the municipality's Tax Collector weeks, if not months, earlier, that she was required to use the reduced assessed value in preparing the third and fourth Quarter 1993 tax bill for this co-op. She instead decided on her own to use the old assessed value.

The lesson here for co-ops, condominium associations, and individual condo unit owners successful in winning reduced assessments, is that their municipal tax collector must give effect to that reduction before the taxpayer is required to pay the next tax installment falling due. Any taxpayer who is confronted with a tax collector who refuses to do so should turn to its attorney for help. If the tax collector will not listen to that attorney, the Division of Local Government Services should be contacted for assistance. And if the Tax Collector will not listen to the Division, then the taxpayer and its counsel should head straight to the Tax Court.