

# New Jersey



## Assessors



## Bulletin



MEMBER  
International Association  
of Assessing Officers



VOL. 31 No. 2

May 1992

### PRESIDENT'S MESSAGE

As time approaches towards the June Conference, I have found the past months as President to be very rewarding both in knowledge that I have obtained and in the meeting fellow individuals involved in assessment administration that have offered to lend a helping hand with ideas and expertise. At the same time I have also experienced frustration in a lack of response from assessors in our repeated request for a "Call For Action" in the quest to obtain information to be used in fighting the "Tank Bill." This lack of response may very well cost the loss of ratables not only in your municipality and county but throughout the state of New Jersey.

On another topic of importance, as time goes by, we tend to get caught up with legislative issues and immersed in tax appeal preparation that we lose focus of other meaningful events that cross our path of life. One such event has occurred with the printing of this issue of the New Jersey Bulletin. For the first time in generations the Bulletin has been printed under guide of someone other than Louis Schick. When Lou sent me his letter of resignation several weeks ago, I was lost for ideas of who to turn to for help. You see, Lou Schick is the Bulletin. For years at the June Conference or at the League of Municipalities, everyone waited to see where Lou was with his famous camera so they could get into a

(continued on next page)

### LEGISLATIVE REPORT

#### "Don't Rest Too Long"

Bill Dressel, Assistant Executive Director of the New Jersey State League of Municipalities, was right when he made this report's headline comment last December. The ink was barely dry on our last report when the "Business Retention Act" began to move in earnest. The Senate version, S-332, passed in that house 31-5 and was substituted for A-247 and A-847 before

passing in the Assembly 49-10. As this report is being prepared, time is running out for the Governor to either sign or veto this bill.

Early results of the implementation of chapter 75 as it relates to notices and the appeal process has generated some proposals for changes, including the elimination of prior year's tax from the notice, moving the mailing of notices to a date prior to filing the tax list and moving the appeal date. The April 1 appeal filing deadline has met with mixed reactions from different areas of the state and will be the subject of much discussion. While many believe that the first year hassles will not be reflected in future years, legislation (A-1172) has been introduced to move the appeal filing deadline

(continued on next page)

## PRESIDENT'S MESSAGE (con't.)

group photo for the next issue. I contacted past presidents for ideas and they all told me, "I don't know what to do, Lou ran the Bulletin." Well, to you Mr. Louis Schick, I wish to thank you for all your years of work and dedication that you have faithfully given to your beloved A.M.A.N.J., and you may be assured that the membership of this fine association has appreciated you as the man known as "Editor."

—Joseph Gallagher

## ASSESSOR WANTED

### BOROUGH OF RINGWOOD-MUNICIPAL

**ASSESSOR**—The Borough of Ringwood is accepting applications for the position of Municipal Assessor. Ringwood is a Northern New Jersey community, located in Passaic County, with a population of 12,623. The Borough is 27.3 square miles and has 4,616 line items. The form of government is Council/Manager. The position will be available May 1st. Salary is commensurate with experience. Submit resumes to the Screening Committee, Borough of Ringwood, 60 Margaret King Avenue, Ringwood, New Jersey 07456.

### ASSISTANT TAX ASSESSOR/TOWNSHIP OF WEST WINDSOR

—Rapidly growing Central New Jersey Municipality is seeking an Assistant Tax Assessor. Application should be experienced both in the clerical functions of the Assessment Office as well as having experience with residential added assessments and appeals. Certified Tax Assessors Certificate is desirable, but not a prerequisite. Salary commensurate with experience, \$28,114-\$36,601 range. Excellent benefits. Apply with resume to Chief Financial Officers Office, West Windsor Township, P.O. Box 38, Princeton Junction, New Jersey 08550. Deadline for applications, Friday, June 1, 1992.

## ASSESSORS OUTING

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## LEGISLATIVE REPORT (con't.)

back to August 15.

As of May 5th, over 750 bills have been introduced in the Senate with an additional 1400 in the Assembly. These totals include 40 bills which may be of interest to our Association or otherwise relate to property tax assessment matters. These bills will be reviewed at an upcoming meeting of the committee.

If anyone has a position or opinion on legislation that is discussed in the *Bulletin*, they should forward their comments to their area Vice-President for submission to the committee. All Vice-Presidents are members of the committee.

Please remember that anyone desiring a copy of any bill or chapter law may request it by calling the Office of Legislative Services Bill Room at 609-292-6395. The Bill Room staff will mail the requested items to you.

**Bill Birchall and Walt Kosul, Co-Chairpersons**

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## LOCAL PROPERTY TAX

**Despite Comparable Sales Being Different, Market Approach to Valuation Was Proper** - These were consolidated appeals of Tax Court decisions involving 1981 and 1982 property tax assessments by Teaneck Township. The Tax Court had found that the contract price urged by Glenpointe's expert was not probative of the true value of the land because the contract had been executed 3½ years before the assessing date.

Concerning property improvements valued for the 1982 assessment, the Tax Court had held that the profit earned by Glenpointe as its own general contractor—amounting to 10% of actual costs—should be added to the direct costs. The Appellate Division ruled that there was no merit to Glenpointe's argument that the Tax Court did not justify or explain how it arrived at the determined true value.

Glenpointe also had argued that the comparables relied on by the Tax Court, in fact, were not comparable because of various differences, including size, topography, location, off-site development, zoning restriction, and tax rate. The Appellate Division explained that in the market approach to valuation, differences between a comparable property and the subject property are dealt with by adjustments that recognize the differences.

The Appellate Division affirmed the Tax Court, which had found the comparables similar in physical characteristics, location, and time of sale, and which had recognized the differences by adjusting the value down by \$20,000 per acre. Further, the Appellate Division ruled that the differences between the comparables and the subject property were not great enough to require rejection of the market approach to valuation.

Glenpointe also contended that the Tax Court had erred in applying the Chapter 123 ratios on the subject property where the appellant had presented

competent and uncontroverted testimony by its expert that application of the Chapter 123 ratios was "egregious."

Glenpointe contended that the Tax Court should have applied the expert's unweighted and unclassified ratios. The Township responded that Glenpointe's argument was an attack on the methodology, adopted by the Legislature and approved by the courts, which balances the desires of taxpayers for fairness on the one hand and the need for stability for assessments on the other.


The Appellate Division ruled that the differences in ratios for the two years in issue were not virtually confiscatory, which is what is required to apply ratios other than the Chapter 123 ratios. The taxpayer's right to relief should be determined in accordance with Chapter 123 in all but most extreme circumstances.

The Appellate Division held that this was not such a circumstance and affirmed the Tax Court decision.

**Glenpointe Assoc. v. Twp. of Teaneck** - 241 N.J. Super. 37(App. Div., 1990).



Retiring Hamilton-Mercer Assessors Lee Jones and Randy Brokaw.



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## LOCAL PROPERTY TAX

**To Impose an Added Assessment, City Must Comply with Statutory Deadlines Stated in Added Assessment Procedure Law** - Clifton City appealed a Tax Court decision that failure to timely file an added assessment list precluded an added assessment for the year in question except through the omitted assessment procedure. The Appellate Division of Superior Court affirmed the Tax Court ruling.

Beginning in 1985, American Hydro made certain improvements to its dam and plant that were completed in April 1986. On November 12, 1986, the assessor filed an added assessment of \$1,185,600 for American's improvements. The County Tax Board certified Clifton's added assessment list on November 14, 1986. A bill for the additional tax was received on December 11, 1986.

The Appellate Division found that Clifton's attempt to assess American's improvements violated three statutory time frames:

- The assessor's added assessment list is to be filed in duplicate with the county board of taxation on October 1 of the tax year. (N.J.S.A. 54:4-63.11)
- The statute requires the county board to examine the list, make any necessary revisions or corrections and deliver a certified copy of the duplicate to the municipality's tax collector on or before October 10 of the tax year (*Ibid*).
- The tax collector is required to prepare, complete and deliver the tax bills to the taxpayer based on the added assessment "at least one week before November first." (N.J.S.A. 54:4-63.7).

Thus, the statutes create a 30-day window of opportunity to begin and to perfect the added assessment.

The tax bill was received 11 days after the December 1 deadline for filing an appeal from the added assessment (N.J.S.A. 54:4-63.11). Anticipating this anomaly, the county board had asked the Division of Taxation for an extension of the time for the taxpayer to appeal. The request was denied.

On February 17, 1987, American filed a two-count complaint with the Tax Court seeking an order extending the time of appeal and a judgement to void the added assessment. The Tax Court ruled that the added assessment was invalid because Clifton had violated the added assessment statute.

Resolution of the substantive issue depended on an interpretation of N.J.S.A. 54:4-58 (hereinafter Section 58). In pertinent part, that statute provides:

"No tax, [or] assessment...shall be set aside or reversed...for any...illegality in assessing, laying or levying any such tax [or] assessment...if the person against whom or the property upon which it is assessed or laid is, in fact, liable to taxation [or] assessment..."

Clifton and the Attorney General contended that Section 58 is to be applied literally, thereby rescuing the added assessment at issue, despite Clifton's violation of the statutory scheme.

In rejecting that view, the Appellate Division concluded that the omitted assessment procedure should have been used to correct Clifton's failure to timely implement the added assessment statute. Section 58 was not applicable. Accordingly, the Tax Court decision was affirmed.

**American Hydro v. Clifton City** - 239 N.J. Super. 130 (App.Div., January 1989), *aff'g* 9 N.J. Tax 259 (Tax Court, 1987).

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### 1992 WORK CALENDAR FOR ASSESSORS, COLLECTORS AND TREASURERS ISSUED

Property Administration's 1992 **Work Calendar** has been distributed to all county board of taxation offices, municipal tax assessors, collectors and treasurers.

The **Calendar** contains a list of assessment events and days keyed to each month for which there are corresponding references to the **Assessors' Handbook, Law Manual**, or appropriate citations in the New Jersey Statutes.

Also contained are the latest changes brought about by Chapter 75, **P.L. 1991**, and monthly reminders of customary procedures and tasks which may assist officials in the orderly discharge of their duties. The **Calendar** also provides official State holidays; other special dates of interest; conference dates; seminars; various examination dates for certification to the positions of assessor, collector, clerk, and treasurer, and Julian calendar dates for proration purposes.

The '92 **Calendar** is still available, and Property Administration is pleased to honor requests for additional copies as long as the supply lasts.

### ASSESSORS-REMINDER

Contact the I.A.A.O. Education Department at (312) 947-2068 for information on various seminars, conferences, and workshops. Refer to the Education Calendar printed in the Update each month.

Help Your Editor—  
Send photos, clippings,  
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Randy Brokaw  
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## 25 MEMBERS WHO SIGNED THE PETITION TO CREATE A NEW JERSEY IAAO CHAPTER

1. William E. Birchall, Jr., Ass't. Assessor  
Township of Manchester  
P.O. Box 31, Hainesport, NJ 08036-0031
2. H. Randolph Brokaw, Assessor  
Hamilton  
P.O. Box 261, Pennington, NJ 07534-0261
3. George R. Brown III, Administrator  
Cape May County  
DN-303 - Courthouse, Cape May, NJ 08210
4. Frank A. Bucino, RES, Assessor  
Boro of Rutherford, Municipal Bldg.  
Rutherford, NJ 07070
5. John J. Butler, Assessor  
Boro of Peapack-Gladstone  
P.O. Box 238-9 Pfizer Dr., Gladstone, NJ 07934
6. Sharon Coviello, Assessor  
Morris Township  
P.O. Box 7603-58 Woodland Ave.  
Convent Station, NJ 07961-7603
7. Carl Eby, Assistant Assessor  
Franklin Township  
475 DeMott Lane, Somerset, NJ 08873
8. Mary Lou Hartman, Assessor  
Asbury Park City  
1 Municipal Plaza-33 Main St.  
Asbury Park, NJ 07712
9. Victor A. Hartsfield, Sr., Assessor  
East Orange City  
44 City Hall Plaza, East Orange, NJ 07019
10. Mary Q. Hill, Assessor  
East Hanover Township  
52 Beach St., East Hanover, NJ 07936
11. Burnham L. Hobbs, Jr., Assessor  
Franklin Township  
475 DeMott Lane, Somerset, NJ 08873
12. William W. Iannone, Assessor  
Municipal Building  
North Plainfield, NJ 07060
13. Edward L. Kerwin, Jr., Assessor  
Bedminster Township  
Bedminster, NJ 07921
14. Walter G. Kosul, Assessor  
East Brunswick Township  
P.O. Box 218, East Brunswick, NJ 08816-0218
15. Joan Kozeniesky, Assessor  
Wyckoff Township, Scott Plaza  
Wyckoff, NJ 07481
16. Joseph J. Kupsch, Jr., Assessor  
Sayreville Borough  
Sayreville, NJ 08872
17. John K. Meeker, Administrator  
Union County Board of Taxation  
271 N. Broad St., Elizabeth, NJ 07207
18. William F. Mitchell, Assessor  
Northfield City  
1600 Shore Road, Northfield, NJ 08225
19. John J. Newman, Assessor  
Sea Isle City  
City Hall-45 & Landis, Sea Isle City, NJ 07243
20. William Nikitich, Assessor  
Neptune Township  
P.O. Box 1125, Neptune, NJ 07754-1125
21. Joseph Ravitz, Assessor  
Middle Township  
33 Mechanic Street  
Cape May Court House, NJ 08210
22. Charles J. Shutt, Assessor  
Ridgewood-Midland Park  
131 North Maple Avenue, Ridgewood, NJ 07450
23. Joseph J. Sorrentino, Assessor  
Little Egg Harbor Township  
Gifford Road, Little Egg Harbor, NJ 08087
24. Harvey G. Weber, Jr., Assessor  
Edgewater Boro  
916 River Road, Edgewater, NJ 07020
25. Marcia S. Zujkowski, Assessor  
Bernards Township  
P.O. Box 437-Collyer Lane  
Basking Ridge, NJ 07920



The New Jersey Chapter of IAAO recently held an education committee meeting to discuss the formation of a candidates' club. From left to right: Carmen Mistichelli, New Jersey Real Estate Appraisal Commission; Frank Bucino, RES, president, New Jersey Chapter of IAAO; Victor A. Hartsfield, president, Association of Municipal Assessors of New Jersey; and Ray Bodnar, Rutgers University Bureau of Government Research.

## \* \* MEETING NOTICE \* \*

To: All IAAO and NJAAO Members, Candidates and Interested Parties

A special meeting of the NJAAO has been scheduled for Tuesday evening June 9th following dinner during the Annual Assessor's Conference at Rutgers. The meeting will be held in the large meeting room. Notices will be posted.

The purpose of this meeting is to discuss membership requirements and to review designation requirements for candidates. These requirements have recently changed. We also hope to discuss upcoming educational activities.

All candidates and potential candidates are urged to select a subject property for their demonstration narrative report and to bring with them 4-5 comparable sales, including sales data and physical descriptions so that these too will be discussed. I hope to see you at Rutgers Tuesday evening.

Very truly yours,  
George R. Brown, III, CTA, SCGRE  
Secretary

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### TAX ASSESSORS CERTIFICATES

Seventeen persons qualified to become municipal tax assessors by passing the C.T.A. examination. They are as follows:

ATLANTIC COUNTY: Joseph Havrilchak, Jr., Somers Point City.

BERGEN COUNTY: Benjamin M. Perlman, Paramus Borough

BURLINGTON COUNTY: Timothy C. Kuhn, Southampton Township; Fred C. Rapagna, Southampton Township

CAMDEN COUNTY: Martin George Blaskey, III, Camden City; Ann D. Heppe, Berlin Borough.

GLOUCESTER COUNTY: Linda S. Owen, Harrison Township.

HUNTERDON COUNTY: Richard J. Carmosino, Lambertville City.

MERCER COUNTY: Anne M. Zamonski, Ewing Township.

MIDDLESEX COUNTY: Patricia M. Williams, Jamesburg Borough.

MONMOUTH COUNTY: Maurice J. Stack, II, Little Silver Borough; J. Stephen Walters, Middletown Township.

MORRIS COUNTY: Joseph A. Ferraris, Jr., Hanover Township.

OCEAN COUNTY: Matcene D. Hopkins, Dover Township.

SOMERSET COUNTY: Daniel T. Galati, Montgomery Township; John S. Gillooly, Franklin Township.

SUSSEX COUNTY: Patrick W. Bailey, Franklin Borough.



## SENATE, No. 332

An Act concerning the taxation of certain business property, amending R.S.54:4-1 and P.L.1986, c.117, and supplementing chapter 4 of Title 54 of the Revised Statutes.

### STATEMENT

This bill provides refinements in the definitions of real and personal property and is intended to reaffirm the exclusion of business personal property from local property taxes.

The need for clear definitions to differentiate real property from personal property has been apparent since the implementation of P.L.1966, c.136 and c.138 by which the State preempted the taxation of business personal property as "tangible goods and chattels used or held for use in any business, transaction, activity or occupation conducted for profit," but defined as real property "goods and chattels so affixed to real property as to become part thereof and not to be severable or removable without material injury thereto." In applying those definitions, the Supreme Court of New Jersey correctly discerned a legislative intent "to create in New Jersey correctly discerned a legislative intent "to create in New Jersey a fiscal climate that will contribute to the attraction of industry. A significant step in the implementation of this legislative endeavor was the removal of the burden of local property taxation from machinery and equipment use in business." *City of Bayonne v. Port Jersey Corporation* 79 N.J. 367, at 380 (1979).

In 1986, the Legislature recognized the need to further differentiate between real and personal property to redress a perceived erosion of the municipal real property tax base resulting from Tax Court decisions which held that large petroleum storage tanks and equipment necessary to the use of a building were personal property. P.L.1986, c.117, attempted to refine the definition of real property both to preserve the municipal real property tax base and to reaffirm the broad exclusion of business personal property from local taxation. Excluded from the definition of real property (R.S.54:4-1.b.) was "machinery, apparatus or equipment which is neither functionally essential to a structure the personal property is within or to which the personal property is affixed nor constitutes a structure itself." The terms "structure" and "functionally essential to a structure," were not defined. Recent New Jersey Tax Court decisions interpreting those terms have created discriminatory classifications, based on whether machinery, apparatus or equipment is affixed to a general purpose property or a special

purpose property.

This legislation is intended to replace the classifications established by *Texas Eastern Transmission Corp. v. Div. of Taxation* 11 N.J. Tax 198 (1990), *Badische Corp. v. Kearny*, 11 N.J. Tax 385 (1990), and other recent Tax Court decisions which have greatly narrowed the class of business personal property excluded from local taxation. Under R.S.54:4-1.b., as amended by this Act, items of machinery, apparatus or equipment used in the conduct of a business are defined as personal property regardless of the class or type of real property to which such items may be affixed. Such items are defined as real property only if they constitute a structure, as defined in this Act, or are primarily used to enable a structure to support, shelter, contain, enclose or house persons or property. Examples of machinery, apparatus or equipment which become part of real property would include a central heating or air conditioning system, elevators, escalators, tacked wall to wall carpeting, suspended ceilings, fixed or moveable partitions, plumbing and plumbing fixtures connected to a plumbing system, overhead lighting, a sprinkler system, piping and electric wiring up to the point of connection with a manufacturing process or other business conducted within the structure, a central hot water system, or a boiler primarily used to supply a central hot water system or central heating system.

Machinery, apparatus and equipment used in cogeneration and independent power production falls within the definition of personal property. New Jersey has maintained a clear and consistent policy towards alternative power generation. Legislative findings and determinations set forth in P.L.1987, C.365, the Department of Commerce and Economic Development Act, state that "a secure, stable and adequate supply of energy at reasonable prices" is essential to achievement of the goals of maximizing economic growth, promoting employment and ensuring general prosperity in the State. The Legislature determined that a principal method of achieving those goals was "the widespread use of alternative energy sources, including electric cogeneration of energy, with independent power producers selling excess power to utilities," and that the Legislature should "promote and assist the development and utilization of cogeneration of energy."

P.L.1966, c.138, created an exception to the State preemption of business personal property taxation for "tangible goods and chattels, exclusive of inventories, used in business of local exchange telephone, telegraph and messenger systems." This Act creates

## *Association of Municipal Assessors of New Jersey*

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#### **CONGRATULATIONS & BEST WISHES ON YOUR RETIREMENT:**

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#### **NEW ASSISTANT TO VICE PRESIDENT**



**WELCOME TO THE FAMILY!** The new Assistant to Vice President Lorah Houser-Jankord is Emma, her daughter (shown above).

#### **1992-1993**

#### **OFFICERS OF THE NJ ASSOC. OF COUNTY TAX BOARD OF COMMISSIONERS AND ADMINISTRATORS**

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#### **UPCOMING EVENTS:**

Princeton Conference—June 8, 1992  
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Annual IAAO Conference  
 St. Louis, MO—September 13-16, 1992

**SENATE # 332 cont. from page 9**

a further exception applicable to the machinery, apparatus and equipment of a petroleum refinery. Whatever the Legislature's intent in 1966, machinery, apparatus and equipment used in petroleum refineries continued to be taxed by municipalities, without interruption. To fail to provide municipalities the power to tax this class of personal property would cause a significant loss of tax base in host municipalities, increasing property tax rates and placing an additional burden on residential property owners. To protect against these injurious consequences, this Act provides that petroleum refinery property, both real and personal, is subject to local property taxes. "Petroleum refinery" is defined to include real and personal property used directly in petroleum refining. The definition is intended to include all property of petroleum refineries historically subject to local property taxes; however, it is not intended that items of machinery, apparatus or equipment used for such purposes as cogeneration or for chemical or petrochemical manufacturing be taxable as real property even if they are located on the grounds of a petroleum refinery.

## **LOCAL PROPERTY BRANCH NEWS BECOMES QUARTERLY PUBLICATION**

The **Local Property Branch News** is undergoing several changes.

With the current issue, the **News** is officially a quarterly publication, with four issues per year instead of six bimonthly issues. These editions will be issued in January, April, July, and October.

In addition, the publication will be renamed **Property Administration News**. As always, it is hoped that State, county and municipal officials will refer to the **News** as a timely and accurate source for information.

## **ASSESSMENT NOTICES**

Changes are being considered by the Liaison Committee (Collectors, Assessors and County Tax Boards). If you have any comments, contact Bill Birchall, Chairperson or Christine Wahl, Vice President in Charge.

## **PENNSYLVANIA CERTIFICATION ACT IN JEOPARDY**

The members of the Assessors Association of Pennsylvania (AAP) are hoping to keep the 1986 Assessors Certification Act (#192), due to expire March 17, 1992, in effect. The act provides for the certification and licensing of assessors, establishes training and eligibility requirements, defines the duties of the State Equalization Board (STEB), and allows for the Certified Pennsylvania Evaluator (CPE) designation, which requires a minimum of ninety hours of basic appraisal courses and the passing of a master examination.

Two bills have been introduced into the senate. The first, S.B. 1355, would have reestablished the existing act without a "sunset." The bill, introduced in October 1991, was passed by the Senate Local Government Committee in mid-November and moved to the full senate. Just before Thanksgiving, the bill passed by a vote of 50-0, and was amended on the floor to change the administration from the STEB to the State Board of Certified Real Estate Appraisers. The bill was then assigned to a house subcommittee, the Professional Licensure Committee, where it is awaiting a vote. The second bill introduced in the senate, Act 1345, is identical to Act 192 of 1986 and is intended as a safety net should 1355 fail to pass before Act 192's March 17 expiration date.

AAP Legislative Committee Chairman Charles Muth, CPE, and Education Committee Chairman Dick Brosius, CPE, have met with members of the State Appraisal Board and Professional Licensure Committee in hopes of getting the bill passed.



New Capitol City (Trenton) Assessor Patricia Hice and Don Kocul, Mercer County President.



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## RUTGERS CONFERENCE

**June 9-12, 1992**

\* AMANJ business meeting  
Wednesday night

\* Annual banquet and presentation of  
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Featured Speaker:  
**JOSEPH H. MARTIN**  
President-New Jersey Real Estate  
Appraisal Board  
Former Tax Assessor



Joseph H. Martin, CTA, MAI, ASA, GRI, SCGRE, President, N.J. Real Estate Appraisal Board explains Board's License and Certificate Procedure to Dianne M. Walker, CTA.

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