
Restoring the Public Trust in Allegheny County's Real Estate Assessments

Robert P. Strauss*

A Speech before the Annual Dinner of the
League of Women Voters of Greater Pittsburgh

Wednesday, 6 PM
May 15, 2002

Bidwell Training Center
1815 Metropolitan Street
Pittsburgh, Pennsylvania

*Professor of Economics and Public Policy, H. John Heinz III. School of Public Policy and Management; Carnegie-Mellon University; Pittsburgh, Pennsylvania, 15213-3890. Email: RS9F@Andrew.CMU.Edu; Home Page: www2.Heinz.cmu.edu/~RS9f. The author wishes to thank Ms. Laura Foussekis, Maryland State Department of Assessments and Taxation for data on assessment fairness in Maryland, Ms. Shelly Wilson of the Ohio Department of Tax Equalization for data on assessment fairness in Cuyahoga County, Allegheny County Treasurer John Weinstein and Pittsburgh City Controller Tom Flaherty for assessment and sales data on Allegheny County. Responsibility for the empirical results and views in this paper are those solely of the author, and do not represent those of Carnegie-Mellon University or its Board of Trustees.

“...it’s often difficult to distinguish between incompetence and malevolence; however, the two are not mutually exclusive.”

----1975 advice from a veteran Congressional staff member to a novice

1. Introduction

Better than a quarter century ago, upon first joining the Staff of the Joint Committee on Taxation of the US Congress, I commented to Herbert L. Chabot, then Deputy Chief of Staff of the Joint Committee on Taxation¹, former editor of the Columbia Law Review, and subsequently a US Tax Court judge, that certain things I was observing in terms of Congressional behavior made no sense to me. His advice was, per the above, to deal with the manifestations of craziness as it affected the federal tax system whose provisions I was hired to protect, explain and improve (if asked), and not try to explain the craziness *per se*.

How does this advice to remain calm in the face of craziness relate to my talk this evening? Let’s review a few facts about the assessment mess in Allegheny County. Twice in the past 25 years Allegheny County’s real estate assessments have been so inequitable that a local, elected judge has put them into receivership, and ordered the County to remove the inequities. Yet, after the expenditure of \$26 million, it is unclear at least to me whether or not the resulting reassessments are any more fair than before. Protestations that they are more fair have not been independently substantiated, and the continued onslaught of angry homeowners appealing their 2001 and 2002 assessments suggests the craziness persists.²

¹ The Joint Tax Committee Staff works for the Congressional tax committees of the Congress, and has statutory oversight responsibilities for the IRS and all federal income tax refunds in excess of \$200,000. As a practical matter, the staff, composed of lawyers, accountants, economists and statisticians, writes and rewrites the Internal Revenue Code for the Congress, the committee reports that explain the Code, and assists the members of the House Committee on Ways and Means and Senate Finance Committee fulfill their various responsibilities.

² As some may know, late last summer, the local judge in charge of the assessment mess hired a local consulting firm to advise (and protect?) him from the rising public outcry over the 2001 County assessments. About a year ago, I received a phone call from a Tribune-Review reporter while I was in Harrisburg engaged in some tax policy research. The reporter told me that my name had been suggested by the judge as a possible advisor. I observed that was certainly news to me as I had never met or talked with the judge directly or indirectly about the assessment situation. Then the reporter asked what I knew about the consulting firm; I told him what little I knew about the firm. Then he asked why the County preferred them to me (or anybody else), I told him two things: First, the County probably was looking for an advisor to the judge who would make their efforts look good. I have a reputation for calling them as I see them, not as others want me to call them. Second, I suggested he do the obvious, “...follow the money.” The reporter said he didn’t quite understand, so I explained that who gives money to elected officials is typically a public record, even in Pennsylvania. As it turned out, the reporter discovered and the Tribune-Review (but not the Post-Gazette) published the fact that the consulting firm had made an indirect 2001 contribution to the County Executive’s re-election fund which may have weighed in the minds of county officials when

The reason that there have not been independent confirmations of the success (or failure) of the reassessments of 2001 and 2002 is because the Allegheny County government has failed to give sales information to the state in a complete or timely basis. This intransigence in sending verified information on real estate sales information to the Pennsylvania State Tax Equalization Board (STEB) in 2001 and 2002 is not readily explained by incompetence, because the County has sent the quarterly sales reports to the STEB for decades. Every county is obligated by state law to send this information to STEB so that STEB can fulfill its statutory responsibilities to provide accurate data to the Pennsylvania Department of Education for the distribution of state aid to the schools.

According to STEB, what Allegheny County did do was send information on 13,000 real estate sales in 2001 to STEB; that occurred in December, 2001 and not quarterly as required by law.³ Here in Allegheny County, a data file of just residential sales throughout the County that was made available to the Pittsburgh City Controller's office shows on the order of 25,000 to 30,000 residential estate sales per year.⁴ It is hard to understand the disparities in count, but they certainly are quite different.

As of Tuesday, May, 14, 2002, Allegheny County had yet to send information to STEB on the first quarter real estate sales in 2002. The County's repeated failure to perform an ordinary administrative function is particularly crazy in light of the fact that there is a new form of county government, designed by the framers to achieve new levels of administrative efficiency, and this new form of county government is being run as a business by a widely admired and successful businessman. Equally crazy is that this failure to perform a governmental function will ultimately cost the school districts in Allegheny County a lot of state school aid money⁵, and this failure to perform a

responding to an enquiry from the judge about who should advise the judge. Nothing illegal transpired under Pennsylvania law. And it is likely the judge, County Executive, and consulting firm got what each was looking for. Whether the public interest was served is, of course, a different matter.

³ Some have said that the installation of a new form of government caused much confusion and delay, and that is why the sales data was not sent. Nobody has yet argued that the home rule charter, as written or amended frees the County from the obligation to send such data to STEB. Also, nobody has yet argued that the new government did not know they were supposed to send the data, and if they so argued questions could be raised about the plausibility of this claim. After all, the current County Manager was formerly the Deputy County Controller for a very long time, and the County Controller has long had a responsibility for part of the administration of the real estate assessment system. As an attorney himself, it is reasonable to presume he was aware of the County's responsibilities to STEB under state law, and he likely was intimately involved in approving the payments to Sabre while in the County Controller's office as the County Controller was himself transitioning to the bench.

⁴

<u>Year</u>	<u>Sales</u>
1996	25,887
1997	27,840
1998	31,530
1999	31,279
2000	34,273
2001	27,855

⁵ Some estimate a drop in state school aid systematically among all Allegheny County school districts on the order of anywhere from 5-10%/year.

governmental function has occurred while the administration of the real estate assessment system is under the control of a local judge.⁶

My theme this evening involves the importance to remain calm in the midst of this craziness, and insist that the political process create justice in the assessment of the real estate tax base in Allegheny County. I find the enthusiasm that most candidates have for tossing out the real estate tax, to finance our schools in favor of a state income tax, does not pass the straight face test once a few facts are revealed. It is very likely that the ongoing craziness in real estate assessments has destroyed the public trust in Allegheny County government's capacity to govern and use its resources it takes from taxpayers in a wise and even handed manner.

My objective is thus to exhort you, in your role as activists in the League of Women Voters of Greater Pittsburgh, to make the reform of Allegheny County's real estate assessments an issue that should be debated by those aspiring to attain or retain public office throughout the region. Political competition to devise meaningful ways to achieve assessment justice can then work materially to restore the public trust. Also, I will suggest a new way to obtain assessment justice even if political competition fails to provide candidates and proposed policies that will plausibly make a difference.

I hope you will pay close attention to the numbers and statistics I present, because they provide a strong basis for asking some tough questions of those seeking to take your money to pay for public services through the taxation of real estate.

2. Why Assessments Matter and Impact Business and Household Location Decisions

Unless a prospective business can talk a local taxing body into granting them a real estate tax exemption as an inducement to locate, it will have to make a projection of how much in real estate taxes it will pay compared to such taxes elsewhere. Tax costs will be

⁶ The phrase "failure to perform a governmental function" is not a phrase I have invented and written here, it is a phrase in Pennsylvania law that gives standing to anybody who feels aggrieved by a government official's failure to do what is required of the government official under state law, e.g. this enables a citizen to seek recourse in the courts if a public official does not do what he or she is required by law to do. Since this failure persists while the County is in assessment receivership under the control of a local judge, there is an issue about what one can reasonably expect to achieve if the same (elected) judge has to rule on what he has failed to notice or correct so far.

I have heard it said that all issues brought to the local courts relating to the assessment mess are always sent to the same judge. After all, there are many local judges in the Court of Common Pleas who pour out justice under state and local law, so it is imaginable that the burden of dealing with public displeasure, that rises to the level of litigation, could be shared among all the judges, e.g. burden sharing. Evidently there is a feeling among the local judiciary that one judge is particularly expert and/or deserving to deal with all such public displeasures over property assessments. In economics we call this sort of notion a presumption that there are economies of scale in specialization. In politics and public administration, this may simply be a way to chill the public's displeasure and willingness to cause trouble by resorting to litigation and relying on state constitutional assurances of fairness. The title of my talk presumes that this sort of approach to governance and adjudication squanders the public trust.

compared among competing jurisdictions just as labor and energy costs will be compared. Not only does the rate of real estate tax matter in making a business location decision, so does the nature or character of the way the real estate tax base is measured. If a prospective business decides that the initial assessment process for local real estate is uncertain, unpredictable, and/or corrupt (you have to bribe an assessor to get a reasonable assessment), and/or the appeals process is uncertain, unpredictable or corrupt, the prospective business will locate in an area where such 18th century practices that lead to uncertainty or condone corruption are absent.

It is a fact that for federal corporate income tax purposes one can not deduct a bribe as a cost of doing business. This is also true for state corporate income tax purposes, although the chances of getting caught at the state level are much less than at the federal level. Similar remarks hold for how households decide about where to live, although weight is also given to the quality of local schools and proximity to where one works.

3. What is Fairness in the Assessment of Real Estate for Tax Purposes?

Two identical houses next to each other, with identical land and in identical condition, should be valued identically and their owners be required to subsequently pay identical dollar amounts of real estate tax, since by assumption the two houses are located in the same county, school district, and municipality. Assessed value is now 100% of market value in Allegheny County, so if one of the houses sells, the market price should be used for new assessment value for the house that sells, and also be used to estimate the assessed value of the house that was identical but did not sell.

The simplest way to *measure* how fair assessments are is to compare the assessed value of properties, before they sold, to the actual sales price after they are sold. If the assessor did a perfect job in predicting or estimating the assessed values of these properties, each of the ratios of assessed value to sales price would be 1.0. If the assessor undervalued the property, the ratio would be less than 1.0, say .90, and if the assessor overvalued the property, the ratio would be greater than 1.0, say 1.20. If one owns a house that is *under*-assessed, it follows that one's property taxes are lower than the identical house whose assessed value was equal to the sales price, and it follows that one's property taxes are lower than another house that was *over*-assessed.

If all properties are under-assessed or over-assessed by the same percentage, then they will be treated fairly since the tax rate will adjust either way and impact all properties identically to raise a given amount of taxes for the budget. A systematic under-assessment will require that the real estate tax rate be raised proportionately higher, and systematic over-assessment will require that the real estate tax rate be lowered proportionately to obtain a fixed dollar amount of budget.

Dispersion of assessed value from the actual selling price within a taxing jurisdiction is what causes inequity; the national standard for how close assessed values should be is stated in relation to the *median* ratio of assessed value to sales price. The coefficient of dispersion is the average absolute deviation in observed ratios of assessed values to sales

prices compared to the median observed ratio of assessed value to sales price. The International Association of Assessing Officers recommends a coefficient of dispersion of 15% or less. If the coefficient of dispersion is zero, this means that all observed ratios of assessed to sales prices are identical. If the coefficient of dispersion is 15%, it means that virtually all⁷ of the observed ratios of assessed to sales prices are within 15% of the median ratio of assessed to sales price. Thus, assessment virtue improves as the coefficient of dispersion gets smaller. To calculate such coefficients, one must collect data on real estate transactions, and compare the assessed values before the sale to the actual selling prices afterwards.

4. How Good (or Bad) Are Allegheny County's Assessments?

As noted earlier, each quarter of every calendar year, each county in Pennsylvania is obligated by law to send a computer tape of its real estate transactions to the Pennsylvania State Tax Equalization Board (STEB) which analyzes the data, and publishes by county the coefficient of dispersion. STEB also publishes the representative ratio of assessed to market value, called the Common Level Ratio, and compares it to what assessment ratio the County has elected to use.⁸

How fair has the real estate assessment process been in Allegheny County? Figure 1 shows that the best coefficient of dispersion the County was able to achieve was 20% in 1991, and that it has been very close to 30% or twice the recommended national standard of 15% in the second half of the 1990's. We still do not know what the results for 2001 were, after the expenditure of better than \$26 million to Sabre Systems.

Pennsylvania has a notorious reputation for having very inequitable real estate assessments. How bad is Allegheny County compared to other counties in Pennsylvania? Among Pennsylvania's 67 counties, Allegheny County's coefficient of dispersion for 2000 was 29.62%; this ranked 29th in the state. (See Table 1). Delaware County, which had not been reassessed in over 100 years until the mid 1990's under the watchful eye of a Delaware County judge with an apparent taste for getting assessments and related administrative procedures right, had the 9th best coefficient of dispersion of 18.5% in 2000. Only Lancaster, Chester, Lycoming, York and Montgomery counties has coefficients of dispersion lower than the nationally recommended standard of 15%. Fayette County had the worst assessment record with a coefficient of dispersion of 52.8%; as you may know, it currently is going through a mass reappraisal, and so far has avoided most of the mistakes made by Allegheny County.

5. Is the Property Tax Viable in a Modern Economy?

It is often said by critics of the local real estate tax that Pennsylvania's very high coefficients of dispersion simply prove that the time has come to give up on the local real estate tax as a sensible source of local finance for schools and municipal government.

⁷ 95% of all properties are required to be within 15% (+ or -) of the median assessed to sales ratio to be precise.

⁸ See www.steb.state.pa.us

The argument goes that the nature of wealth has changed in our society and things like apartment buildings, factories, and homes are impossible to value, and no longer are important components of personal and business wealth. Rather, intangibles are what make a difference. The very high coefficients of dispersion are usually cited as “proving” that given the complex nature of a high technology economy, it simply is no longer possible to do a good job of assessing real estate.

I have several problems with this line of argument that I want to share with you. First, entire states have done better than the magic 15%, as has a metropolitan area that we compete with in terms of something really important, namely professional football. Both facts belie the argument that improving the fairness of assessments in Allegheny County (or Pennsylvania) is not possible in this millennia.

Figure 2 displays Allegheny County’s coefficient of dispersion against not only the national standard of 15%, but also what the state of Maryland has been able to accomplish with regard to residential property. Maryland is the only state in the Nation that obligates state government to perform all real estate assessments. There are no locally appointed or locally elected assessors in Maryland. Getting the assessment process entirely professionalized has enabled Maryland to achieve a residential coefficient of dispersion, statewide, of under 11%, or better than **every** county in Pennsylvania.⁹

Figure 3 displays the fairness of Allegheny County’s historical assessment record against the record of the home of the Cleveland Browns, Cuyahoga County. During 1991-1999, the period for which the Ohio Department of Equalization readily had dispersion coefficients calculated for Cuyahoga County, Cuyahoga County’s dispersion coefficient was 13% *or less*. This was a better record than all but two counties in Pennsylvania. Evidently, while our running and passing game have enabled us to beat the Browns and go to the playoffs, their elected county assessor knows something that Allegheny County’s new home rule form of government has yet to figure out. Let’s hope the Browns don’t hire their elected assessor to run their football team!

Second, if the state were to absorb all of the local school real estate taxes used to finance public education, the rate of state personal income tax would go up remarkably, perhaps in excess of what the electorate is ready to contemplate as a “price” for reform. Also, there would be a massive shift in tax burden from business real estate taxpayers and elderly real estate taxpayers to wage earners. In fiscal year 1999-2000, school real estate taxes collected statewide amounted to \$6.6 billion; if they are to be replaced by a personal income tax, the state rate of 2.8% would essentially double to 5.6%. Such wholesale elimination of the local real estate tax would shift about 35% of the real estate tax burden, currently on non-residential property, to wage earners. Such a massive

⁹ Some may argue that moving the assessment responsibility to the state level contradicts Pennsylvania’s commitment (fascination, obsession?) to the idea of “local control.” If moving to state assessment of real estate were to result in taxpayers no longer have to appeal and waste their hard earned monies on litigation, and businesses deciding to stay instead of leave Pennsylvania, I wonder who would still support the notion of “local control” of real estate assessments.

income tax increase would still not address the perceived needs of poor school districts. Spending yet more state money on schools through a foundation formula designed to bring all districts up to a \$5,000 minimum per student classroom instructional outlay, could easily raise the personal income tax well beyond 5.6%. Retirees who receive public and private pensions, that are exempt from Pennsylvania's personal income tax, would easily be net beneficiaries of such a change since their local school real estate tax would be eliminated and the foregone revenues would be made up for by doubling the rate of tax on wages, dividends, interest and capital gains.

Third, a massive shift in financing to the state level by itself would reduce local oversight in the way school funds are spent, and, in my judgment, reduce overall accountability in the expenditures and outcomes of our public schools.¹⁰

6. What Legislative Solutions to the Assessment Inequity Problem Should We Ask Prospective Officials to Debate?

Given that it is possible to fairly impose a local real estate tax, the question naturally arises how public policy might be altered to achieve this. This past February 1, 2002, I was invited by the Allegheny County Democratic delegation to address them on the issue of the assessment mess.¹¹ What follows is a series of suggestions that I made to them which admittedly have yet to see the light of legislative day in Harrisburg.

Aside from legislating some common sense into the conduct of the local judicial branch of government when it has to deal with reassessments,¹² what sort of statutory restructuring seems meritorious for Harrisburg to undertake? I for one take as a given that the sort of Bosnian fiscal warfare that is erupting will make it impossible for the County Council and County Executive to do anything systematically constructive in the next several years. It will take cooler heads with a longer view to create a system that taxpayers will trust.

The premises that underlie the suggestions I am about to make are:

- (1) local real estate assessments are the proper responsibility of county *level* government,
- (2) local real estate tax is the proper source of much of county, municipal and school finances,
- (3) state law can readily supercede Allegheny County's home rule charter to put in place a framework that will allow competing politicians to make assessments as uniform and fair as they can be, and on the service delivery side make Allegheny County as great a place to live as the boosters already claim it is; and,

¹⁰ I have written and spoken extensively about how one might improve accountability in Pennsylvania's public schools. See, for example, www2.heinz.cmu.edu/~rs9f/stboard2.pdf.

¹¹ See "Reassessment 2001/2: Keystone Comedy or Greek Tragedy?", available on the World Wide Web at: http://www2.heinz.cmu.edu/~rs9f/democrats_2_1_02.pdf

¹² See my February 1, 2002 remarks for a discussion of ways to improve local judicial oversight of assessments.

- (4) bribing an assessor should be both a felony for the assessor taking the bribe, and also a felony for the taxpayer for offering it, and both should face very stiff fines of, say, \$20,000 each that would be heard and adjudicated in a court of law (as contrasted with a commission form oversight body).¹³

A) My 15% Solution Revisited

Before the County Executive's elimination of Allegheny County's old Board of Assessment and Review in August, 2000, I publicly suggested that one way to make assessments uniform would be to require through a new county ordinance that the executive and council automatically resign *en masse* if property assessments quality deteriorated below national quality standards, e.g. the dispersion coefficient in Figure 1, were to rise beyond the 15 percent national standard.

My reasoning was that forcing out elected officials who could not get the assessments uniform would motivate them to make sure that they were in fact at the magic 15 percent national standard. If we can test kids, and test teachers, and punish them if they do not measure up, why not test public officials about whether or not they are accomplishing one important part of their job? Certainly the General Assembly could enact statewide such a law, although a shortage of candidates for county commissioner might develop throughout the Commonwealth since most counties have dispersion coefficients well above 15 percent as shown in Table 1.

I would be remiss if I did not report that this suggestion earned me the enmity of numerous elected officials including the County Executive. Let me try here to redeem myself now with a positive variant of the same idea that may be more appealing and consistent with the way executive compensation schemes work in the private sector.

Let us think about national standards as a benchmark to improve governmental performance through *rewarding* success rather than politically penalizing failure. I think every real estate taxpayer would be happy to see the County Executive be paid an extra \$100,000/year if the magic 15% were reached, and happy to see each County Council Member also get a significant merit bonus, perhaps \$27,000/each. To make sure that improvement is rewarded, one might structure the bonus at \$0 for dispersion coefficients at 30 percent, and then increase the bonus proportionately so that by 15% the County Executive's salary would be doubled, and the County Council members' salaries tripled. If one wants to combine these incentives with some sort of penalty, then one could begin to reduce payable salaries once the dispersion coefficient rose above 30%. I mention the application of a penalty with some trepidation since it may tread too heavily on executive

¹³ Since the courts have decided that the Home Rule Charter allows the new government to reorganize the assessment process and eliminate the Board provided for in the Second Class County Code, it probably follows that the prohibition in the state law setting up the home rule process for altering the definition or punishment for felonies or misdemeanors is also available to be locally interpreted and rewritten. So far the enthusiasm of the new county government to express its freedom has not extended to the area of definitions and punishments for felonies.

and legislative egos and hubris. Hopefully that level of inequity would never be achieved in Allegheny County.

To implement this method of reward so that it is meaningful, there would have to be an independent, external confirmation of the success (or failure) of efforts to improve assessment quality. A state agency such as STEB might be one place to locate such authority although it is imaginable that even STEB might succumb to political pressure from a governor or his staff who might exert pressure to help local officials.

B) Electing an Allegheny County Assessor?

If you do not find attractive the notion of rewarding elected officials who do a superior job in serving the public interest, then consider restructuring at the county level who does the assessments along the lines that successful states and counties have followed. My research¹⁴ on the subject indicates that separately elected assessors¹⁵ with county wide responsibilities are the ones with the lowest dispersion percentages. Such independently elected assessors must also:

- (1) Have an independent source of funding for the office and whose own budget would not be affected by assessments (essentially a state mandated millage level that can not be changed);
- (2) Be held to meaningful prohibitions and sanctions against direct and indirect self-dealings and conflicts of interest;
- (3) Be required to publicly disclose the results of assessments regularly, and
- (4) Not be part of the appeals process.

It follows as a corollary that the appeals process should be independent of taxing authorities and not be involved in directing the assessment process.

C:) Real Politics in Allegheny County and Trading Places

If the second suggestion to have a separately elected and separately funded assessor is the most attractive alternative for the General Assembly, then it might be most efficient for this set of responsibilities to be added to those of the current County Controller in

¹⁴ See Robert P. Strauss and Sean Sullivan (1998), "The Political Economy of the Property Tax: Assessor Authority and Property Tax Uniformity," *Proceedings*, National Tax Association, (November, 1998), Austin Texas. Available online at: <http://www2.heinz.cmu.edu/~rs9f/nta982n.pdf>

¹⁵ Obviously what Maryland has been able to accomplish in terms of assessment quality should be at the top of any reform list; however, ceding to a state agency the responsibility and authority for what has been for centuries a local function violates Pennsylvania's affection for local control. On the other hand, those Pennsylvanians who have pondered over the above comparative data grudgingly admit that cutting, pasting, and enacting Maryland's assessment statutes and regulations in Pennsylvania likely would make a difference. Convincing the Pennsylvania General Assembly to do this, however, remains a tall order, and returns us to the forbidden subject of why assessments are so bad.

return for which the County Government would gain control over its finances and bookkeeping Under this restructuring, the County Controller would continue to do audits and assessments, but would be truly independent in audit function and disinterested in the assessment function.

My guess is that the County Council and County Executive, faced with growing public outcry over assessments, might be happy to jettison that responsibility to the County Controller, who increasingly is finding fault with the assessments.

7.0 Find a Set of Adult Laws, An Adult Judge, and an Adult Court?

Whenever I drive to the Pittsburgh airport from my office at the University, I marvel at the wonderful new Allegheny County jail that overlooks the river, and whose architecture blends in with Duquesne University. I am mindful that this architectural wonder was not the brainchild of our old, disbanded county commissioner system that has been replaced by a modern, County Executive system of government, but rather the clear decision of a local federal judge who found that the old jail to be constitutionally inhumane. I enquired of a number of colleagues in law schools around the country about what might come of taking the above dreadful coefficients of dispersion before a federal judge and complain about them on equal protection grounds. Appealing to federal equal protection assurances, as you know, has become fashionable again in the federal courts. My legal colleagues responded, evidently without possible billable time in mind, that such a tactic would never be successful. However, I was advised that a federal judge might begin to pay attention if Allegheny County's assessment inequities could be demonstrated to vary by race. This turns out to be the case, and opens up a promising new line of enquiry should there be an offended African American homeowner who lives in a particular Census Tract.

What needs to be demonstrated in a federal court of law is not there is *intentional* discrimination in the assessment process, but simply that the results of the assessments do not fall equally on white and black real estate owners. But how to show this without having to go door to door in various neighborhoods?

The computer programming turns out to be very tedious and painful¹⁶, but the idea is quite simple. Every 10 years the US Census enumerates the population and ethnicity of the population in small areas that are called Census Tracts. There are about 400+ such tracts in Allegheny County, and about 300 that I was able to easily match to the County's real estate records.¹⁷

In the 1990's, the County's mass appraisal database linked each tract number from the 1990 Census to each property by lot and block number (the 'social security number'

¹⁶ Evidently Sabre Systems devised a rather different lot and block scheme compared to the historical scheme maintained by Allegheny County, the former eliminated the embedded "--" and replaced them with many zeroes. This made matching the old and new real estate data files more challenging, but not impossible.

¹⁷ A more sophisticated analysis could utilize the 2000 Census address list for every property in the county.

of real estate parcels). One knows the ethnicity overall of each tract, and can determine from real estate transactions in each tract what the ratio of assessed value to market price for each property that sold. If a tract is 50% African American, the best estimate for any transaction in the tract of what the ethnicity is of the owner of the transaction is 50%. If there were 40 real estate transactions in the tract, then the most reliable estimate of the ratio of assessed value to market price is the *median ratio*, rather than the mean because the transactions data can contain nonsensical sales prices. The empirical question that then arises is whether or not there is a statistical relationship between the projected ethnicity of observed assessed to sales price ratios.

What I report below is two types of preliminary empirical substantiation of the proposition that properties owned by African Americans are over assessed compared to properties own by non-African Americans.

Imagine that you have about 300 Census Tracts, each with a median ratio of the 2002 assessed value to sales price¹⁸, and each with a percentage of the population that is African American. It turns out that the correlation between these two columns is .47 and the chances that the positive relationship is due to random error is remote, .0001 in particular. It also is true that this positive relationship is evident for the 2001 median ratios of assessed values to sales prices *after* the appeals, was evident as well as *before* the appeals, and was evident also in the 2000 median ratios of assessed values to sales prices *after* appeals; however, since the 2002 assessments are operative¹⁹, that is the focus below.

If one scatters the data on a grid, one can see the positive relationship indicated by the rather high correlation coefficient. A more compelling statistical demonstration of the relationship is to fit a curve through the dots, and show the curve.²⁰ Figure 4 does precisely that. What that curve tells us is that if the Census Tract is entirely non-African American, the median ratio of assessed to market value is predicted to be slightly below 1.0. On the other hand, if the Census Tract is highly African American in ethnicity, say 85%, then the median ratio of assessed to market value is predicted to be 2.45 or two and one half times what it is for an entirely non-African American Census Tract. Remember, if the ratio is higher, the taxes will be higher for properties that have the same true market value as revealed by the selling price.

The reader may object to drawing a conclusion from Figure 4 that properties owned by African Americans are more heavily assessed (and taxed) than those owned by non-

¹⁸ I excluded from my analysis any sales under \$500.00, and any tracts with fewer than 20 sales over \$500.00 in the tract to ensure that the median was representative.

¹⁹ There has been considerable argument over whether the 2002 assessments are more equitable than 2001 assessments after (or before) the appeals. While I think it can be demonstrated that the 2000 assessments are in some respects more equitable than anything done by Sabre for \$26 million or CLT for whatever they got paid, these results are simply too depressing to display or discuss. (I hasten to add that nobody has paid me anything for what is contained in this paper!).

²⁰ The estimated equation for Figure 4 (with each estimated parameter better than twice its standard error) is: Median Ratio of Assessed/Sales Price = .98313 + 3.95514 % African American - 13.38655 (% African American)² + 24.60940 (% African American)³ - 14.05156 (% African American)⁴

African Americans, because African Americans are not as prosperous as their white counterparts. Less expensive property is typically observed to be over-assessed.

The analysis can be refined, and the question about whether or not there are observable differences in the median ratio of assessed to sales prices can be posed in a slightly different, but likely more convincing way. Suppose we find the median sales price of houses for each Census Tract, and examine those which are in the bottom quartile of the distribution of median sales prices. This turns out to be tracts whose median sales price was under \$29,750. There are many such tracts in Allegheny County, and their ethnic composition accordingly varies.

Table 2 displays for tracts classified by their % African American ethnicity, the median ratio of assessed to market price of the medians among the tracts. There are four columns of these median ratios that correspond to the 2002 assessment results, those for 2001 and those for 2000. Two things are evident: first, all the median ratios are well over 100% which supports the notion that less expensive property tends to be over assessed compared to more expensive property. Second, non-African American tracts (see the first two rows of Table 2) generally have lower median ratios than the last row of Table 2 which shows the results for very heavily African American Census Tracts. For example, for the 2002 assessments, the over assessments were on the order of 179% of sales price at the median in the most heavily African American Census Tracts; compare this 179% figure to the 125% over assessment in the least African American Census Tracts. The results in Table 2 are not as striking as in Figure 4, but the patterns displayed in Table 2, if maintained through further research, would likely result in Judge Wettick finally able to get back to his tennis game and out of the property assessment oversight business (if that is what he thinks he has been doing), and a local federal judge having the opportunity to make new federal civil rights law in the area of real estate taxation.

It seems fairly obvious to me that a federal judge could within a matter of two or three years revamp the assessment and appeals system so that it produced results for Allegheny County much like those in Maryland or Cuyahoga County. The issue of why Allegheny County's assessment results have always been so inequitable has everything to do with a lack of political will, administrative incapacity and/or incompetence, and a tolerance or thirst for bribery and corruption, and nothing to do with how difficult or easy it is to get assessments right.

8. Some Implications for Pennsylvania's Politics and Politicians

Elected officials in Western Pennsylvania now say they understand that a declining population, and especially a death rate in excess of the birth rate, are things that voters care about. The current level of retail politics that links taxation to this fact amounts to a promise that it is good politics to promise the elimination of the school real estate tax to be replaced by something else later on. Whether or not this level of political rhetoric makes angry real estate owners feel better about the unjust assessments is an open question. After all, this promise has been made, but not kept by many previous gubernatorial candidates.

What I hope I have convinced you of this evening is that fair real estate assessments are possible and achieved elsewhere in Pennsylvania and around the Nation, and that creating forums for political combatants to deal with this fact this fall seems particularly meritorious. Also, I have suggested to you a range of legislative solutions that could make a difference, and also a litigation strategy that might take the matter out of the hands of our political and judicial elites, and put it under adult law and an into the hands of an adult judge.

Arguably someone seeking elected office in Pennsylvania might promise to be the first plaintiff before such a federal judge.

Also, it is imaginable that somebody should start arguing that unless the County starts spending its budget in a meaningful way on the assessment process, compared to other like sized jurisdictions, the situation of assessment injustice is only going to get much worse. (See Table 3). After all, if you spend less and less money per parcel in assessing the value of real estate, the quality of assessments can only down.

Figure 1
Assessment Fairness: 1988-2000
Allegheny County vs. National 15% Standard

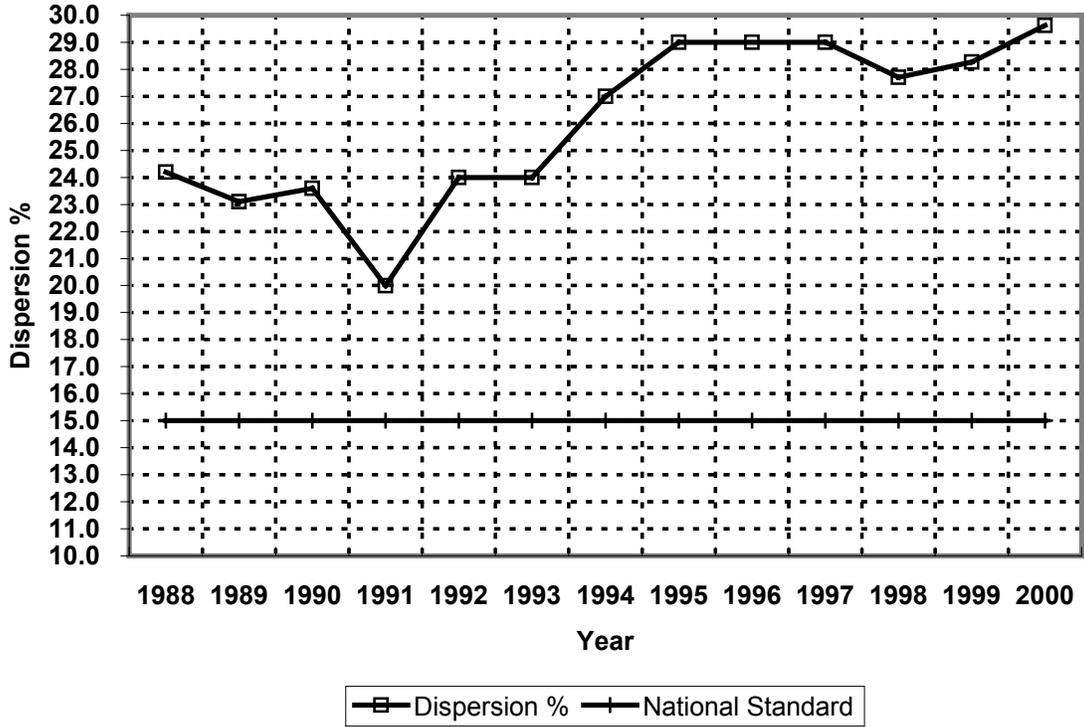


Table 1 Coefficient of Dispersion for Assessment Year 2000, Pennsylvania Counties Ranked from Lowest (Best) to Highest, Pa. State Tax Equalization Board

Rank	County	Dispersion Percentage	Rank	County	Dispersion Percentage
1	Lancaster	11.5	35	Wyoming	33.7
2	Chester	12.3	36	Tioga	34.1
3	Lycoming	13.7	37	Westmoreland	35.0
4	York	14.0	38	Montour	35.1
5	Montgomery	15.0	39	Beaver	35.2
6	Mckean	15.7	40	Philadelphia	35.3
7	Berks	15.8	41	Crawford	36.4
8	Centre	16.9	42	Clinton	36.6
9	Delaware	18.5	43	Washington	36.9
10	Bucks	19.0	44	Pike	37.1
11	Northampton	20.2	45	Perry	37.4
12	Adams	20.5	46	Clarion	37.8
13	Mifflin	21.3	47	Cameron	37.9
14	Lehigh	21.7	48	Huntingdon	38.2
15	Bradford	22.2	49	Jefferson	39.0
16	Cumberland	24.4	50	Indiana	39.1
17	Fulton	25.4	51	Wayne	39.3
18	Union	25.8	52	Mercer	39.8
19	Susquehanna	26.1	53	Luzerne	42.2
20	Franklin	26.8	54	Clearfield	42.7
21	Butler	26.9	55	Juniata	43.0
22	Columbia	27.3	56	Lawrence	43.5
23	Lebanon	27.8	57	Northumberland	43.5
24	Somerset	28.9	58	Elk	44.0
25	Erie	28.9	59	Greene	44.3
26	Warren	29.0	60	Carbon	44.6
27	Dauphin	29.0	61	Potter	45.7
28	Schuylkill	29.4	62	Bedford	46.5
29	Allegheny	29.6	63	Lackawanna	47.6
30	Armstrong	30.2	64	Forest	47.7
31	Sullivan	30.3	65	Cambria	48.3
32	Monroe	31.8	66	Venango	50.8
33	Snyder	32.2	67	Fayette	52.8
34	Blair	32.6			

Figure 2
Assessment Fairness 1988-2000
Allegheny County vs. State of Maryland

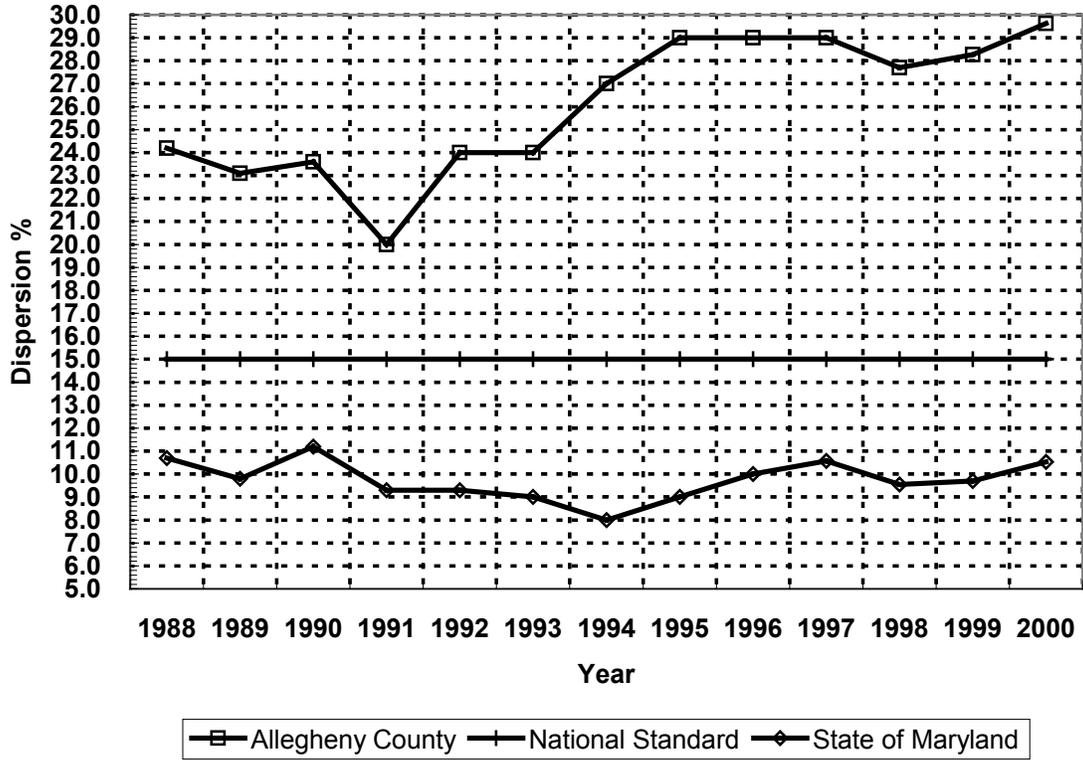


Figure 3
Assessment Fairness: 1991-1999
Allegheny County vs Cuyahoga County, Ohio

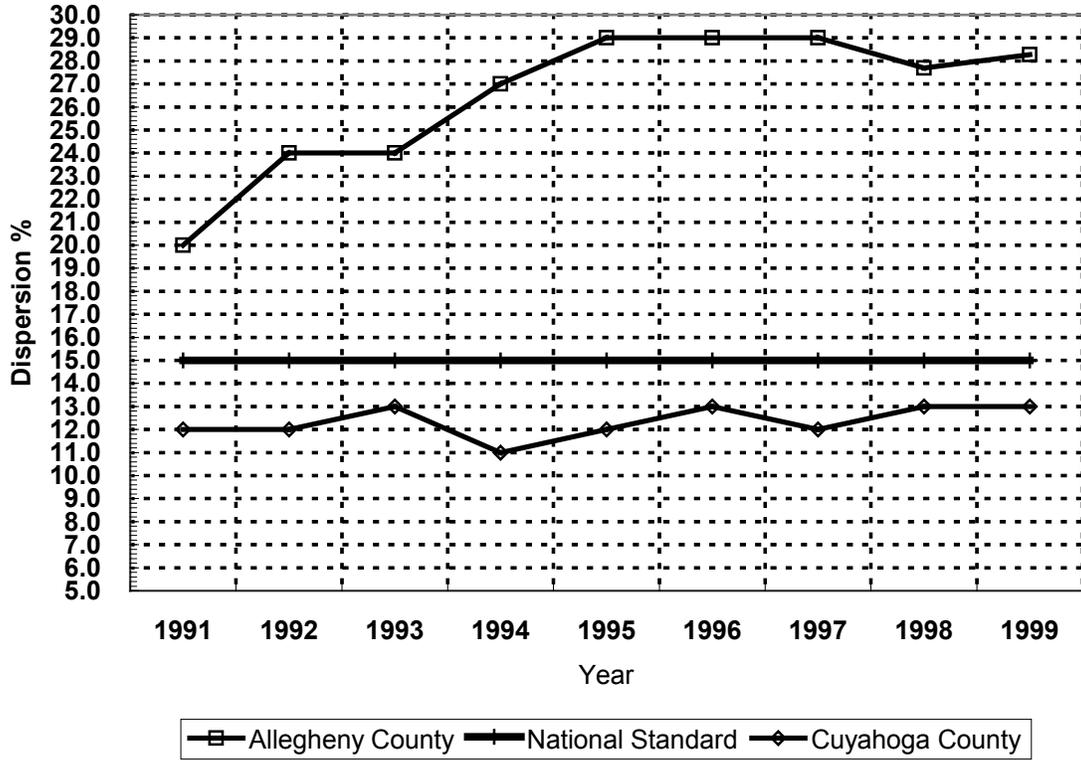


Figure 4
Preliminary Analysis of Assessment Fairness
in Allegheny County
2002 Median Assessment / Sales 2001 Price & % African American

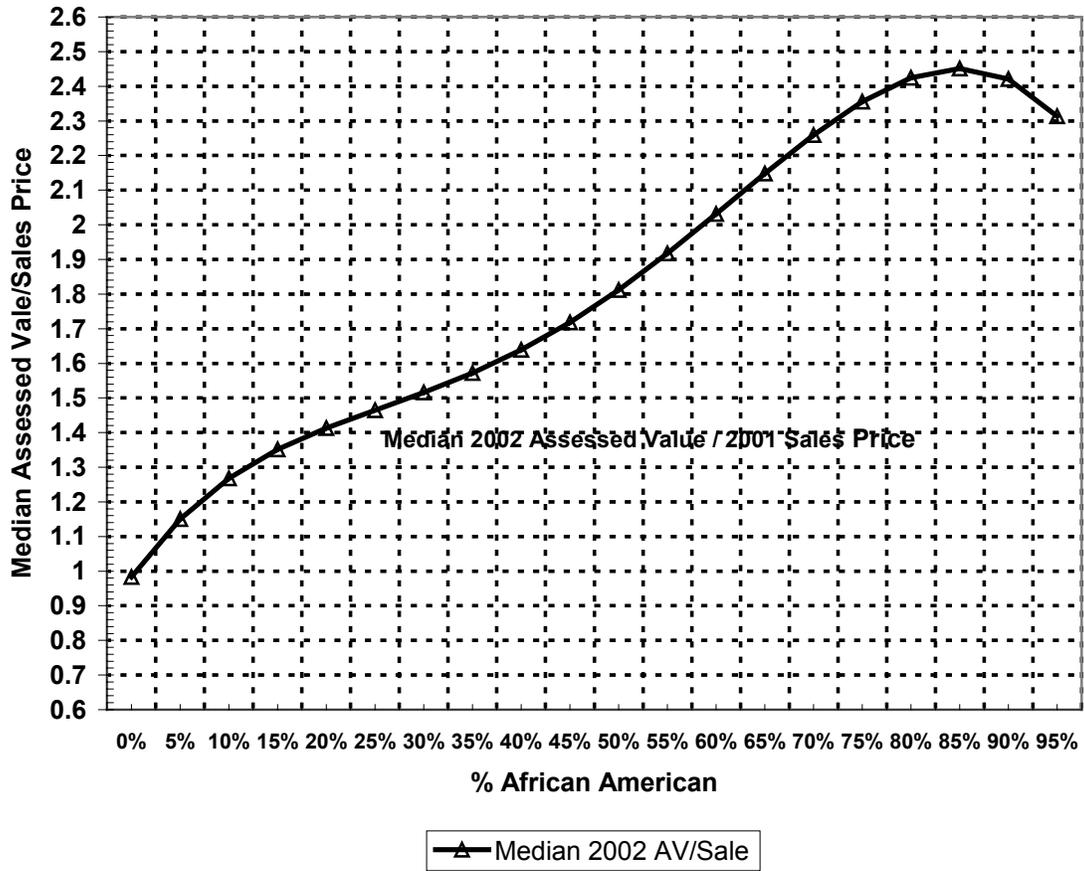


Table 2

**Preliminary Analysis of Assessment Fairness by Race
for Low Priced Residences:**

**Median Ratio of Assessed to Actual Sales Price²¹
of Residential Properties in Allegheny County
for Low Priced Residences
(under \$29,750)**

% African American In Census Tract	Assessment Year			
	2002	2001	2001B	2000
	Before Appeals	After Appeals	Before Appeals	After Appeals
0% - .9%	125%	139%	140%	122%
.9% - 2.6%	136%	152%	193%	109%
2.6% - 11.5%	121%	129%	135%	115%
11.5% - 50 %	130%	154%	185%	134%
50 - 70%	140%	221%	235%	158%
70+%	179%	191%	205%	167%

²¹ Analysis done across Census 2000 Tracts in Allegheny County. Each tract had more than 20 sales. 2002 assessments compared to 2001 actual sales prices; 2001 assessments compared to 2001 actual sales prices, and 2000 assessments compared to 2000 actual sales prices. Sales price over \$500 considered valid.

Table 3
Assessment Office Budgets,
Population for Comparable Counties,
And Budget / Parcel for 1999

Jurisdiction	Parcels	Population	Budget	Budget/Parcel
Philadelphia, Pa	566,000	1,400,000	\$10,500,000	\$18.55
King County, Wa	570,000	1,600,000	\$14,300,000	\$25.09
Palm Beach, Fla	524,000	1,000,000	\$16,400,000	\$31.30
Sacramento, Cal	437,000	1,200,000	\$9,270,000	\$21.21
Allegheny County	556,000	1,300,000	\$5,625,000	\$10.12

Source: *Report on the Allegheny County Office of Property Assessments*, March 26, 2002, p. 9.