

House Study Committee on Reforming Real Property Taxation

November 2, 2018 Meeting Summary

The House Study Committee on Reforming Real Property Taxation met on Friday, November 2, 2018 in room 403 of the Capitol. The scope of this meeting was defined to only include the process of appealing real property assessments in the state of Georgia. During the meeting, the committee heard testimony from the following:

- Ellen Mills - Director, Local Government Services Division, Georgia Department of Revenue (DOR)
- Alla Raykin – Attorney, Eversheds Sutherland LLP
- James Roberts – Partner, Fellers, Schewe, Scott & Roberts, Inc., and a member of the executive board of the Georgia Association of Property Tax Professionals (GAPTP)
- Chris Boyer – Director, Property Tax Commercial, Ryan, and a member of GAPTP
- Steve Swindell - Director of Legislative Affairs, Georgia Association of Assessing Officials (GAAO), and Cherokee County Chief Appraiser
- Roger Land – Property Tax Attorney, G. Roger Land & Associates
- Mitchell Graham – Property Tax Attorney, G. Roger Land & Associates
- Greg Allen – Forsyth County Clerk of Superior and State Court, and Vice President, Georgia Superior Court Clerks Association

Ellen Mills provided a presentation regarding the property tax appeal process in Georgia including the roles of DOR and county offices. Highlights of the presentation include the following:

- In 2017, 109,100 property tax appeals were filed in Georgia. This number will vary by year due to counties doing revaluations every three years.
- The Clerk of Superior Court is the Appeal Administrator for all property tax appeals.
 - Danny Powers, Tax Commissioner of Chatham County, agrees with Ms. Mills’ statement that the process of having the Clerk of Superior Court act as the Appeal Administrator is working very well.
 - The Appeal Administrator oversees the administration of the appeal not the content of the appeal.
- DOR provides uniform forms, standards and procedures, and trains the Boards of Equalization (BOE) and hearing officers.
- Taxpayers may appeal within 45 days and can appeal to BOE, hearing officer, or arbitration with some restrictions.
 - 2016 data on property tax appeals is available on DOR website and 2017 data will be available soon.
- Rep. Gardner – How does Atlanta and Fulton and Dekalb county work?
 - Both Assessors are supposed to come to terms and agree on an equalized ratio. Does not affect county taxes.
- Most property tax appeals go to the BOE.
 - BOE members are taxpayers in the county, serve three year terms, and are trained by DOR (40 hours during first year served then 8 hour refreshers annually).
- BOE can require the Board of Assessors (BOA) to do a county wide reappraisal.

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- Chairman Welch – How many counties had greater than 3 percent appeals?
 - Ms. Mills does not have a number available but it is tracked through the county Computer Assisted Mass Appraisal (CAMA) system.
 - Welch – Can DOR look in CAMA systems to determine whether or not locals have accurately reported the number of appeals?
 - DOR agents can review CAMA systems if made available by the locals.
 - Welch – How often does DOR request to view CAMA systems?
 - During performance reviews, digest reviews, and if requested by the locals.
 - Welch – During three year review does DOR request access to CAMA system?
 - No, the reports DOR receives provide the data needed.
 - Welch – DOR cannot know if counties exceed 3 percent appeals unless it is reported to DOR. Have to trust that locals are providing all information accurately.
- Rep. Gardner – Do appeals provide an opportunity for assessors to more accurately assess properties?
 - Assessors should visit properties under appeal in order to have a better understanding of the properties.
 - Counties could get a lot of appeals because they are very close to an accurate valuation and taxpayers are uncomfortable with it or the counties could be doing something very wrong. A high number of appeals doesn't always mean something is wrong.
- Chairman Welch – Is there a statutory requirement to revalue every three years?
 - No, fair market value (FMV) is supposed to be met every year.
 - The three year review is DOR's relationship with the county in reviewing how they are assessing and whether there should be a penalty.
- Chairman Welch – If you have a high number of appeals within a neighborhood, does that alter the valuation for the neighborhood as a whole?
 - Cannot change values of properties that did not appeal in the current year. In the following year the BOA could use knowledge of previous appeals to adjust the entire neighborhood.
 - Disparity between those who appeal and those who do not will occur when taxpayers who appeal have values frozen for the next two years.
- Hearing officer appeals are allowed for nonhomestead real property valued at greater than \$500,000 and wireless properties.
 - Can hear appeals on value and uniformity.
- Hearing officers are certified appraisers who receive training by DOR (8-hour initial training and 4-hour annual trainings).
- Chairman Welch – How many hearing officers are there statewide?
 - 25 hearing officers
 - Around 4,000 certified appraisers
 - Appraisers approach DOR to become hearing officers.
- Chairman Welch – Who pays for the hearing officers time and per diem?

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- The hearing officer pays for their own training and the county pays all other costs.
- If an appeal is not assigned to a hearing officer within 180 days of receiving the appeal, then the asserted value becomes the FMV.
- Chairman Welch – If challenging uniformity, to what extent does the public have access to data used to mass appraise for the entire jurisdiction?
 - Uniformity is a hard concept to appeal.
 - 48-5-306 has a records availability provision saying that all records used must be made available.
 - Welch – Is there a way to make it more transparent on the front end so the taxpayer has a better idea of whether an appeal is worth pursuing?
 - Possibly a narrative of the assessment process could be posted online and be helpful.
 - Welch – The average person should be able to know what neighborhood they are in and do their own self-assessment by observing comparable properties.
- In a non-binding arbitration appeal, the taxpayer must provide a certified appraisal within 45 days.
- The arbitrator, who must be a certified appraiser, is appointed by the chief judge. Arbitrators are often also hearing officers.
- The loser of the appeal pays the cost of the arbitrator.

Alla Raykin introduced herself to the committee and focused on litigation for commercial taxpayers. Her comments included the following:

- Ms. Raykin represents corporate tax payers in property tax appeals statewide.
- Provided a handout regarding suggestions for reforms. Suggestions include:
 - Providing alternatives to BOE appeals for complex cases.
 - Restrict court appeals by BOA's after the county loses an initial appeal.
 - Attorney fees should be recoverable in all cases to avoid unnecessary litigation.
 - Interest should continue to accrue during the course of an appeal.
 - Settlement conferences should be made more effective.
 - The tax tribunal should have jurisdiction in certain cases.

James Roberts and Chris Boyer introduced themselves to the committee and discussed their experiences working with property taxes over the past 35 years. GAPTP would like to be a resource to the committee. Their comments included the following:

- In 2008 the property tax process began to change. The changes were largely caused by legislative personalities driven by the change in majority from Democrat to Republican as well as the great recession.
- GAPTP has experience working on property tax issues in surrounding states as well as many states nationwide.

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- GAPTP believes there are things that can be improved, but overall the system Georgia has is a solid system.
- Rep Carson – Do you typically get involved in residential or commercial property?
 - Commercial primarily but have an understanding of the residential process as well.
- Rep. Carson – Are you going to provide written recommendations to the committee?
 - Yes, we were waiting to know what the committee wanted to accomplish before preparing suggestions.
- A six year revaluation period is too long. Three years is better, but each county is different. Values change faster in some counties than in others, so the need for shorter periods in fast changing counties is important.
- Maryland has a system with a 3-year revaluation process. South Carolina has a system with a 5-year revaluation process.
- Rep. Gardner – Is it possible to have different requirements for counties or areas within counties that change value faster?
 - That would be difficult. Other states that allow for different revaluation windows have different constitutions than Georgia.
- Welch – Have you seen any systems that utilize a market-based system to allow for assessed values to increase in non-assessment years?
 - No, not aware of any states using an indexing mechanism. Market activity is considered during revaluations.

Steve Swindell introduced himself to the committee and stated that GAAO will be available as a resource to the committee and also made the following comment:

- Tax assessors are focused on providing a property tax system that treats all tax payers fairly.

Roger Land introduced himself to the committee as a property tax attorney representing tax payers and made the following statements:

- 44,000 appeals were in Fulton County and 10,000 were in Dekalb County.
 - Most of the problems we have with property taxes are urban issues.
- Gwinnett has 50 percent no-shows on BOE appeals.

Mitchell Graham introduced himself as an associate at G. Roger Land & Associates and presented the following information:

- Counties can currently join together to form regional BOEs but none do it.
- BOE members are not paid much, \$25. Need to find a way to incentivize good members.
- Settlement conferences are inconsistent. There is no incentive for assessors to settle.

Greg Allen introduced himself to the committee and reviewed the information the Council of Superior Court Clerks of Georgia provided to the committee. Mr. Allen also made the following statements:

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- The main issues the council sees with the property tax appeal system is the cost to small counties and the number of no-shows at appeal hearings.

Chairman Welch closed the meeting with the following statements:

- Questions remaining are:
 - What is the value of the BOE hearing process versus using hearing officers?
 - How meaningful is the burden shift of the assessors having to make their case?
 - What is the burden on Superior Courts?
 - A true administrative process of a review of record rather than a de novo hearing.
 - Utilize a special master rather a jury.