New Jersey Assessors Bulletin

AFFILIATES

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THE SALES PRICE — ASSESSMENT ENIGMA

It has been the practice of some assessors to attempt to oversimplify the assessing process by merely applying the Director's ratio to a sales price in order to arrive at their assessed value.

The following is a statement on this practice by Leo Rosenblum, former assessor of Jersey City, former Hudson County Tax Board Commissioner, and presently Counsel to the Association of Municipal Assessors of New Jersey.

1. Ever since the adoption of Laws of 1954, Chapter 86, (R.S. 54:1-35.1 et seq.) and its administration by the Local Property Tax Bureau, it has become abundantly clear that the sales-ratio studies perform an invaluable service for the distribution of school aid and the allocation of the cost of county government among contributing taxing districts. Its function for the purposes of aggregate studies of this nature is beyond question. Nevertheless, its use in aid of the determination of intra-municipal tax assessments is somewhat limited and should be more cautiously approached. A sales-ratio study which is used to produce a generalized version of the aggregate ratables in a taxing district is one thing; its exclusive use as a substitute for the routine valuation procedure is quite another. While the price at which real estate sells in a usable sale is an important factor in the appraisal process, by no means should it be permitted to become the sole basis for determining the true value for assessment purposes. It is elementary to those experienced in the administration of assessments that real estate frequently sells for prices not truly indicative of their market value. This may be due to a variety of reasons, such as (a) financing obtained by a Veterans Administration mortgage with a minimal cash payment; (b) mortgage financing of income property with a wide disparity of interest rates (F.H.A. versus conventional mortgage); (c) a term sale, that is one in which the price is inflated because the buyer is attracted not so much by the contract price as by the liberal terms for payment; (d) a sale induced by the unusal circumstances of the seller or buyer, such as where a purchaser pays an unusally high price simply because he is in a top income tax bracket and wishes to obtain the benefit of a liberal depreciation allowance; (e) special reasons not related to value which motivate either of the parties to enter into the sale; (f) the necessity to obtain the property in question for purposes of expansion or other reasons which do not permit the purchaser to trade freely upon the open market but limits his choice to a neighboring parcel. Moreover, the problem is compounded when the sale price and the terms are inaccurately reported to the Bureau either through inadvertence or by the furnishing of erroneous information. Thus, if we are to learn from experience, while appropriate weight should be given to the facts of a reported sale, this information must be considered in conjunction with all other approaches to value, and at no time should the simple fact of a sale be deemed conclusive for assessment purposes.

2. It has been concluded in some quarters that wherever a sale appears in the Director's usable list, the price paid should reflect as true value in the assessment for the following year. It is suggested that this be done by "multiplying the selling price by the weighted ratio for the table from which the sale was a factor." The procedure so suggested is dangerous, and if adopted by assessors the inescapable result will be to create new and compound existing inequit-

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The Sales Price – Assessment Enigma

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ies. Bearing in mind that the most important objective sought to be achieved in the assessment process is uniformity and equality among all taxpayers, let us consider the practical result of the procedure outlined above. Assume that at the time of its last revaluation a taxing district assessed a group of 100 homes out of a single development at approximately the same value. The Director's sales-ratio study develops that 4 of the properties involved sell at prices higher than the valuation figure applied to each in the assessment roll. The assessor in the year subsequent to the sales increases these 4 to a true value equivalent to the sale price of each. At the same time, the remaining 96 parcels not having sold, their assessments remain undisturbed. Manifestly, where equality previously existed at least with respect to these 100 homes, we have now proceeded to the point of intentionally creating discrimination and inequality by imposing a greater tax burden upon 4 taxpayers than that charged to their remaining 96 neighbors. In fact, this is the type of discrimination which was stricken down by our Supreme Court in the Baldwin case, one of the landmark tax decisions on record. The same result applies whenever any parcel of property, whether or not situated in a development, is ejected from a position of equality to one of inequality with its neighbors merely because it was the subject of sale while the others have not as yet reached the market. It is inconceivable that the courts of New Jersey will tolerate such a discriminatory practice where properties of equal value are unequally assessed merely because one sold and the other did not. Moreover, when this problem is considered in the light of paragraph 1 set forth above, the need for caution becomes even more evident.

3. What has been said above is not to suggest that in all instances the facts of a disclosed sale should be ignored by the assessor. Where a sales-ratio study produces sales which are either extremely high or extremely low in relation to the average ratio, there may be need for corrective action. In such an event the assessor should be alerted to make a careful examination of the history of the property in an attempt to determine the cause for the disparity. In some circumstances it may even be necessary for the assessor to raise or lower the assessment in the subsequent year in order to accommodate equality with respect to comparable property. The assessor should always recognize that such an extreme departure from the average ratio could easily be occasioned by a pure error in a former revaluation to the extent that immediate action should be taken. But this is to be distinguished from the ordinary sale which, while not extreme, nevertheless is either below or above the average. Where this occurs, an assessor should not destroy or impair existing equality merely to accommodate the precise price produced by the sale.

4. Even though in the ordinary case assessors should not make changes in the assessment rolls for the exclusive reason that a sales price varies from the average ratio, this should not be construed as an invitation to assessors completely to ignore those sales which are brought to their attention through the sales-ratio studies. In order that the assessor be kept to a strict accounting of his procedures, it is entirely appropriate for a county board to inquire of the assessors as to why certain sales have not been reflected in the tax rolls and to compel the assessors to submit written explanations. However, in order that the work load of the assessor be not unduly increased, it is suggested that county boards only make these inquiries where a sale upon its face appears to be out of line. To accomplish this, guidelines should be established by the county board to indicate those sales that the assessor will be required to explain. These guidelines should delineate the percentage range from the average ratio within which an explanation will be needed. The range to be used should be determined after further consideration, but the primary purpose of this procedure will be to require assessors only to explain unusual sales rather than those which upon their face appear to be within line.

Will The Real Expert Rise

This paper was presented at the SOUNDING BOARD session of the 1968 Conference for Assessing Officers. The SOUNDING BOARD was originated as a forum for assessors to present their personal views on subjects related to the assessing field. The subject matter presented herein is the opinion of the speaker and is not necessarily that of the Bulletin.

My name is Angela Szymanski, and I am the Tax Assessor from the Borough of Middlesex. I don't profess to be an intellectual, but it does not take a great deal of intelligence to soon realize that the position of assessor is not the easiest job in the world. As a "freshman" assessor, I soon found it was quite evident that assessing real property not only "required the judgment of a Solomon and the patience of a Job," but, in order to perform your duties with competence you had to be a walking encyclopedia on home styles, home construction, home architecture, costs of labor and material and on what comparables had been selling for and are now selling for.

Realizing that the first essential to good assessment is an assessor thoroughly qualified by education, experience, and training, I immediately registered for the training courses offered by Rutgers, the State University, in order to improve my value to the community. Here I was taught the proper rules, principles and guides used to arrive at an intelligent opinion of Market Value; to understand and apply the principle of substitution, namely, that no one will pay more for a property than its replacement cost less depreciation. I felt confident in the knowledge I had gained concerning depreciation, in order to arrive at an intelligent estimate of the amount deducted from the replacement cost of the structure new, and at the same time keeping in mind the fact that physical deterioration was usually the least of the causes of depreciation since more houses are torn down than fall down.

Since I became devoted to this odd position, I decided to struggle — and I do mean struggle — through the third course. As the weeks went by, this approach to value finally started making sense, exactly as Lloyd Koppe, my trusting instructor kept predicting. I finally understood that the Income Approach was an evaluation of real property based on the income it would bring. In applying this approach, it was possible to determine how much a property was worth based on its present income and its expected future income. I hope the following statement does not come as a shock to my friend, and trusting instructor. But, I have now come to the conclusion that because the expectation of future income is subject to the unforeseen and the unpredictable, estimating the present worth of future benefits, based on — informed — opinion of the capitalization rate appropriate for the subject property, is merely a calculated guess. My reason for this conclusion is based on an appeal hearing brought on by a Nationally known "Hamburger Chain" in Middlesex Borough.

After three and one half years experience, completing required courses, attending conferences, appeal hearings and legislative sessions: reading hundreds of articles regarding approaches to value, conferring with others in the field, and finally receiving State Certification, I now find I am more confused than I had been during my third course. Up to this time, I had the opinion that it was the duty of the assessor to determine the assessment, not the taxpayers.

In appeal hearings before the State Board, Attorneys have refused to accept me as an expert witness, and have objected to the use of my testimony regarding value in the Borough of Middlesex. Photographs I had taken, and used in my defense, became a laughing matter between the taxpayer, his attorney, and the Judge, after the attorney refused to accept them as evidence on the grounds that one was — in the words of the taxpayer — "a lousy picture." I failed to see the humor, but perhaps I was being a sore-head and missed the joke. To tell the truth, by this time, I was having difficulty controlling my Italian Blood Pressure. I guess I did not understand the rules, I was under the impression that I was testifying as the assessor, not as an expert photographer.

You will find a Zerox copy of my hysterical evidence at the end of this report. Maybe one of my capable instructors will be kind enough to express his opinion regarding my amateur attempt at photography. It seems that some where along the way I missed the course on Photography.

To add salt to my wounds, I had rather a unique appeal. The appellant happened to be a former assessor. Now tell me, how many assessors have had the intestinal fortitude to testify against a former assessor?? His attorney objected to every question I was asked, on the grounds that, in his opinion, I was not qualified to testify as an expert. This wasn't too hard to digest, but the former assessor kept jumping up and down shouting that I was only an "Ex-Clerk". Incidently, his expert turned out to be a Real Estate Salesman from a near by community.

I could continue citing other experiences, but

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Will The Real Expert Please Rise

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they only add to my convictions that every one is considered an expert, except, in my case, the assessor. Therefore, it is necessary for me to hire expert appraisers, who charge enormous fees, to justify my opinion of value. Maybe some one here can tell me who determines how and when the assessor becomes an expert???

I often wonder if I am the only person, in this — Odd Profession — that considers all the factors affecting the market value of property. When I spend hours measuring, inspecting, and classifying property and then calculate the value of the land plus the depreciated value of the dwelling by applying the method George Acolia spent twelve-weeks teaching me, am I only wasting my time?? Would it not be a lot easier if I used the "experts" method; produce a few sales and claim the sales price is actually Market Value?? If I take the time to learn this new "Sales Approach", would I then be considered an expert?? The question that cannot be avoided here is whether the assessor or the taxpayer shall determine the full and fair value.

According to Sec. 54:4-23, found in the Assessor's Law Manual: "The Assessor shall determine the full and fair value of each parcel — at such price as, in his judgment, it would sell for at a fair and bona fide sale —. Am I to believe that this statute tells me to step into the shoes of every informed, intelligent seller and informed, intelligent buyer, and predict the actual price they will agree upon?? Is selling price the proper method used to arrive at the "full and fair value"??

If this is the proper procedure, how do I determine when Personal Property, not used in business, becomes Real Property?? Sales in my municipality include: Washing Machines, Dryers, Dish Washers, Refrigerators, Storm Windows and doors, Air Conditioners, Living Room, Dining Room, Kitchen and Outdoor Lawn Furniture, Garden Tools, Lawn Mowers, Drapes for the entire house, Wall to Wall Carpeting throughout the house, Pool Tables, Televisions, Swimming Pool Filters and Ladders, Pumps for Wells, removable sheds, and 1000 Patio Blocks. Property in my municipality, consisting of twenty-year-old, four room Cape Cod Bungalows, are selling for over $20,000, while newly constructed, nine and ten room dwellings are selling for $26,000. Does the principle of substitution apply to my community??

Is it really worth all the work and effort to determine the value of an income property on the basis of what income it will bring by calculating the present worth of future benefits by use of mathematical tables?? Would it not be a lot easier to dig up a few old sales, establish the ratio of net income to sales price to arrive at the capitalization rate. Then try to convince the taxpayer that this capitalization rate reflects the actualities of the market.

I realize that assessing is not an exact science, therefore, I feel it is all the more necessary that I apply the recognized approaches to value, and use an accepted manual to insure uniformity witihn my district. I believe Ed. Markowich, my first instructor, was responsible for my firm belief that Market Price was not to be confused with Market Value, for that reason, no one can convince me that the assessor should have to outguess the buyers and sellers of real property as to the value of a specific piece of property and call this Market Value. If this is the intent of the State Statute, then I think it is about time the State Legislature change the law to read: "The Assessor shall determine the value of each parcel of real property according to the Sales Price."

This would certainly put an end to my confusion, and who can tell, maybe someday I will be recognized as an Expert.

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The Advertisers listed herein are helping to produce the Bulletin. When the need for the services they render arises in your municipality, please keep them in mind. Also please mention the Bulletin when making your order.

The SMA News

By Walter W. Salmon, S.M.A.

Hanging on the wall of a friends family recreation room is mounted a magnificently stuffed trophy of the owner's fishing prowess and skills. It wasn't the size or beauty of the piece that caught my attention as much as the plaque attached to the mounting "If I had kept my mouth shut I wouldn't be here" was the plain and simple legend, neatly inscribed in brass.

And if I had kept my mouth shut, our genial SMA chairman, Harley Hesson, would have had to fish elsewhere for someone to write a column about the Society of Municipal Assessors, but being a Salmon (first name Walter W.) he landed me on his first cast. I may be stuffed and mounted after this first article but at any rate, Harley deserves credit for a good try!

The whole idea behind the SMA writings is to bring to the readers of the Bulletin, some interesting news of the history, the aims of the Society, the who's who in the Society, its plans and events, and generally to promote the interest of all of the Assessors in New Jersey to elevate the profession to one of state-wide recognition, and to make available the possibility of one's own professional ability as an Assessor. Professionalization should be the aim of anyone who engages in a learned vocation, as opposed to the amateur who is just doing a job. Speaking of professionals in the Assessment and or the Appraisal field, here are a few titles that are available, if one feels the urge of study and examination: MAI, SRA, CAE, SPA, SREA, AIREA, IFA, and of course SMA. These are all that come to mind at the moment, but the most poigant factor is that the SMA is uniquely geared to the laws of the State of New Jersey, and probably the most relative to local and State assessment activities.

The Society of Municipal Assesssors (SMA) of the State of New Jersey was formed in 1961 to encourage higher standards and, it is worth repeating, promote professionalization in the field of assessment; it extends and open invitation to all assessors to apply for membership; it offers the services of its members to explain how to apply, to whom, and where to apply. Members of the Society, under its chairman Harley Hesson, conduct "Brush-up" workshops covering much of the material needed for both the written examination and the required narrative appraisals. It's all laid out and waiting for you to make inquiry! Why wait! The chairman of the SMA is: Mr. Harley Hesson, Jr., SMA, Assessor, Municipal Building, Glen Rock, N.J. 07452 (201-444-5121).

All of us are aware of the attempts to merge the Society of Real Estate Appraisers and the American Institute of Real Estate Appraisers. This action prompted a discussion of the SMA, to have dialogue with the CAE group. While it was thoroughly discussed, the assembled SMA members voted to table any action until such time as more pertinent data may be collected and collated.

Not only is this column new, but the SMA has inaugurated a spanking new prize! The prize will be for the best paper written on a subject relative to the assessment function. Eligibility is open to anyone of New Jersey's many assessors. Start thinking! Start writing! Now!

The tentative plans for this new "SMA Award" are that it will be presented to that Assessor who delivered the most informative talk during the Sounding Board session at the Rutgers Conference, or who had the best article published in any periodical during the year.

Please send all entries for this award to the SMA Award Committee, c/o New Jersey Assessors Bulletin, P. O. Box 909, Plainfield, N.J. 07061.

The deadline is October 1st, after which the Award Committee will then select the winner and make the presentation in November during the New Jersey League of Municipalities Conference at Atlantic City. The Chairman of the Committee is Edgar V. Renk, SMA, Monmouth Junction, who is being assisted by Edward P. Markowich, SMA, Wayne; Milford E. Levenson, SMA, Linden; and William A. Brewer, SMA, Plainfield.

The SMA (Society of Municipal Assessors) will hold a luncheon-meeting during the Conference at Atlantic City, on Wednesday, November 20, 1968, at 12 noon. The room location will be announced at a later date.

A written examination will be conducted as an entrance requirement to SMA membership, on Friday morning, November 22, 1968, in the Navajo Room, 15th Floor of Haddon Hall, Atlantic City. Keep those applications coming! In preparation for the examination, the Society will offer a brush-up course on the previous Tuesday afternoon, November 19, at 1 PM at the same location. The brush-up course is open to all New Jersey Assessors, upon application. The written examination however, may be taken only by approved candidates. For further information contact: Harley Hesson, SMA, whose address appears above in this article. How about it fellows, you who have passed the written examination, don't you think a little brush-up would be an excellent shot-in-the-arm to help you get those narrative appraisals in to the Committee?

Under the heading of "Things I Never Knew", it is quite appropriate to relate a little history of the Society of Municipal Assessors of New Jersey. The Society, as it is referred to, or

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The SMA News

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SMA if you wish, is an organization totally within the Association of Municipal Assessors of New Jersey. Its prime objective which has been noted previously, is to be a catalyst in the making of professionals. The first seven men whose names appear in the following list of SMA Members, deserve an accolade and the plaudits of every Assessor in the State for their foresight, planning, and devotion toward Assessment up-grading and recognition by local, state, and taxpayers groups, collectively and individually. Here are your SMA friends:

Russel T. Wilson, SMA	Hackensack
Clarence N. Delgado, SMA	Ridgewood
Alfred J. Greene, Jr., SMA	Clifton
Marriott G. Haines, SMA	Vineland
Merle St. Amour, SMA	Fairlawn
Sargent Dumper, SMA	Millburn
Edward P. Markowich, SMA	Wayne
Sydney E. Margolin, SMA	Morristown
Evelyn M. Moore, SMA	Monmouth Junction
Joseph Rubenstein, SMA	North Bergen
Edgar V. Renk, SMA	Monmouth Junction
John J. Murry, SMA	Millburn
C. Maxwell Young, SMA	Tenafly
Margaret Jeffers, SMA	Jersey City
Emanuel D'Noia, SMA	Belleville
Anthony Boresch, SMA	Rahway
Charles J. Klein, SMA	Maplewood
Daniel P. Kiely, Jr., SMA	Plainfield
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Harley W. Hesson, Jr., SMA	Glen Rock
Milford E. Levenson, SMA	Linden
Benjamin P. Maggio, SMA	Clifton
A. James Reeves, SMA	Cinnaminson
Walter G. Letson, SMA	Metuchen
James L. Anderson, SMA	Point Pleasant
Edward A. McKenna, SMA	Fairlawn
Joseph B. Krupinski, SMA	Teaneck
William A. Brewer, SMA	Plainfield
Michael J. Heaney, SMA	Summit
Walter W. Salmon, SMA	Moorestown

That about wraps it up for this issue, and if you have any newsworthy notes you would like to have included in the SMA News' forthcoming issue, please send them to: Walter W. Salmon, SMA, Town Hall, Moorestown, N.J. 08057

Al Weiler Award

Each year at the Annual Meeting of the Association of Municipal Assessors of New Jersey held in Atlantic City, the "Al Weiler Award" is presented to an assessor for outstanding achievement in or contributions to the assessing field.

The official nomination for this award must come from the County Association of which the nominee is a member. Any County Association wishing to nominate one of its members for this award should send the assessor's name and reasons for nomination to: Harry Tracey, City Hall, 10-41st Street, Sea Isle City, N. J. 08243.

Attending the 1968 Northeast Regional Conference of Assessing Officers held in Portsmouth, N.H. are from left: Norman Harvey, Assessor of Englewood, N.J. and Editor of the New Jersey Assessor Bulletin; Daniel P. Kiely, Jr., Assessor of Plainfield, N.J. and President of the Association of Municipal Assessor of New Jersey; Wayne Kietzer, Training Director for the International Association of Assessing Officers.

DONEHOO ESSAY CONTEST

This contest is open to all members of the International Association of Assessing Officers. Contest rules are as follows:

Subject Matter: Any topic dealing with assessment administration.

Length: Between 3,000 and 6,000 words.

Submit: Four copies, typed and double-spaced, to the IAAO office.

Due Date: August 1, 1968.

Winning Essay: Will be published by and become the property of IAAO.

Cash Awards: 1st prize — $100; 2nd prize — $50.

This is a worthwhile and also a profitable venture for the winners. Let's see that New Jersey is well represented in this contest. Please send all entries to International Association of Assessing Officers, 1313 East 60th Street, Chicago, Illinois 60637.

Rollback Taxes

William T. Bailey, Assessor
East Brunswick Township, N.J.

This paper was presented at the SOUNDING BOARD session of the 1968 Conference for Assessing Officers. The SOUNDING BOARD was originated as a forum for assessors to present their personal views on subjects related to the assessing field. The subject matter presented herein is the opinion of the speaker and is not necessarily that of the Bulletin.

The mandate of the people in the State of New Jersey has been heard. Effective for the tax year 1965 and thereafter the farmland assessment became law.

The section of the law which I would like to elaborate on is the rollback tax and omitted assessment.

When land which is in agricultural or horticultural use and being assessed under the provisions of the Act and a change of use occurs then the land is subject to rollback taxes. What constitutes a change in use? It is the opinion of this assessor that when there is a change in classification there is a change is use. In other words, when there is a Class 3A and 3B shown in the tax duplicate and the property no longer qualifies for farm assessment then there is a change in use and the property is subject to rollback taxes. There have been numerous farmers who have qualified but no longer farm and still own the land. They have not been charged rollback and, in my interpretation of the law, this is wrong. In cases where a completely different change of use occurred there is no problem.

How are rollback taxes computed and heard? This is another problem confronting the assessor. Speaking from somewhat of a limited experience this is what has been done in my office. Applications for farm assessments are sent out in duplicate to the qualifying farmer the last week in August. Accompanying these forms is a letter which reads as follows:

'The abovementioned property is privileged with an assessment reduction under the Farmland Assessment Act of 1964.

The Director of the Division of Taxation has promulgated certain rules and regulations in order to allow for the adequate enforcement of this law. Regulation 16:12-10.190 states that each assessor may at any time require the submission of such additional proof as he shall deem necessary to establish the right of the applicant to farmland assessment. The applicant must furnish proof of all prerequisites, such as: ownership, description, area, uses and gross sales of agricultural or horticultural products.

It is with regard to the annual gross sales that I am writing to you. Please submit proof, such as: income tax statement, sales or cash receipts, etc. that at least $500 per year has been received by you for the year in which the abovementioned property has received the farmland assessment, or proof that within a reasonable period of time from the date of the application the gross sales of agricultural and horticultural products will average at least $500 annually.

This proof must be attached to the enclosed application. If you should need additional information or assistance, you may contact me by telephone at 254-4600 or visit my office at the above address."

P.S. If we do not receive this information with the application, we will be compelled to reassess your property at the fair market value."

New applicants must supply the same information with further proof that the land has been devoted for at least two successive years prior to the initial application.

Having analyzed all properties for farm assessment, the next course of action would be classify the properties into qualified, doubtful and not qualified.

We will undertake the problem of no longer qualified. Rollback taxes must now be computed and a hearing before the County Tax Board must be set up.

The first step is to review the property re-

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That which we acquire with most difficulty we retain the longest; as those who have earned a fortune are commonly more careful of it than those by whom it may have been inherited.

Association of Municipal Assessors of New Jersey

NEW JERSEY ASSESSORS BULLETIN

P. O. Box 909, Plainfield, N. J. 07061 — PL 6-3497

Quarterly Publication

EDITORIAL COMMENT

ORDERED REVALUATIONS

The first Switz case (Switz v. Middletown Township 40 N.J. Super 217, 23 N.J. 580) may have been the first occasion on which a revaluation was "ordered" by the Court. Other landmark decisions have followed which noted this precedent and thereby involved an exercise of the power of the Court to issue such orders

It was recognized back then that "ordering" an Assessor to perform his duty by revising every valuation in the book annually, was asking the impossible. Besides, it is supposed, there may have been doubt that the results would be much different from the assessments ordered changed. Time was allowed for compliance and to find the administrative solution to mass appraisal. The solution turned out to be contract appraisers, some of whom already existed as private companies.

There is lots and lots of water under the bridge since then. Assessors have been to school for one thing. For another, more appraisers have formed companies to perform the kind of services made necessary by the Court's order. The law itself has undergone many legislative changes, to say nothing of an important body of case law emerging from the issues of value and taxation. A high degree of intermunicipal equalization within the Counties was also achieved upon the initiation of the Director's table for school formula aid determination. Most of what has happened may be called progress, even by Assessors, who, while bearing the brunt of the effect of change, could recognize the justice of the reforms.

But what of the here and now? Have Assessors advanced themselves to the point where they can provide, by themselves, the equality required by the law, as revised? It seems not. In one county after another, County Boards are ordering revaluations on their own initiative, citing the judgment in the Belleville case as their authority.

What is new about these orders is that there appears to be a newly assumed responsibility for equality between taxpayers generally within the taxing districts. Traditionally, County Boards' interest in equalization was confined to relationships betwen districts. Their function in equalization between taxpayers was limited mostly to the judgment of appeals. The legislative mandate in R.S. 54:3-13 to secure taxation at taxable value may be coupled with R.S. 54:4-47, granting the discretionary power to the Board to "revise, correct and equalize the assessed value of all property in the respective taxing districts." Given as well "the supervision and control" over assessors in R.S. 54:3-16, a strong case can be made for County Boards undertaking the responsibility for equalization within each district in the County.

Leaving aside the question of legislative intent with respect to the division of work, function and responsibility between the Assessor and the County Board, the new orders to assessors to submit to, and governing bodies to provide funds for, contracted revaluation programs represents an encroachment, albeit "legal", on the historic duties and prerogatives of municipal officials. The choice of doing the job locally is circumscribed, since the requirements for completion and implementation are such that the use of outside contractor is unavoidable.

The criterion for the order is rarely the Assessor's opinion (as in the Belleville case) but a uniform cold turkey mathematical limit. One County is reported to have advised Assessors that their districts will be ordered to revalue when the ratio falls below 97! In another, the Board was said to express concern about the growing "arrogance" of Assessors who had received certification. Forty percent of the districts in that County were put on notice.

Why should Assessors be disturbed by these orders? After all, the mass appraisal contractor can be blamed for anything unpleasant, and if a few taxpayers get reductions the Assessor can modestly take credit. For two years, while the contractor is defending the appeals, the Assessor

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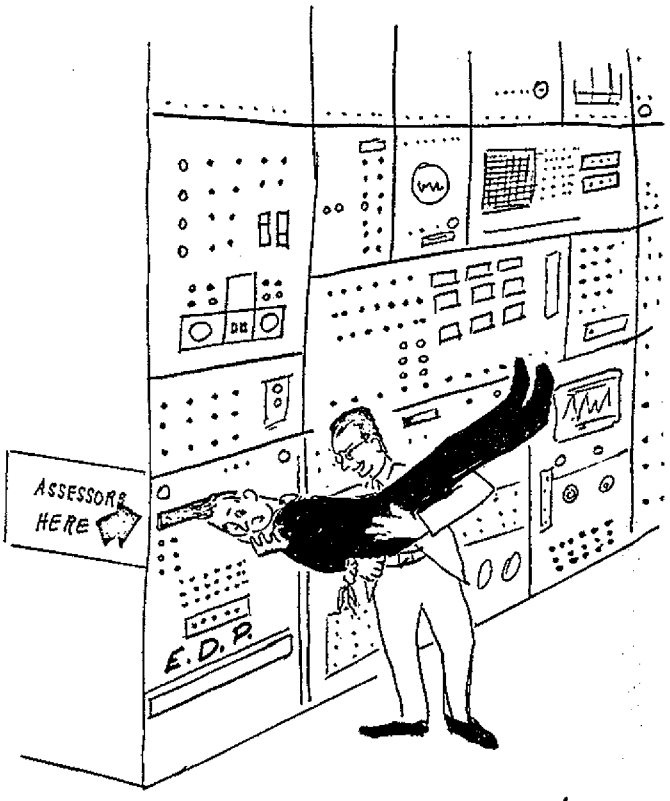
Federal Grant To Aid Assessor Education

The New Jersey Department of Community Affairs made application to the Federal Government for a grant under Title VIII of the Housing Act of 1964 to expand training programs for local government personnel. They were successful in their endeavor and received $260,000.00 for this purpose.

We have recently been informed by Dr. Ernest C. Reock, Jr. that $84,907.00 of the grant money has been transferred to the Rutgers Bureau of Government Research and University Extension Division to expand and improve the type of programs they offer. As plans now stand, the following programs in assessment administration will be offered:

Property Tax Administration I	5 sections
Real Property Appraisal I	5 Sections
Real Property Appraisal II	6 Sections
Property Tax Administration II	3 Sections
Conference for Assessing Officers	1 Section

Dr. Reock stated that none of the funds committed to his bureau will be used for new courses or study materials. He understands that some funds, not yet committed by the Department of Community Affairs, may be used for this purpose, perhaps for training in E.D.P., working through the Division of Taxation.



IT'S FOR YOUR OWN GOOD!

DIVISION OF TAX APPEALS DECISION

The Presbyterian Homes
of the
Synod of New Jersey
vs.
Township of East Windsor
and
Borough of Hightstown

SYNOPSIS

Meadow Lakes Village, a retirement community, located partly in the Township of East Windsor, and partly in the Borough of Hightstown, appeals its 1965 real property assessments on the basis that the real property was exempt from taxation under the provisions of N.J.S.A. 54:4-3.6.

The retirement community furnishes retirement facilities to persons of 60 years or older "regardless of their race, religion or nationality." As a resident of the community the person is required to pay a "capital fee' depending on the type of housing accommodation desired. The capital fee is described as a lump-sum payment for a lifetime rental and in addition resident must pay monthly service charges per person.

The petitioner contends that Meadow Lakes Village is exempt under N.J.S.A. 54:4-3.6 for the reasons that the property is used in the work of The Presbyterian Homes of the Synod of New Jersey "exclusively for the moral and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more such purposes."

After reviewing the evidence it was found that the operation of Meadow Lakes Village did not come within the purview of N.J.S.A. 54:4-3.6 and they did not meet the statutory standards.

In tax exemption cases the claimant must show that they gave to the public at large substantially more than it received. As its principal function, Meadow Lakes provides expensive housing facilities to those persons who can afford them. The religious and hospitalization functions at the project are merely incidental to the main function.

OPINION BY THE DIVISION

These appeals are before the Division for determination on the report of Judge Harry A. Walsh and exceptions to that report filed on behalf of the Petitioner, the Presbyterian Homes of the Synod of New Jersey.

The appeals involve real property assessments made by the Borough of Hightstown for the tax year 1965 (an original assessment and an added assessment) amounting to $231,700. and real property assessments made by the Township of East Windsor, also for the tax year 1965 (an original assessment and an added assessment) amounting to $2,282,600. The Petitioner contended in the appeals that the real property,

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Ordered Revaluations

(Continued From Page Eight)

can be innocence personified as he points out to irate taxpayers that he didn't call for revaluation and had nothing to do with the budgets or the rate. In short, he cannot be blamed for anything because he didn't do anything — anything at all. Except file the tax list. And now in how many counties does he not even have to do that? Paradoxically, great strides are being taken on the one hand to free the Assessor from tedious annual "clerical" duties by the introduction of EDP, so that he can devote more time to appraisal, while on the other he is ordered to hire someone to do his appraisal work.

Assessors ought to be disturbed. Apathy will spell the end of municipal assessors. Appraisal firms are being imposed on taxing to "help" an Assessor with reappraising properties which had been reappraised only a few years back, sometimes within the term of the same Assessor. How long can it take before someone asks, who needs assessors?

There is already a strong effort to "improve" local government by regionalizing it, consolidating it, or just plain eliminating it. Pundits who never made an appraisal, much less an assessment, write with authority in national publications of the "Tax That Cheats Nearly Everyone." Equalization bureaus, commissions for studying local government, political science scholars and others are observing what they believe is wrong, and like score keepers trying to be coach, prescribe what it will take to make it right.

As a group of dedicated competent men and women in local public service, the Assessors of New Jersey had better begin to resist those efforts. We need to insist that what we do right, is right. We need to subscribe whole heartedly to some reasonable standard of performance which is possible to attain. But we need to call out any criterion set by mathematical survey alone, without regard for accepted, lawful procedures which produce, when diligently and competently used, a result that will not and can not satisfy that criterion. We need to explore and research, through our Association and professional societies, alternative bases for property tax apportionment. The optimum size for a taxing jurisdiction should be studied by assessors not professors. We should prepare to question if market value as now defined will ultimately destroy the property tax. We ought certainly to do something or we will soon not be permitted to do anything.

More than anyone we need the support of taxpayers. Next we need the understanding and cooperation of the legislature. If a program is developed for the people by experts in the assessing field and it is presented and supported in the manner of our certification bill it will be accepted. If we do less, neither certification nor tenure will be able to restore our positions and enable us to render the service we are qualified for.

Meanwhile, a reexamination of the case law in which landmark judgments are providing rigid guidelines should be made in order to separate the wheat from the chaff. Having done so, consideration should be given to the advisability of a test case challenge to establish the good and neutralize the obsolete, with Counsel for the Association appearing in the interests of N.J. Assessors generally.

If you want action, write to the Bulletin, get your County President to speak of it at the next Executive Board meeting, and see that it is discussed at County Chapter meetings.

Veterans Deduction Duplicate Study

The Veteran's Deduction Committee has completed its analysis of the 117,600 serial numbers submitted by 127 of the 167 Assessors who had indicated a desire to participate in the program to eliminate duplicate deductions under 54:4-8.11. These totals represent approximately 27% of the veterans and 22% of the taxing districts in the state. The analysis indicates that there are 434 duplications. However, 146 of these are internal, i.e. they are duplicated within a taxing district and may be discounted because of possible error by the Assessor in compiling his list.

It is assumed that the Assessors involved will check these because a duplication within a town is possible. The remaining 288 apparent duplications should be checked by the Assessors involved with respect to serial numbers and name and if substantiated represent $14,400 illegally allowed for the year 1968 alone. This figure may be multiplied many times by the number of years during which the deductions have been illegally allowed. This should be carefully checked by the Assessors involved. The actual total will probably never be known unless the Assessors choose to advise the executive board of the state association of their individual findings and solutions.

The total cost of the program was approximately $1600 plus the cost to each Assessor of compiling his list of serial numbers and the Committee feels it was well worth the cost and effort.

Editors Note: All participants in the Veterans Deductions Duplication Study are asked to cooperate with the State Association by forwarding the results of their verification of possible duplications to the N.J. Assessors Bulletin, P.O. Box 909, Plainfield, N.J. 07061. Please let us know how many possible duplications you had, how many actual duplications remained after verification and how much money will be returned to your taxing district as a result of your participation.

This program entailed a lot of work and practically all of it was done by Fred Mott and his staff. Thanks Fred for a job well done.

Rollback Taxes

(Continued From Page Seven)

cord card for land values. Your record should show two values, one should be the fair market value, the other the fair market value of farmland based upon its productivity. The values are then applied to the specific parcel subject to rollback. A form has been devised to apply the proper values.

After rollback assessments have been established a copy of figures is mailed to the owner of record requesting him to review the assessment and if there are any questions to contact the assessor. It is advisable to send the form by registered mail.

The primary problem for the taxpayer has been the land value that has been placed on the property record card as fair market value. The assessor should have available a work sheet of comparable land values in the neighborhood. Having completed this public relations work, the next step will be to notify the County Tax Board of rollback hearings. A copy of the form that was sent to the owner is sent to the board. A date for the hearing is scheduled and the assessor and his attorney defend the rollback assessment. The assessor should meet with the township attorney prior to the hearing. In defending the assessment, the assessor should be well prepared, such as photos, comparable land assessments, old and new application for farm assessment, receipt of letter of proof of gross income, names of all farmers participating in the wheat and feed grain program and the amount received by each. (This is available to the assessor from the U.S. Dept. of Agriculture for a fee of $5.00). If the property has been sold, it is advisable to have a copy of the tax search stating that rollback taxes would be due.

The omitted assessment procedure must be followed when the assessor grants a farm assessment and later finds out that the farm does not qualify. Again a form has been drawn up to apply the assessment figures to. Handling of this is done in the same manner as rollback taxes. An important fact to remember is that all cases should be heard before October 1st of the tax year for taxes to be paid to the township in that year.

As of last year, using the aforementioned procedure, the amount of rollback and omitted assessment cases heard has been 56. Out of these, three cases have filed state tax appeals. Approximately $110,000 has been brought into the township, as a result of these hearings.

The three cases appealing to the state do not involve the procedure used by the assessor but rather the interpretation of the farmland assessment law. One case involves eminent domain and the other two involve the necessary requirements to qualify for the farmland reduction.

In closing I would like to say that this is one way of handling rollback. I know others have different ideas and have been successful but I feel the above has proven itself and hope other fellow assessors have been helped by my method.

LEGISLATIVE REPORT

S 189 Guarini, Musto, W. Kelly, Ridolfi

Jan. 9 — Exempts home improvements from real estate taxes for a period of 5 years.

S 408 Waldor

Feb. 5 — Establishes fees for filing a petition of appeal with the county board of taxation.

S 459 Beadleston

Feb. 8 — Permits a senior citizen's application for a tax deduction to be filled with the tax collector; effective January 1, 1969.

S 565 Dumont, Sisco, Tanzman, Lynch

Mar. 14 — Requires payment of 75% of taxes assessed on real property pending the outcome of a tax appeal.

SCR 16 Hauser, Musto

Jan. 9 — Proposes amendment to Article VIII, Section I, paragraphs 3 and 4 of the State Constitution to permit a senior citizen to receive a "veterans" and "senior citizens" tax deduction.

SCR 24 Dumont

Jan. 15 — Proposes an amendment to Article VIII, Section I, paragraph 4 of the State Constitution to authorize an increase in senior citizens tax deduction from the $80.00 deduction to $120 for citizens between the ages of 68 and 72 and up to $160 for those who are 72 or more years of age when their annual income is $5,000 or less.

A 253 Dickey

Feb. 5 — Eliminates the $25,000 maximum limitation on the tax exemption for dwelling houses and lots owned by religious associations or corporations.

A 510 Littell, Gimson, Cafiero, Hurley, Horn

Mar. 18 — Requires all tax appeals taken to the Division of Tax Appeals from a judgment of a county board of taxation to be heard and determined within 1 year.

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Tax Appeal Decision

(Continued From Page Nine)

which was the subject matter of the assessments, was exempt from taxation under the provisions of N.J.S.A. 54:4-3.6.

The Division has considered the evidence submitted by the parties, together with the exceptions and briefs submitted by them. The report of the hearing judge contains the conclusion that the Petitioner's contention that the subject property is exempt from real property taxation under the cited statute is without merit. The factual parts of the report and the conclusion reached therein are adopted by the Division and made part of this Opinion.

Under the evidence it has not been shown that the cases fall within the purview of N.J.S.A. 54:4-3.6.

The appeals of the Petitioner are dismissed and the action of the Mercer County Board of Taxation is sustained; and real property assessments herein above referred to are also sustained.

Judgments shall be entered accordingly.

REPORT TO THE DIVISION OF TAX APPEALS

Petitioner, The Presbyterian Homes of the Synod of New Jersey, operates a retirement community on a tract of approximately 103 acres of land located partly in the Township of East Windsor and partly in the Borough of Hightstown, and appeals from 1965 real property assessments made against it by the two muncipalities, the basis of the appeals being that the subject real property is exempt from taxation under the provisions of N.J.S.A. 54:4-3.6.

Petitioner is a New Jersey nonprofit corporation which conducts business through a board of trustees elected by the Synod of New Jersey of the United Presbyterian Church, U.S.A. The East Windsor-Hightstown retirement community is known as Meadow Lakes Village where retirement facilities are furnished to persons, aged 60 or over "regardless of their race, religion or nationality". Petitioner also operates two retirement homes for persons over 65 years of age, located at Haddonfield and Belvidere, New Jersey. The latter retirement homes are tax exempt; admittedly there is very little similarity between them and Meadow Lakes Village.

The 1965 original assessment of Hightstown was $93,000, which together with an added assessment of $138,700 resulted in a total assessment of $231,700. The 1965 original assessment of East Windsor was $32,600 which together with an added assessment of $2,250,000 resulted in a total assessment of $2,282,600. The property located in Hightstown is described in the municipal tax records as Block 64, Lot 24, Etra Road; the property located in East Windsor is described in the municipal tax records as Block 29, Lot 2, Etra Road.

Meadow Lakes Village commenced operations in 1964 after completion of the initial construction

1968 Rutgers Conference

phases of the retirement project. It consists of 23 one and two-story garden apartment buildings, connected by heated and air-conditioned corridors; these corridors also are connected with other facilities, such as "an all-purpose community auditorium, seven comfortable lounges, a chapel, library, hobby rooms, gift shop, snack bar, beauty shop, barber shop and greenhouse." The project also includes a health clinic building where medical attention and nursing services are available. The project has been designed so that all steps and inclines have been eliminated in the interest of the members of the community.

There also are numberous outdoor recreational facilities furnished at Meadow Lakes, including "bowling on the green, fishing, barbecue and picnic areas, putting greens and areas of natural beauty for short strolls" according to one of the several advertising pamphlets distributed by the Petitioner. The site plan of the project also provides for an outdoor swimming pool.

The apartment buildings of the project contain some 221 separate apartment units, occupied by some 266 residents. On the assessment date there existed plans for expansion of the project.

There are five types of housing accommodations offered at Meadow Lakes, for which a prospective resident is required to pay what is termed a "capital fee", ranging from $12,000 for a small studio apartment to $43,000 for the largest apartment. The capital fee has been described as a lump-sum payment for a lifetime rental paid in advance by a resident. In addition to the capital fee residents are required to pay monthly service charges ranging from $185 to $365 per person depending on the size of the apartment and the number of occupants of the apartment. The average capital fee for residents is $25,000, which requires a $230 monthly service charge per person.

The total construction cost of the facilities at Meadow Lakes was $12,200,000 financed in part with conventional mortgaging by a nationally known insurance company. Petitioner submits

(Continued On Page Fourteen)

Realty Transfer Fee

The Following is the final adopted version of the Assembly Bill 47 introduced by Assemblyman Douglas E. Gimson of the 15th District. This bill was signed into law on June 3, 1968 to take effect 30 days later. It is now Chapter 49 Laws of 1968.

AN ACT fixing fees to be imposed upon the recording of deeds transferring title to real property and providing penalties for the violations thereof.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

(a) "Deed" means an instrument or writing by which title to any lands, tenaments or other realty sold shall be granted, assigned, transferred or otherwise conveyed.

(b) The terms "county recording officer" and "office of the county recording officer" mean the register of deeds and mortgages in counties having such an officer and office, and the county clerk and his office in the other counties.

(c) "Consideration" means in the case of any deed, the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer of title to the lands, tenements or other realty, including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title.

2. In addition to other prerequisites for recording, no deed evidencing transfer of title to real property shall be recorded in the office of any county recording officer unless (a) the consideration therefor is recited therein and in the acknowledgment or proof of the execution thereof, or (b) an affidavit by one or more of the parties named therein or by their legal representatives declaring the consideration therefor is annexed thereto for recording with the deed.

3. In addition to the recording fees imposed by P.L. 1965, chapter 123, section 2 (C. 22A:4-4.1) a fee is imposed upon grantors, at the rate of $0.50 for each $500.00 of consideration or fractional part thereof recited in the deed, which fee shall be collected by the county recording officer at the time the deed is offered for recording.

4. The proceeds of the fees collected by the county recording officer, as authorized by this act, shall be accounted for and remitted to the county treasurer for the use of the county.

5. Any person who shall willfully falsify the consideration recited in a deed or in the proof or acknowledgment of the execution of a deed or in an affidavit declaring the consideration therefor annexed to a deed shall be adjudged a disorderly person.

6. The fee imposed by this act shall not apply to a deed:

(a) For a consideration of less than $100.00;

(b) By or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) On a sale for delinquent taxes or assessments;

(f) On partition;

(g) Pursuant to mergers of corporation;

(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock.

7. The Division of Taxation of the Department of the Treasury may prescribe such rules and regulations as it may deem necessary to carry out the purposes of this act.

8. This act shall take effect 30 days after enactment.

Abuse of a person generally shows that he has marked traits of character. The stupid and indifferent are passed by in silence.

Tax Appeal Decision

(Continued From Page Twelve)

that the mortgage loan is $6,600,000. According to the testimony submitted in behalf of Petitioner the mortgage loan has a term of 25 years, and it will be paid by capital fees received from future residents who take the place of those who die. The capital fees were determined by a formula involving allocation of costs of construction to each apartment and the application of actuarial estimates. Although the Executive Director of the Petitioner stated initial operating deficits have been experienced, this situation must be viewed in the light of the program under which it is planned that the project debt will be amortized, and financing costs met, under the provision of the Petitioner's residence agreement that upon the death of a resident there shall be no refund of the capital fee. The agreement also provides for a refund of only part of the capital fee if a resident leaves Meadow Lakes prior to his death either at his own request or at the request of the Petitioner.

Petitioner contends that Meadow Lakes Village is exempt from local real property taxation under N.J.S.A. 54:4-3.6 for the reasons that the subject property is used in the work of The Presbyterian Homes of the Synod of New Jersey "exclusively for the moral, and mental improvement of men, women and children, or for religious, charitable or hospital purposes, or for one or more such purposes." In this connection Petitioner contends that Meadow Lakes Village exemplifies the growing concept, with respect to the care of the aging, of providing for the needs of the "total person", as distinguished from the old concept of providing mere shelter and food. The new concept, according to the Petitioner includes "the ability to provide for the entire spectrum of care required by an individual at any given time, the satisfaction of the individual's total spiritual, social, recreational, cultural and similar needs and the providing of a community of persons of similar background where the aging person can live in the same manner he has lived all his life and will have companionship and security."

On the other hand the Borough of Hightstown and the Township of East Windsor argue that Meadow Lakes property is not used exclusively for the purposes set forth in section 54:4-3.6. The municipalities contend that Meadow Lakes is a luxurious retirement community which caters to the needs of the wealthy and does not conform to "traditional notions" of public charity to warrant tax exemption.

In reviewing a tax exemption claim such as the one presented in this case two elemental propositions must be given consideration. These propositions have been pronounced on so many occasions by the courts that citation of authority is not necessary. The first proposition is that the burden of proving a tax exemption case is upon the claimant. The second proposition is that statutes granting tax exemptions must be strongly construed against those who assert the right to exemption.

After reviewing the evidence presented on this appeal I find that the Petitioner's operation of Meadow Lakes Village does not come within the purview of N.J.S.A. 54:4-3.6 and the claim for exemption should be denied. While retirement objectives of the Petitioner are commendable, they do not meet statutory standards. In tax exemption cases there must be a showing that the claimant gave to the public at large substantially more than it received. Princeton Country Day School v. State Board, Etc., 113 N.J.L. 515 (Sup. Ct. 1934). The principal function of Meadow Lakes Village is the providing of expensive housing facilities to those persons who can afford them. The religious and hospitalization function at the project are merely incidental to the main function. In Bancroft v. State Board of Taxes, Etc., 10 N.J. Misc. 656 (Sup. Ct. 1932) the former Supreme Court observed that educational fees charged by the claimant for tax exemption were considerable to the extent that it could not support a contention that the educational enterprise was of a charitable or benevolent nature. The Court also held that the fact that the operations of the institution did not from time to time result in profit, did not affect the right to tax exemption. I find that Meadow Lakes is not used for the purposes set forth in N.J.S.A. 54:4-3.6.

RECOMMENDATION

It is recommended that the claim for tax exemption by The Presbyterian Homes of the Synod of New Jersey with respect to the real property occupied by Meadow Lakes Village in Hightsown and East Windsor be denied and that the judgement of the Mercer County Board of Taxation, dismissing the appeal of the Petitioner before that agency be affirmed.

CHAPTER 35 LAWS OF 1968

Senate, No. 164
STATE OF NEW JERSEY
Sears, Bateman and White

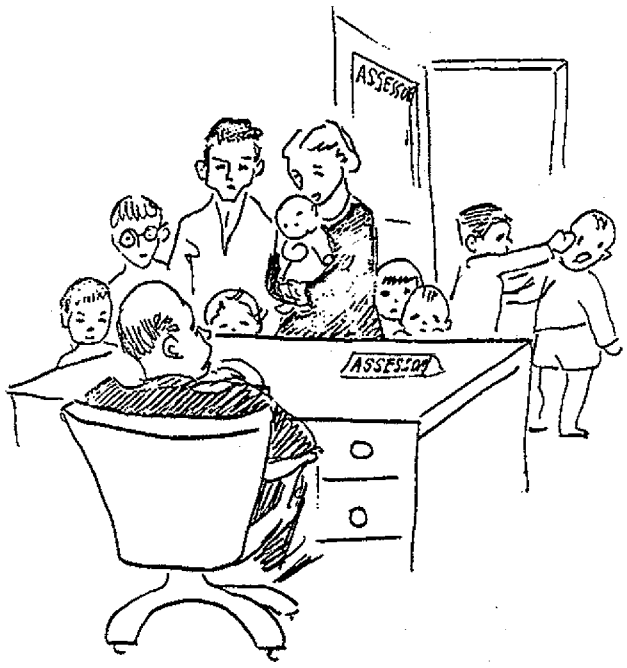
A Supplement to "An act fixing the term of office of tax assessors in the several municipalities of this State," approved June 16, 1938 (P.L. 1938, c. 386).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The municipal governing body of any municipality, in which there exists a board of assessors or other body of multiple membership created for the purpose of performing the duties of tax assessor in the municipality, shall by ordinance rearrange the terms of office of the members of such board or body in such manner that the terms of office of a majority of the members thereof shall never expire at the same time by providing that such number of the successors of the members in office on the effective date of this act shall be appointed for terms of 1, 2 or 3 years, as will be necessary to accomplish said purpose, and said members shall be appointed accordingly but their successors shall be appointed for terms of 4 years.

2. In case of a vacancy occuring otherwise than by expiration of term in the membership of a board of assessors or other body of multiple membership performing the duties of tax assessor in any municipality, the successor shall be appointed for the unexpired term only.

3. This act shall take effect January 1, 1969.



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