

## Property Taxes and Assessment Appeals

By Allie Jett\*

*When I received my 2017 assessment, I had a shock just like everyone else. I wondered what I could do and what I needed to know to make an intelligent decision. I looked to Allie Jett\*, a trusted professional, to educate me about ad valorem tax assessments. This paper was prepared in response to my questions. I hope it answers many of your questions as well.*

*J.P. Matzigkeit*

### General

While there are many different types of taxes, local governments in Georgia are primarily funded through taxes on both real and personal property. This type of tax is commonly referred to as an *ad valorem* tax which is a tax based on the property's valuation. Literally, *ad valorem* is Latin for "by its value." All real property in the state of Georgia is subject to this taxation unless specifically exempted by statute. Generally, the *ad valorem* tax you pay is calculated by multiplying the Net Taxable Value of the property by the Millage Rate for each tax district. The Net Taxable Value is determined by taking 40% of the Fair Market Value for the property (the Assessed Value) and subtracting any Homestead Exemption.

$$\text{Ad Valorem Tax} = \text{Net Taxable Value} \times \text{Millage Rate}$$

$$\text{Net Taxable Value} = \text{Assessed Value} - \text{Homestead Exemption}$$

$$\text{Assessed Value} = \text{Fair Market Value of Property} \times 40\%$$

The creation of your tax bill involves the participation of several county and/or city government entities. The county's Board of Tax Assessors (BTA) estimates the fair market value of each property. Each tax district collecting taxes, which could include the County, City, School Board and State, each independently set the millage rate, which is the tax rate by which your Net Taxable Value is multiplied. The county Tax Commissioner (or City Revenue Collector), while having no input into the amount of taxes owed, is responsible for the billing and the collecting of the taxes.

The process of assessment of properties and the appeal of those assessments are often the subject of review by the General Assembly. As such, any information contained should be verified by consultation to the applicable statutes in the event of revision or amendment by the state legislature.

### How

Property is required to be assessed at its "fair market value" which is the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length bona fide sale. A revision to the governing legislation during the

Great Recession expanded the definition of a bona fide sale to include foreclosure sales. While the system may vary among counties, most BOAs use a ‘best guess’ approach when assigning values to property and may consider historic sales prices as a guide. This sometimes causes assessment valuations to lag behind market values by a few years. However, in the case of new purchases, it should be noted that the purchase price paid at an arm length sale is evidence of the fair market value for the next tax cycle unless significant improvements are made to the property from the time of acquisition to January 1 of the following year.

The BTA has staff appraisers who are charged with periodically reviewing property and appraising its value. The BTA is required to reassess every property at least every seven years, although in most cases, reassessments happen much more frequently.

### Protecting Yourself

Start by submitting a property tax return to the BTA. Every property owner can, though in practice few do, file a property tax return on or before April 1 of each year, except for a few counties which shorten the deadline to March 1. The return submitted to the BTA states the property owner’s opinion of the fair market value of the property. While the BTA is not required to use this fair market value, it establishes a starting point for the fair market value.

Next, be on the lookout for the Notice of Assessment the BTA is required to send out every year, usually in the Spring. This Notice states the fair market value the BTA is assigning to your property for the current tax year and provides a date by which any appeal must be filed. Review it carefully and take note of the appeal deadline. Failure to receive the Notice does not stay your deadline. Therefore, be proactive in searching it out. In many cases, your Notice can be downloaded from the BTA’s website or requested directly from the BTA.

### Annual Assessment Notices and Appeal Considerations

The BTA must send out an Annual Notice of Assessment on every taxable property in the County. Property owners will also see additional information appearing on these Assessment Notices including an estimate of the amount of taxes the owner will likely see on their tax bill as well as provide a notice the owner is entitled to view any documents used by the County in determining the value of the owner’s property. Every notice is appealable to the BTA regardless of whether the value remained the same from the prior year’s assessment. The appeal deadline is 45 days from the date of the Notice.

Every property owner has the right to appeal the government’s valuation of their property, so long as it was the owner of the property by the deadline to file the appeal. However, it should be noted that the decision of the appeal will be based on the fair market value of the property (unless it invokes a legal question such as qualification for an exemption) and is not limited to the value set on the Notice of Assessment. Therefore, a property owner should be careful and conscientious of what evidence of value may come out an appeal hearing, lest they end up with a higher tax bill than was even contemplated by the Notice of Assessment.

A property owner may elect to handle their appeal themselves or hire an attorney or tax appeal specialist to assist them. In determining whether to utilize a third party to assist you in appeal, it is recommended you take a realistic look at the potential tax savings your appeal will generate versus the potential costs associated with hiring an attorney or other tax specialist to assist you. However, it should be noted that in most cases, the value established by the appeal will be frozen for the next two tax years as well as the current tax years. Therefore, consideration should be given to the overall savings recouped over the three-year period.

## The Appeal Process

Once you have decided to appeal your assessment, the appeal is initiated by filing an appeal with the BTA by the deadline stated on your Notice of Assessment. This may be done by letter or through an online portal with the BTA, where available. The appeal must set out the grounds for which the owner is appealing the property (challenging the fair market value, being the most common reason) and the value the owner believes to be appropriate. The BTA may elect to administratively approve your appeal internally or offer you a compromise value. In the latter instance, you must affirmatively alert the BTA if you do not agree with their compromise offer, or it becomes final.

If the appeal is not resolved internally with the BTA administrative review process, there are three ways you are entitled to pursue your appeal: the Board of Equalization (BOE), Arbitration, or a Hearing Officer in some cases. Each is discussed briefly below. With limited exceptions, the resolution of any appeal will set the value for the appealed tax year and the following two years.

## Board of Equalization

A hearing in front of the BOE is by far the most common form of appeal. It consists of a hearing in front of a 3-member panel of independent lay people. Each BOE member is required to undergo a certain number of hours of training on issues of assessment. Both the BTA appraiser and the property owner present their case as to the correct valuation for that property. At the conclusion of the hearing, the BOE will issue their determination of valuation. Both the BTA and the property owner have the further option of appealing the BOE's decision to the Superior Court within 30 days. The cost advantage of this process is that the taxpayer can represent themselves without an attorney or tax specialist. If the taxpayer is unhappy with the result, the taxpayer has the choice of holding pat or hiring an attorney to file an appeal to the County Superior Court. The nice thing is that the appeal to the Superior Court is not bound by the evidence presented at the BOE hearing. The downside is that the taxpayer only has thirty days to find an attorney, hire an attorney and get them up to speed.

## Arbitration

Under Arbitration, the property owner must present to the BTA a certified appraisal of the property prior to the appointment of the arbitrator. This means the taxpayer has to find and engage an appraiser. Appraisers are neither cheap nor are they subject to influence. That means, just because the taxpayer hires the appraiser, that does not guarantee the appraiser is going to

come up with a number they will be happy with. The BTA has 45 days to accept or reject the owner's appraisal. Owners are protected from inordinate delay by the County insofar as if the BTA fails to accept or reject the owner's appraisal within 45 days, the value set by the owner's appraisal becomes final. Assuming the BTA rejects your appraisal's value in a timely manner, your appeal will proceed with a hearing in front of an arbitrator. The arbitrator's decision is final as to issues of fair market value and uniformity and cannot be appealed to the County Superior Court. However, any legal issues separate from fair market value and uniformity may be appealed.

### Hearing Officer

As of 2011, Georgia has a third option of having an assessment appeal heard in front of a Hearing Officer. This is a streamlined process is only available for non-homestead property (e.g., commercial property) with a value exceeding \$1,000,00. Hearing Officers must be a certified appraiser approved by the County who has undergone a significant amount of training on Georgia law, appraisal techniques and evidentiary issues. The Hearing Officer may be agreed upon by the BTA and the property owner from a designated list, or alternatively will be selected by the Superior Court Clerk. Any decisions made by the Hearing Officer will be appealable to the County Superior Court.

### Payment of Taxes Pending an Assessment Appeal

If you have timely appealed your tax assessment, you nonetheless must still pay your taxes. However, the Tax Commissioner's office will issue you a Temporary Tax Bill which will bill you at 85% of the assessed value. At the conclusion of your appeal, you will either receive an additional final bill (in the situation where your appeal did not result in a 15% or greater reduction) or receive a partial refund (in the case where your appeal resulted in a reduction of your assessed value by more than 15%).

### Summary

*What I learned from Allie was during the appeal period, there is no one other than the taxpayer who can ultimately make the decision to appeal an assessment or not. I recommend every concerned taxpayer talk to a tax professional of some kind recognizing that, in making a decision to appeal, every taxpayer has to consider:*

- \* *What is an independent estimate value of the property (Zillow? Friendly realtor?)*
- \* *What is the new assessed value from County Tax Assessor and how does this compare to an independent estimate?*
- \* *What is the maximum projected three-year tax increase?*
- \* *What are the costs of tax professionals and how does that compare to the projected three-year tax increase?*
- \* *What is the likelihood of significant reduction in assessment?*

\* *Even if the appeal is lost, how desirable is locking in the current assessment?*

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\*Allie Jett is a partner at Weissman PC in Atlanta, GA. The content of this summary is provided for informational purposes only and should not be considered as legal advice. Whenever considering taking legal action, it is always recommended that you consult with an attorney.