
The Assessment of Residential Property in Allegheny County
Report 2: Sources of State Variations in Assessment Quality

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1 Introduction

This is the second in a series of four research reports to Allegheny County on ways to improve its assessment of residential property. The first report, provided to the County on September 28, 1995, examined the completeness and quality of data on the 428, 897 taxable, residential properties in Allegheny County. Questions of completeness and accuracy arose after comparing characteristics of these properties contained in the Computerized Aided Mass Appraisal Data (CAMA) of the County's Property Assessment, Appeals and Review (PAAR) to independent sources of information. These research findings in *Report 1: Sources and Quality of Data* suggested that further attention be devoted to understanding ways in which the assessment process in other states facilitate the collection and maintenance of complete and accurate property characteristics data, and how these factors affect the quality of assessments among the states.

Accordingly, this report details the mechanisms through which states enable the collection of property characteristics data, and the effects of such mechanisms on the quality of local residential assessments, state by state.

This report is organized as follows: Section 2 defines and discusses the coefficient of dispersion as a general, statistical measure of the quality of property assessment; Section 3 summarizes the structure of local property assessment in the states; Section 4 discusses the different types of authority states grant to assessors to enter a dwelling, and the obligations on property owners to accurately inform the assessment process of the nature of their property; Section 5 shows that state coefficients of dispersions vary systematically by the right of entry to obtain property characteristics data, whether assessors are at the municipal, county, or state level, and whether they are appointed or elected; Section 6 examines the governmental right of entry and federal assurances of privacy under the Fourth Amendment to the U.S. Constitution and various state statutes and practices. Section 7 concludes, and discusses the range of implications for Allegheny County.

By way of summary, the report explains the coefficient of dispersion in sales ratios as a well-known indicator of the quality of property assessment. According to the Environmental Resources Research Institute at Penn State University, Allegheny County ranked 9th out of Pennsylvania's 67 counties in terms of the overall quality of its property assessment in 1993. Using 1976 as a reference point, i.e. before the County was under court order to improve the quality of its property assessments, it is evident that from 1976 to 1993 many other Pennsylvania counties dramatically improved the quality of their assessments. Washington County had a coefficient of dispersion of 52% in 1976, and now, according to the Environmental Resources Research Institute at Penn State University, has a coefficient of dispersion of 14%, while Allegheny County's coefficient was about 24% in 1976 and was 24% in 1993.

When this study examined 1994 assessment data within Allegheny County, and examined the ratio of assessed property value to actual sales price, it found that the median sales ratio by school district was generally lower across school districts when using all (17,420) arms length home sales as contrasted to using just what were determined to be valid (7,355) home sales.

Pennsylvania is one of 35 states which assesses at the county rather than municipal level, and among 21 states in which the chief assessor is appointed rather than elected. Pennsylvania is among 18 states whose assessment statutes are silent about the authority of an assessor to enter a property to collect characteristics data about the property; six states (including Ohio) initially give entry authority to the assessor, and another (Vermont) gives the authority to the assessor upon appeal by the taxpayer.

If one examines the Census Bureau's coefficient of dispersion by state for residential property in conjunction with the state laws governing entry authority, and the level and the manner in which the chief assessor is selected, one finds that, among states with county assessors, the coefficients of dispersion are lower on average for elected rather than appointed assessors. It would appear that separating out the assessor from general county government allows the assessment process to become more uniform.

While a number of states empower assessors to enter the dwelling of a homeowner, a legal analysis of the Fourth Amendment of the US Constitution, which protects individuals from unreasonable search and seizure, suggests entry without a warrant from a local magistrate is not supportable, and that entry with a warrant is supportable under existing federal case-law. This is consistent with state statutes empowering assessors to enter a dwelling; in general they require that the assessor first obtain a warrant.

While this is the second in a series of four studies and an overall strategic plan to the County Commissioners on ways to improve the quality of residential property assessments in Allegheny County, some preliminary conclusions and implications for the County seem warranted. First, the above findings indicate that there may well be merit in amending the Second Class County Assessment Code for Allegheny County to provide for the assessor's right of entry to ensure that more complete and accurate data on property can be obtained.

Second, there may be merit in considering the positive effects of creating a separate and politically independent assessment office that would be elected rather than appointed. To insure independence, there would need to be certainty of funding, clear prohibitions about conflict of interest, and financial disclosure, as well as much closer coordination with the deed recording process. In states such as Ohio with elected assessors, the deed recording function is within that office, and funding is obtained through a separate, state-mandated millage on all property.

2 Measuring the Quality of the Residential Appraisal Process

When a residential property is sold at arms length, the assessed value of the property can be compared to the arms length price to see if the ratio of assessed value to actual price is close to the stated or predetermined assessment ratio set by the taxing jurisdiction. The ratio based on actual transactions is usually called the *sales ratio*, and the extent of its variation is studied as an indicator of overall assessment quality and effectiveness. Within a taxing jurisdiction the *sales ratio* of every arms length sale can be measured, and the distribution of *sales ratios* examined. For example, if the stated or predetermined assessment ratio used in a taxing jurisdiction is 100% or full market value, one would expect to observe sales ratios close to 100%. The closer the sales ratios to each other are, the more accurate the assessments are. Since one is comparing actual sales prices to assessed values, which necessarily are historical or from the prior year, finding sales ratios clustered around 1.0 means that the assessment process that predicted the market value of the houses that sold was quite accurate. On the other hand, if the sales ratios are quite varied, some are 75% and others are 135%, that means that the assessment process was inaccurate.

If the predetermined ratio is 100% and all the sales ratios are, say, 75%, then there is evidence of under-assessment. However, since there is no variation among the sales ratios, then homeowners are being treated systematically the same. On the other hand, if the average ratio is 75%, and some are 45% and others 135%, there is then evidence of significant variability, and cause for concern over inequities in the assessment process.

Several statistical measures are used for describing sales ratios. Recall that in Allegheny County there are on the order of 10,000 to 20,000 arms length sales of taxable, residential property each year. To summarize from so many sales the overall quality of assessment, one must examine both the level of assessment, compared to the stated level of 25%, and the variability of sales ratios around the observed level.

The most reliable measure of the level of assessment is the *median* sales ratio. If one has 101 property sales, and forms the ratio of assessed to actual sales price for each of them, the median is found by sorting the sales ratios from lowest to highest, and finding the 50'th percentile. For 101 ordered sales ratios, the median would be the 51'st sales ratio in the list with 50 below it and 50 above it.

To measure the variability of the 101 sales ratios from the median, one needs a summary statistic of variability, and the one used most often is the *coefficient of dispersion*. This is technically defined as the average absolute deviation of sales ratios from the median sales ratio, and is expressed as a percentage.

Table 1 shows the calculation of the coefficient of dispersion from seven hypothetical sales and indicates the necessary arithmetic. The seven properties have been ordered in terms of the sales ratio, column (4), which is the ratio of column (2) to column (3). With seven observations, ordered from smallest to largest sales ratio, observation 4 is the median sales ratio of .50. Column (5) shows the absolute difference between column (4) and the median, .5; the sum of the absolute deviations is the sum of column (5) and is .693. The average of .693 is $.693/7$ or .099. Finally, by dividing the average absolute deviation of the sales ratio, .693, by the median sales ratio, .5, we obtain the coefficient of dispersion of .198

or 19.8%.

The IAAO states that low coefficients of dispersion, 15.0 or less, are considered to represent good appraisal uniformity. ¹

Table 1: Example of Calculation of Coefficient of Dispersion

Sales Number	Assessed Value	Sales Price	Sales Ratio	Ratio-.5
(1)	(2)	(3)	(4)	(5)
1	\$8,500	\$25,000	0.340	0.160
2	\$19,000	\$50,000	0.380	0.120
3	\$13,000	\$30,000	0.433	0.067
Median 4	\$30,000	\$60,000	0.500	0.000
5	\$17,000	\$30,000	0.567	0.067
6	\$31,000	\$50,000	0.620	0.120
7	\$16,500	\$25,000	0.660	0.160

2.1 The Level of Assessment and Assessment Quality in Pennsylvania's Counties in 1993

Periodically, the Environmental Resources Research Institute at Penn State University collects and analyzes the county by county submissions of sales data to the State Tax Equalization Board (STEB). Table 2 displays by county the 1993 predetermined or stated assessment ratio, the "Common Level Ratio" which is a moving average of five years of actual sales ratios reported to STEB, and the measured coefficient of dispersion throughout each county.

Table 2 indicates that two counties, Delaware and Luzerne, had no predetermined or stated assessment ratio in 1993.² Five counties (Dauphin, Lackawanna, Lancaster, Westmoreland and York) state they assess at 100% of market value; however, none of STEB's Common Level Ratios (See Column (3)) are close to 100%. Under legislation passed in 1982, any county whose Common Level Ratio is higher or lower than the predetermined ratio by 15% automatically enables a taxpayer to use the lower ratio when appealing a property assessment. Of Pennsylvania's 67 counties, only 14, including Allegheny County, had Common Level Ratios (which one can roughly view as actual sales ratios) that were within 15% of the stated ratios.

In some counties the disparity between the stated or predetermined assessment ratio and what actually occurs is quite extreme. In Armstrong County the predetermined ratio is 75% of market value. That is, assessments are supposed to be 3/4 of market value. However, the observed, Common Level Ratio or the actual assessment ratio, is only 18.9%. This means that assessments have not kept up with changes in market values, and, most likely, assessments for many properties have not changed in many years. While actual sales ratios or the level of assessment can be lower than the stated or predetermined ratio, that

¹IAOO(1990), p. 534.

²Currently, Delaware County is under court order to reassess as the result of taxpayer litigation over the uniformity of property assessments there.

does not, as noted earlier, necessarily imply that there are inequities. Bucks County has a Common Level Ratio of 5% as compared to the stated ratio of 25%; however, its coefficient of dispersion, according to the Environmental Resources Research Institute at Penn State University, is 17% which is quite close to the 15% goal set by the IAAO. Note that Allegheny County's coefficient of dispersion is 24%.

Table 2: 1993 Assessment Statistics by Pennsylvania County

County	1993 Predetermined Assessment Ratio	1993 Common Level Ratio	85% of (2) or 115% of (2)	1993 Conformity with Act 287 273 of 1982?	1993 Coefficient of Dispersion
(1)	(2)	(3)	(4)	(5)	(6)
Adams County	50.0%	42.0%	42.5%	No	20.0%
Allegheny County	25.0%	22.0%	21.3%	Yes	24.0%
Armstrong County	75.0%	18.9%	63.8%	No	50.0%
Beaver County	50.0%	44.0%	42.5%	Yes	35.0%
Bedford County	35.0%	10.4%	29.8%	No	44.0%
Berks County	33.0%	6.8%	28.1%	No	29.0%
Blair County	75.0%	14.8%	63.8%	No	32.0%
Bradford County	50.0%	48.6%	42.5%	Yes	33.0%
Bucks County	25.0%	5.0%	21.3%	No	17.0%
Butler County	75.0%	13.9%	63.8%	No	36.0%
Cambria County	50.0%	19.7%	42.5%	No	43.0%
Cameron County	50.0%	51.3%	42.5%	Yes	36.0%
Carbon County	40.0%	8.5%	34.0%	No	41.0%
Centre County	20.0%	5.9%	17.0%	No	24.0%
Chester County	33.3%	6.5%	28.3%	No	25.0%
Clarion County	33.3%	14.1%	28.3%	No	43.0%
Clearfield County	25.0%	25.2%	21.3%	Yes	39.0%
Clinton County	60.0%	37.6%	51.0%	No	33.0%
Columbia County	50.0%	43.5%	42.5%	Yes	26.0%
Crawford County	75.0%	50.9%	63.8%	No	39.0%
Cumberland County	25.0%	7.5%	21.3%	No	25.0%
Dauphin County	100.0%	66.1%	85.0%	No	29.0%
Delaware County	None	3.1%	0.0%	No	30.0%
Elk County	20.0%	21.8%	17.0%	Yes	43.0%
Erie County	40.0%	9.9%	34.0%	No	27.0%
Fayette County	35.0%	13.6%	29.8%	No	49.0%
Forest County	75.0%	37.7%	63.8%	No	46.0%
Franklin County	40.0%	7.3%	34.0%	No	31.0%
Fulton County	25.0%	20.2%	21.3%	No	29.0%
Greene County	33.3%	36.9%	28.3%	Yes	44.0%
Huntingdon County	40.0%	26.3%	34.0%	No	40.0%
Indiana County	45.0%	13.1%	38.3%	No	40.0%
Jefferson County	30.0%	23.0%	25.5%	No	43.0%
Juniata County	75.0%	18.1%	63.8%	No	42.0%
Lackawanna County	100.0%	22.2%	85.0%	No	43.0%
Lancaster County	100.0%	17.3%	85.0%	No	21.0%
Lawrence County	60.0%	20.9%	51.0%	No	45.0%
Lebanon County	50.0%	9.6%	42.5%	No	27.0%
Lehigh County	50.0%	50.3%	57.5%	Yes	22.0%
Luzerne County	None	7.7%	0.0%	No	38.0%
Lycoming County	75.0%	57.9%	63.8%	No	24.0%
Mckean County	25.0%	17.3%	21.3%	No	40.0%
Mercer County	33.3%	14.4%	28.3%	No	44.0%
Mifflin County	50.0%	12.9%	42.5%	No	30.0%
Monroe County	25.0%	21.3%	21.3%	Yes	28.0%
Montgomery County	17.0%	5.4%	14.5%	No	18.0%
Montour County	50.0%	8.0%	42.5%	No	32.0%
Northampton County	50.0%	53.3%	42.5%	Yes	28.0%
Northumberland County	25.0%	7.6%	21.3%	No	41.0%
Perry County	50.0%	9.8%	42.5%	No	38.0%
Philadelphia	32.0%	28.6%	27.2%	Yes	36.0%
Pike County	25.0%	34.7%	21.3%	No	42.0%
Potter County	25.0%	13.7%	21.3%	No	41.0%
Schuylkill County	75.0%	15.5%	63.8%	No	46.0%
Snyder County	25.0%	8.9%	21.3%	No	30.0%
Somerset County	50.0%	11.4%	42.5%	No	32.0%
Sullivan County	50.0%	33.4%	42.5%	No	37.0%
Susquehanna County	50.0%	10.5%	42.5%	No	35.0%
Tioga County	50.0%	39.8%	42.5%	No	34.0%
Union County	50.0%	22.9%	42.5%	No	38.0%
Venango County	75.0%	23.5%	63.8%	No	42.0%
Warren County	50.0%	47.3%	42.5%	Yes	18.0%
Washington County	25.0%	22.6%	21.3%	Yes	14.0%
Wayne County	35.0%	10.7%	29.8%	No	48.0%
Westmoreland County	100.0%	30.4%	85.0%	No	35.0%
Wyoming County	20.0%	12.2%	17.0%	No	32.0%
York County	100.0%	75.0%	85.0%	No	17.0%

We can analyze this 1993 data further by using coefficients of dispersion reported by Downing(1979) for 1976. Table 3 compares the 1976 coefficients of dispersion with those for 1993, and also orders the counties by the size of their 1993 coefficients of dispersion. In 1993, Washington County had the highest quality property tax as measured by its coefficient of dispersion: it was 14%. Allegheny County was tied with Lycoming and Center Counties at 24%, and its rank was nine through eleven.

One of the most interesting aspects of Table 3 is the improvement many counties have made since 1976. For example, in 1976, Washington County had a dispersion coefficient of 52%, but reduced it to 14% by 1993. Warren County had a dispersion coefficient in 1976 of 40% but reduced it to 18% by 1993. Other highly ranked counties, such as Center, did much worse in 1993 than in 1976 according to the sources: compare 13.6% in 1976 to 24% in 1993. On the other hand, Allegheny County got slightly worse: compare 23.6% in 1976, before it was under court order to improve the uniformity of its assessments, and 24% in 1993.

Table 3: 1976 vs. 1993 County Dispersion Coefficients

County	1993 Coefficient of Dispersion Rank	1993 Coefficient of Dispersion	1976 Coefficient of Dispersion	% Change COD 1993 v. 1976
(1)	(2)	(3)	(4)	(5)
Washington County	1	14.0%	52.0%	-73.1%
York County	2	17.0%	33.7%	-49.6%
Bucks County	3	17.0%	17.8%	-4.5%
Warren County	4	18.0%	30.0%	-40.0%
Montgomery County	5	18.0%	22.1%	-18.6%
Adams County	6	20.0%	28.0%	-28.6%
Lancaster County	7	21.0%	26.0%	-19.2%
Lehigh County	8	22.0%	19.0%	15.8%
Lycoming County	9	24.0%	24.6%	-2.4%
Centre County	10	24.0%	13.6%	76.5%
Allegheny County	11	24.0%	23.6%	1.7%
Chester County	12	25.0%	20.0%	25.0%
Cumberland County	13	25.0%	19.6%	27.6%
Columbia County	14	26.0%	44.8%	-42.0%
Lebanon County	15	27.0%	23.8%	14.4%
Eric County	16	27.0%	24.7%	9.3%
Monroe County	17	28.0%	29.6%	-5.4%
Northampton County	18	28.0%	25.2%	11.1%
Dauphin County	19	29.0%	37.0%	-21.6%
Berks County	20	29.0%	35.2%	-17.6%
Fulton County	21	29.0%	44.8%	-35.3%
Mifflin County	22	30.0%	35.4%	-15.3%
Delaware County	23	30.0%	27.8%	7.9%
Snyder County	24	30.0%	29.0%	3.4%
Franklin County	25	31.0%	26.0%	19.2%
Somerset County	26	32.0%	51.8%	-36.2%
Blair County	27	32.0%	39.5%	-19.0%
Montour County	28	32.0%	32.8%	-2.4%
Wyoming County	29	32.0%	40.0%	-20.0%
Bradford County	30	33.0%	40.6%	-16.7%
Clinton County	31	33.0%	46.6%	-29.2%
Tioga County	32	34.0%	57.1%	-40.5%
Beaver County	33	35.0%	35.8%	-2.2%
Susquehanna County	34	35.0%	27.5%	27.3%
Westmoreland County	35	35.0%	37.0%	-5.4%
Philadelphia	36	36.0%	34.6%	4.0%
Butler County	37	36.0%	32.0%	12.5%
Cameron County	38	36.0%	55.0%	-34.5%
Sullivan County	39	37.0%	36.7%	0.8%
Perry County	40	38.0%	37.3%	1.9%
Union County	41	38.0%	27.1%	40.2%
Luzerne County	42	38.0%	43.8%	-13.2%
Clearfield County	43	39.0%	42.0%	-7.1%
Crawford County	44	39.0%	38.0%	2.6%
Huntingdon County	45	40.0%	49.3%	-18.9%
Mckean County	46	40.0%	55.0%	-27.3%
Indiana County	47	40.0%	41.0%	-2.4%
Northumberland County	48	41.0%	43.2%	-5.1%
Potter County	49	41.0%	49.5%	-17.2%
Carbon County	50	41.0%	38.1%	7.6%
Venango County	51	42.0%	46.5%	-9.7%
Pike County	52	42.0%	33.3%	26.1%
Juniata County	53	42.0%	37.4%	12.3%
Cambria County	54	43.0%	39.0%	10.3%
Jefferson County	55	43.0%	39.3%	9.4%
Elk County	56	43.0%	50.2%	-14.3%
Clarion County	57	43.0%	41.7%	3.1%
Lackawanna County	58	43.0%	36.1%	19.1%
Bedford County	59	44.0%	56.0%	-21.4%
Mercer County	60	44.0%	35.4%	24.3%
Greene County	61	44.0%	51.0%	-13.7%
Lawrence County	62	45.0%	40.4%	11.4%
Forest County	63	46.0%	47.6%	-3.4%
Schuylkill County	64	46.0%	48.4%	-5.0%
Wayne County	65	48.0%	20.6%	133.0%
Fayette County	66	49.0%	52.5%	-6.7%
Armstrong County	67	50.0%	57.9%	-13.6%

2.2 The Level of Residential Property Assessments in Allegheny County in 1994

It is useful to get some idea of the variability of sales ratios in Allegheny County. Table 4 shows the distribution of 1994 sales ratios by school districts in 1994. Note that there were about 17,000 unedited sales prices which were arms length, taxable, residential sales in 1994; however, PARR only considered 7,355 to be valid sales prices. Generally, the median sales ratio using unedited data in each school district is *lower* than the median sales ratio using edited data. For example, in Pittsburgh, there were 4,303 sales of residential property in 1994 which were deemed "Regular", and taxable transactions, while there were only 1,802 "Valid" sales. The median sales ratio of the 4,304 sales was 19.4%, while the median sales ratio of the 1,802 "Valid" sales was 23.2% or much closer to the stated assessment ratio of 25%. Other areas, for example Mount Lebanon, show the same pattern. On the other hand, areas such as Quaker Valley show median sales ratios, using edited or "Valid" data, which are above 25%; compare 28.6% to 21.0% using the unedited data.

Table 4: Distribution of Sales Ratios of Unedited and Edited 1994 Sales Prices

	Median 89 Household Income	Number Unedited Sales	25th Percentile Sales Ratio	Median Sales Ratio	75th Percentile Sales Ratio	Number Edited Sales	25th Percentile Sales Ratio	Median Sales Ratio	75th Percentile Sales Ratio
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Allegheny Valley S D	\$26,260	170	15.8%	20.0%	21.7%	40	21.7%	23.6%	27.6%
Avonworth S D	\$44,072	159	13.7%	17.1%	22.0%	76	21.7%	23.7%	25.9%
Baldwin Whitehall S	\$32,891	392	17.5%	19.4%	22.0%	172	23.8%	26.6%	30.3%
Bethel Park S D	\$41,149	438	16.0%	18.0%	19.9%	208	21.5%	24.3%	28.7%
Brentwood Boro S D	\$27,698	129	15.9%	17.7%	21.8%	57	23.1%	25.0%	26.7%
Carlynton S D	\$25,711	185	14.8%	17.0%	21.9%	74	21.6%	24.2%	27.4%
Chartiers Valley S D	\$31,466	405	15.8%	18.1%	20.8%	178	21.8%	23.9%	25.9%
Clairton City S D	\$17,396	130	18.0%	23.7%	31.4%	50	21.3%	25.0%	37.4%
Cornell S D	\$22,130	103	16.7%	20.8%	25.2%	38	22.2%	24.3%	27.3%
Deer Lakes S D	\$29,912	229	15.8%	18.2%	21.7%	57	19.7%	22.1%	23.7%
East Allegheny S D	\$22,897	189	15.5%	18.5%	23.5%	77	20.4%	23.8%	26.0%
Elizabeth Forward S	\$29,442	208	13.5%	16.8%	21.4%	79	17.5%	22.7%	26.2%
Fox Chapel AREA S D	\$48,869	461	14.6%	18.1%	22.0%	183	21.9%	25.0%	30.8%
Gateway S D	\$34,459	432	16.9%	19.1%	20.9%	161	21.3%	23.1%	25.2%
Hampton Township S D	\$45,538	221	13.9%	17.2%	20.9%	92	21.1%	22.9%	25.7%
Highlands S D	\$23,862	296	15.0%	18.5%	24.5%	123	21.4%	24.0%	28.7%
Keystone Oaks S D	\$30,541	303	14.7%	17.3%	20.7%	153	21.8%	23.8%	26.7%
McDonald	\$29,205	7	19.4%	26.6%	34.0%	1	23.8%	23.8%	23.8%
Mckeesport Area S D	\$19,512	531	16.7%	21.9%	25.0%	191	17.3%	22.5%	27.2%
Montour S D	\$36,538	354	16.1%	19.0%	22.1%	162	22.2%	25.2%	27.8%
Moon Area S D	\$41,250	408	17.0%	19.7%	21.9%	188	22.2%	23.9%	27.9%
Mount Lebanon S D	\$45,801	564	16.3%	19.2%	21.8%	312	21.9%	25.0%	30.8%
North Allegheny S D	\$52,351	849	17.4%	20.5%	23.1%	327	21.5%	23.7%	25.3%
North Hills S D	\$34,903	541	17.4%	19.5%	22.0%	255	23.7%	26.3%	29.1%
Northgate S D	\$23,338	201	15.7%	18.0%	22.3%	109	22.0%	23.8%	26.3%
Penn Hills S D	\$32,325	659	17.7%	19.9%	23.7%	242	22.4%	24.6%	26.9%
Pine-Richland S D	\$41,396	252	16.7%	21.1%	23.0%	81	23.1%	25.0%	26.1%
Pittsburgh S D	\$20,723	4,304	15.4%	19.4%	25.0%	1,802	19.5%	23.2%	27.3%
Plum Borough S D	\$36,782	357	16.6%	18.5%	22.0%	174	23.1%	24.7%	27.2%
Quaker Valley S D	\$56,082	234	17.9%	21.0%	24.4%	125	23.8%	26.6%	38.3%
Riverview S D	\$28,675	145	16.1%	19.8%	23.4%	55	23.1%	24.9%	26.1%
Shaler Area S D	\$33,293	543	16.0%	18.8%	22.2%	208	21.6%	25.0%	29.1%
South Allegheny S D	\$23,327	156	15.7%	19.0%	23.5%	57	20.0%	23.4%	25.8%
South Fayette TWP S	\$35,899	194	17.4%	19.4%	21.7%	98	21.1%	24.2%	26.9%
South Park S D	\$37,382	185	16.7%	18.8%	22.0%	101	22.2%	24.7%	28.2%
Steel Valley S D	\$20,832	249	15.4%	18.4%	23.1%	103	20.0%	22.3%	25.7%
Sto-Rox S D	\$17,963	187	17.3%	21.5%	26.8%	57	19.2%	22.0%	28.4%
Upper St CLAIR TWP S	\$67,657	292	17.8%	19.6%	21.8%	182	23.6%	26.3%	28.9%
West Allegheny S D	\$34,393	266	18.8%	21.9%	24.0%	108	23.7%	26.7%	30.0%
West Jefferson HILLS	\$37,547	211	16.4%	19.5%	21.3%	92	22.4%	24.5%	28.8%
West Mifflin AREA S	\$26,677	251	16.3%	18.9%	22.3%	74	22.4%	24.0%	27.3%
Wilksburg Borough	\$22,709	288	19.0%	23.1%	28.8%	128	20.2%	22.8%	25.6%
Woodland Hills S D	\$26,677	732	16.4%	20.0%	25.0%	305	21.4%	23.9%	27.2%
		17,420				7,355			

3 A Brief Overview of the Structure of Residential Real Property Assessment among the States

The states vary in terms of which level of government has primary responsibility for assessing residential property, and how the chief assessor is chosen. Only one state, Maryland, performs all of its real estate assessment at the state level. Of the remaining states and District of Columbia, 35 have county assessors, and 15 have local (municipal or township) assessors:³

Table 5: Type of Property Assessor

Who Assesses?	States	Percent
Local	15	29.4%
County	35	68.6%
State	1	2.0%
Total	51	100.0%

In the majority of states, chief assessors are elected.

Table 6: Selection Method of Chief Assessor

How Chosen?	States	Percent
Appointed	21	41.2%
Elected	30	58.8%

As noted earlier, the states vary considerably in their supervision of local assessments⁴; currently, Pennsylvania requires newly hired assessors in all counties but Allegheny and Philadelphia to receive 90 hours of appraisal training.

³See US Bureau of the Census (1994).

⁴See Tron(1976).

Table 7: Number of States with Role in Assessment Process

State can change assessments	14
State can change millage	4
State supervises local assessors	27
State estimates and enforces standards	26
State requires specific records	30
State imposes training requirements	25
State certifies assessors	19
State provides assessment guidelines	36
State provides tax maps	14
State maintains parcel system	12
State provides computer help	13
State helps update assessments	34
State assists local computing	29
State helps commercial/industrial	30
State Encourages Consolidation	13

4 Types of State Rules Governing Assessor's Right of Entry

We may distinguish among six types of authority which the states have granted to their local assessors. At one extreme, the assessors have clear authority to enter a residential premise to collect information for assessment purposes. Vermont provides such authority upon the taxpayer's appeal. A number of states' assessment statutes imply the right of entry, while others imply the right of entry upon appeal. Pennsylvania, along with 18 other state's assessment statutes are silent on the right of entry by an assessor. A number of states expressly prohibit entry into residential properties for assessment purposes. Table 9 shows the distribution of states by this classification of entry authority:

Table 9: Type of Entry Authority

Entry Authority	N of States	Percent
A: Entry Power	6	11.8%
B: Entry at Appeal	1	2.0%
C: Implied Entry	16	31.3%
D: Implied at Appeal	4	7.8%
E: Statute Silent	18	35.3%
F: Entry Prohibited	6	11.8%
Total	51	100.0%

A: Assessor has Power of Entry (6) Alaska, Indiana, Minnesota, New Mexico, Ohio, and South Dakota;

B: Assessor has Power of Entry at Appeal (1): Vermont

C: Assessor Has Implied Power of Entry (16): Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Louisiana, Missouri, Nevada, Oklahoma, Tennessee, Utah, Virginia, Wisconsin, and Wyoming;

D: Assessor Has Implied Power of Entry at Appeal (4): Massachusetts, Michigan, North Carolina, and Washington;

E: Assessment Statute Silent on Power of Entry (18): Alabama, Colorado, DC, Hawaii, Idaho, Illinois, Kentucky, Maine, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Oregon, Pennsylvania, Rhode Island, Texas, and West Virginia;

F: Entry by Assessor is Prohibited (6) California, Kansas, Maryland, Mississippi, New York, and South Carolina;

5 Relationship of State Right of Entry and State by State Assessment Quality

In 1981, the Governments Division of the US Census Bureau, in conjunction with its Census of Governments, reported state by state coefficients of dispersion for residential properties for all states except the District of Columbia. At that time, Pennsylvania's coefficient of dispersion was 55.1%⁵; only New York's coefficient of dispersion was higher. Table 10 displays the distribution of coefficients of dispersion according to the basic characteristics of the assessment process. Note that the only state that does state level assessment, Maryland, had a coefficient of dispersion of 6.0% which is extremely accurate. Of the 6 states which provide right of entry, the median coefficient of dispersion ranged from 8.3 to 16.4%, all quite accurate and low in relation to the IAAO standard of 15.0%. A review of Table 10 indicates that doing assessment at the county as opposed to municipal level generally leads to lower coefficients of dispersion. In states where the statute is silent with regard to right of entry, states with county assessment and elected county assessors generally on average had lower coefficients of dispersion than states with county assessment and appointed assessors. Compare the average dispersion coefficient of 40.1% with 15.7%. Of course there are many other factors which impact on the quality of residential assessments and the data is somewhat old; however, the differences in coefficients of dispersion among states with appointed and elected assessors is quite marked.

⁵The figure for Pennsylvania is higher than most of the county by county dispersion coefficients reported by Downing(1979), and may be explained by the fact that Census only examined residential property while Downing(1979) and STEB examine all properties. Also, as has been observed earlier, Allegheny County considers some transactions "not valid" and accordingly filters the data. It may do so more heavily than the Census Bureau.

Table 10: 1981 Census Residential Property Dispersion Coefficient (in %) by Entry Power, Governmental Level of Assessor, and Selection Method

Entry Authority	Level	How Chosen	N	Q1	Mean	Median	Q3
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
A:							
Entry Power	Local	Appointed	1	8.30	8.30	8.30	8.30
Entry Power	Local	Elected	1	16.40	16.40	16.40	16.40
Entry Power	County	Appointed	3	14.30	23.10	15.00	40.00
Entry Power	County	Elected	1	7.60	7.60	7.60	7.60
B:							
Entry at Appeal	Local	Elected	1	30.20	30.200	30.20	30.20
C:							
Implied Entry	Local	Appointed	1	32.00	32.000	32.00	32.00
Implied Entry	Local	Elected	2	22.30	25.750	.	29.20
Implied Entry	County	Appointed	4	6.25	7.700	7.10	9.15
Implied Entry	County	Elected	9	9.30	17.867	14.70	20.60
D:							
Implied at Appeal	Local	Appointed	2	8.70	26.000	.	43.30
Implied at Appeal	County	Appointed	1	16.60	16.600	16.60	16.60
Implied at Appeal	County	Elected	1	11.80	11.800	11.80	11.80
E:							
Statute Silent	Local	Appointed	2	23.20	32.800	32.80	42.40
Statute Silent	Local	Elected	4	17.55	27.525	24.50	37.50
Statute Silent	County	Appointed	2	25.20	40.150	.	55.10
Statute Silent	County	Elected	9	7.70	15.744	12.80	20.40
F:							
Entry Prohibited	Local	Appointed	1	147.20	147.200	147.20	147.20
Entry Prohibited	County	Appointed	2	15.50	24.350	.	33.20
Entry Prohibited	County	Elected	2	13.10	18.450	18.45	23.80
Entry Prohibited	State	Appointed	1	6.00	6.000	6.00	6.00

6 Governmental Right of Entry and Privacy Issues

As the preceding section has illustrated, the relationship between the right of entry and low dispersion coefficients tends to establish the proposition that assessment quality increases when an assessor has the right to enter taxpayers' dwellings. The legal inquiry, however, does not end once one concludes that a particular assessment policy is desirable. This section will address the legal constraints upon the effectuation of this policy of entry.

There are two separate sources of legal restrictions upon an assessor's ability to gain entry into a private residence. First, since an assessor's powers are defined by statute, an assessor can only enter a private dwelling if a legislative body has granted him that power. In some cases, it will be clear that the legislature has granted or denied the power of entry to the assessor. In other cases, the canons of statutory construction must be relied upon to answer this question. The second legal constraint upon an assessor's power is constitutional. Here the question is not whether a state has granted its assessors the power to enter a dwelling but whether a state can grant this power consistent with the prohibition against unreasonable searches and seizures contained in the Fourth Amendment of the United States Constitution.

This legal analysis is divided into several sections. Section 6.1 will briefly overview the classifications given to the state statutes that define assessors' powers. The legal effects of the statutes within each of the categories are discussed. Section 6.2 discusses the constitutional issues that arise from granting assessors the statutory power to enter a private dwelling. Two separate issues are addressed: (1) whether the Fourth Amendment's warrant requirement applies to inspections by tax assessors; and (2) if the warrant requirement does apply, what standard should govern the issuance of warrants. Once the doctrinal framework is outlined, Section 6.2.1 discusses the extent to which a legislative body can grant the power of entry to an assessor without violating the constitution. This section delineates the constitutional limitations on a legislature's ability to grant the power of entry to assessors. Finally, Section 6.3 indicates how a warrant statute could be implemented and applied.

6.1 Statutory Restraints

As Table 9 above illustrates, we divided the state statutes into four main categories: express authority to enter; express denial of authority to enter; possible implied authority to enter; and statutory silence. Several of these main categories were further divided into sub categories which relate either to the timing of the allowable entry or to non-judicial interpretations of the statute. These classifications provide a simple means of predicting the likely legal effects that a statute will have in determining whether an assessor will have the power to enter a dwelling.

6.2 Constitutional Constraints

Separate from the issue of whether a legislature has granted assessors the power to enter taxpayers' dwellings is the question of whether a legislature can, consistent with the United States Constitution, grant this power of entry. The short answer to this question is yes – legislatures can grant assessors the authority to enter taxpayers' homes without running afoul of the constitution. There is, however, a caveat to this answer – entry by an assessor can only be undertaken pursuant to a warrant granted by a magistrate. A warrantless entry by an assessor would violate the Fourth Amendment's proscription against unreasonable searches and seizures. This section will be divided into two main parts. First we will discuss the applicability of the Fourth Amendment's warrant requirement to inspections of private residences by tax assessors. Second we will discuss the standards that should govern the issuance of warrants in this context.

6.2.1 The Warrant Clause in Administrative Contexts

The Supreme Court has never addressed whether the Fourth Amendment's warrant requirement applies to the inspection of private homes by tax assessors. In fact, there appears to be only one reported case – from the South Dakota Supreme Court – that addresses this question. Initially, the application of the warrant requirement to tax assessors may seem out of context. Because the paradigmatic context for the warrant requirement is the search of a private residence by law enforcement officials in the course of a criminal investigation, it may be counterintuitive to think of the warrant requirement's applicability in other circumstances. This intuitive reaction is not limited to laymen – for many years courts disputed whether the Fourth Amendment governed situations outside the context of criminal investigations. Some argued that the warrant requirement only applied to searches for evidence of a criminal violation. Others argued that the warrant clause provided a much broader protection. This debate over the applicability of the Fourth Amendment to non-criminal "administrative searches" ended during the Warren Court's "criminal procedure revolution," when the Court began to embrace privacy as the guide post for Fourth Amendment applicability. By the mid 1960s, the Court had established that Fourth Amendment standards would control governmental intrusions onto private property whenever the owner: (1) had an actual expectation of privacy in the property; and (2) that the expectation of privacy was one that society was prepared to accept. With privacy as the touchstone for applicability, the extension of the Fourth Amendment's warrant requirement to administrative searches became inevitable. The Court first extended the warrant requirement to administrative searches in *Camara v. Municipal Court of San Francisco*.

In *Camara*, the Court held that the Fourth Amendment prevented the warrantless entry into a home by a municipal inspector performing a routine "block search" pursuant to a city housing code. The Court rejected the notion, espoused in *Frank v. Maryland*, that inspections which are not part of a criminal investigation are on the periphery of the Fourth Amendment's protections. The Court noted the anomaly of this position, that "the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior." Instead, the Court reasoned that the protection of privacy was central to the purposes of the Fourth Amendment and that

at-will governmental intrusions – in either the criminal or civil context – harmed those privacy interests. *Camara*, in effect, established a per se rule that any warrantless non-consensual governmental intrusion into a private home – except for a class of narrowly defined exceptions – is presumptively unreasonable.

After *Camara*, the courts have required warrants for a variety of administrative governmental intrusions, including: fire inspections to determine the origin of a fire, inspections by federal revenue agents prior to a jeopardy seizure, OSHA inspections, and inspections by immigration officials.

The breadth of the language in *Camara*, along with the variety of non-criminal circumstances in which courts have applied the warrant requirement, leads to the conclusion that the warrant requirement would also apply to inspections of private homes by tax assessors. The elements that necessitate the warrant requirement – non-consensual entry onto private property by a government official – are present when an assessor inspects the interior of a home without the owner's consent.

One may reasonably argue that because assessors are routinely collecting information to administer a tax – rather than information to determine compliance with a statute – that the warrant requirement should not apply. However, in *Michigan v. Tyler and Clifford v. Michigan*, the Court concluded that whether the object of a search was merely to gather information for administrative purposes or to gather evidence of a criminal violation was an irrelevant distinction in determining whether the warrant requirement applied. Instead, the Court emphasized that as long as a homeowner had a reasonable expectation of privacy in his fire-damaged property, an administrative warrant was required for fire inspectors who searched the house to determine the cause of the fire. The Court clearly distinguished between criminal inspections to gather evidence of arson, and administrative inspections whose sole purpose was to determine the origin of the fire.

Since criminality or determination of cause which might lead subsequently to a criminal investigation would not be at issue in the case of an assessor collecting information about a property, the validity of such warrantless entry could turn on whether entry was reasonable in the routine or ordinary performance of the governmental function. On the other hand, the distinction between a routine search merely for information and a search for evidence of a violation may not be relevant in determining whether the Fourth Amendment's warrant requirement is applicable. If the gravamen of the judicial analysis is privacy – if the homeowner has a reasonable expectation of privacy in the premises – a warrant will be required for any governmental intrusion. Based on this standard, one may conclude that the warrant requirement would apply to inspections of private homes by tax assessors.

6.2.2 Obtaining The Warrant: Administrative Probable Cause

The second clause of the Fourth Amendment requires that "no Warrants shall issue, but upon probable cause . . . particularly describing the place to be searched." Probable cause is the standard by which a neutral magistrate determines whether to issue a warrant authorizing a government official to enter private property. It is the probable cause requirement that removes the discretion about whether to conduct a search from the inspecting

official and into the hands of a neutral magistrate.

Knowing what probable cause does, however, does not give any direction in determining what probable cause is, ie., what showing must be made to fulfill the probable cause requirement. Unfortunately, the Court's jurisprudence on this point has not been altogether coherent. What is clear, however, is that the Court has applied different probable cause standards in the criminal and administrative contexts. In a criminal search, the term probable cause refers to the quantum of evidence that law enforcement officials must present to establish that it is more likely than not that evidence relevant to a criminal investigation will be found at a particular location.

If this standard were applied to administrative inspections, then clearly such inspections would be limited to situations where the inspectors had reason to believe that some legal standard was being violated. The application of this standard to an administrative search that did not involve a search to determine compliance with a legal standard would effectively foreclose the possibility of inspectors obtaining warrants. Rather than apply the criminal probable cause standard to administrative searches, the Court has formulated a separate, less stringent standard for administrative inspections.

On the other hand, if the standard were non-response to a complete survey of homeowners requiring their collection and transmission of internal characteristics data to the assessing officer, along with a signature attesting to the accuracy of the information, it appears that this probable cause standard would support a magistrate's issuance of a warrant for entry by the assessor to remedy the defective compliance with the information requirement.

In *Camara* the Court held that probable cause existed for administrative inspections if "reasonable legislative or administrative standards . . . are satisfied with respect to a particular dwelling." This language has been interpreted as standing for the proposition that inspections pursuant to a neutral inspection scheme will fulfill this standard. Some commentators also hypothesized that the phrase "reasonable legislative or administrative standards" would give magistrates the authority to determine whether a particular inspection program was itself reasonable, in addition to determining whether the standards set in the program were met. Courts have not, however, applied the administrative probable cause standard in such an expansive fashion.

When an administrative warrant is issued, the administrative officer can demand entry and if the homeowner refuses entry pursuant to a lawful warrant, then the owner can be punished with criminal and/or civil sanctions. However, it is unlikely, under *Camara*, that entry by force would be allowed if the taxpayer refused.

6.3 Application of the Warrant Requirement to Inspections by Assessors

As discussed above, the warrant requirement would apply to inspections of private homes because such an inspection would be a government mandated entry into a building – a private home – in which the owner had a reasonable expectation of privacy. In order to meet *Camara's* administrative probable cause requirement, the assessor would have to establish that the search was undertaken pursuant to reasonable legislative or administrative

standards. An inspection program in which every house, a fixed proportion of the houses in an assessor's jurisdiction was inspected once within a certain number of years, inspection of houses for which there was no usable survey form returned, or ones for which there was no signature attesting would meet this requirement. Such an inspection program could either be prescribed by statute or the legislature could delegate authority to the assessors to promulgate such a program.

It is unlikely that the statute could require forced entry over the objections of an owner. As a practical matter, however, the inability of an assessor to force entry into a home would not defeat the purpose of the statute, ie., enabling assessors to make their assessments based on the best available information. First, few homeowners would refuse entry when confronted with a valid search warrant. Furthermore, the statute could mandate that if a homeowner refused entry, the assessor's estimate would be presumptively reasonable and that this presumption could only be defeated by a "clear and convincing" showing by the homeowner as to the actual value. Because of the obvious self-interest of the homeowner in lowering the assessment, any evidence that he presented which was not of a quality equal to the information that an assessor would gain from an inspection would likely be given little weight in an appeal of the assessment. A number of states, including California, shift the burden, in the sense of a rebuttable presumption, from the assessor to demonstrating the basis of the assessment to the homeowner who appeals the assessment. The practical effect of this structure is to encourage the homeowner to permit entry by the assessor.

An inspection pursuant a statute that met these requirements would survive Fourth Amendment scrutiny.

7 Conclusions

This study has examined the coefficient of dispersion as an indicator of the quality of property assessment and factors affecting its variation across states. Several empirical and legal findings have emerged from this analysis.

1. Based on 1993 data, Allegheny County ranked 9'th out of Pennsylvania's 67 counties in terms of the overall quality of its property assessment.
2. Using 1976 as a reference point, before the County became under court order to improve the quality of its property assessments, it is evident that many other Pennsylvania counties dramatically improved the quality of their assessments.
 - Washington County had a coefficient of dispersion of 52% in 1976, and now has a coefficient of dispersion of 14%;
 - Allegheny County's coefficient was about 24% in 1976 and was 24% in 1993.
3. Within Allegheny County, looking at the ratio of assessed property to actual sales, one finds that the median sales ratio by school district was generally lower across school districts when using all (17,420) arms length home sales as contrasted to using just what were determined to be valid (7,355) home sales.
4. Pennsylvania is one of 35 states which assesses at the county rather than municipal level, and among 21 states in which the chief assessor is appointed rather than elected.
5. Pennsylvania is among 19 states whose assessment statutes are silent about the authority of an assessor to enter a property to collect characteristics data about the property;
6. 6 states (including Ohio) initially give entry authority to assessors, and another (Vermont) gives the authority to the assessor upon appeal by the taxpayer.
7. Across the US, one finds that among states that do not empower county assessors to enter dwellings to obtain data, the coefficients of dispersion are lower on average for elected rather than appointed assessors.

It would appear that separating out the assessor from general county government allows the assessment process to become more uniform.

8. A legal analysis of the Fourth Amendment of the US Constitution, which protects individuals from unreasonable search and seizure, suggests entry without a warrant from a local magistrate is not supportable, and that entry with a warrant is supportable under existing federal case-law. This is consistent with the state statutes empowering assessors to enter a dwelling that require that the assessor first obtain a warrant.

The above findings indicate that there may be merit in amending the Second Class County Assessment Code, which applies just to Allegheny County, to provide for the assessor's right of entry to ensure that more complete and accurate data on property can be obtained.

Also, there may be merit in considering the positive effects of creating a separate and politically independent assessment office that would be elected, perhaps with term limits and financial disclosure requirements, rather than appointed. Separating out responsibility for reassessment from the setting of millage and expenditure of public funds may allow Allegheny County to reassess in a manner that finally moves its coefficient of dispersion to levels suggested by the International Association of Assessing Officers. An elected assessor, perhaps with term limits and financial disclosure requirements, would need to have certain funding to make the sort of investments in data and computing which will permit a high quality mass appraisal system.

The creation of such a separate, elected office might also consolidate under one management the deed recording and mapping functions which are now separate. In states such as Ohio with elected assessors, the deed recording function is within that office, and funding is obtained through a separate, state-mandated millage on all property.

8 State by State Summary of State Laws Governing Right of Entry and Selection of Assessor

8.1 Definite Statutory Power To Enter

Alaska: a) Express power to enter, 29.45.130(a)-(c).

b) Municipality is the assessing unit; need to check stat. again to determine how assessor is chosen.

Indiana:

a) Express power to enter in statute:

"In order to determine the assessed value of buildings and other improvements, the township assessor, or his authorized representative, may, after first making known his intention to the owner or occupant, enter and fully examine all buildings and structures which are located within the township he serves and which are subject to assessment. (6-1.1-4-15.)

b) County supervises municipal / township assessment, county assessor is elected, see I Indiana Code 36-2-15-2, as is township assessor, 36-6-5-1; if township doesn't qualify to elect an assessor then township executive is assessor, 36-5-2.

Minnesota: a) Possible power from Ch. Law 186. See Attorney General opinion and statute 273.20 for possible express power.

b) County may provide for county to assess all taxable property within its boundaries, 273.052; in counties that do not elect to perform assessment the function is performed by city/township assessors, 273.051, 273.055; county assessor is appointed by the board of commissioners, 273.061, local assessors may be elected, 273.051 or appointed by town board or city council, 273.05; local assessor's duty is to "view and appraise" all taxable property, 273.061, subdivision 7, county assessor - in county which retains local assessment- has duty of aiding local assessor in appraising "any property which may be difficult for local assessor to appraise" 273.061 subdivision 9.

Ohio: a) Express power to enter, Ohio Code, 5713.17.

b) County is assessing unit, the elected county auditor performs all assessing duties, Ohio Code, 5713.01; 319.01.

South Dakota:

a) SD Code 10-3-23 creates power for assessor to enter homes (however South Dakota court has read 4th Amendment search warrant requirement into statute, Stipulation, 246 NW 2d 897 (SD 1976).

b) County is assessing unit, county director of equalization is chief assessing officer, 10-3-16, and is appointed by the county commissioners, 10-3-3.

8.2 Express Power To Enter On Appeal

- Vermont: a) 32 4404(c) – requires that upon administrative appeal property "shall be inspected by a committee of not less than three members of the Board. . . . If, after notice, appellant refuses to allow an inspection of the property as required . . . , including the interior . . . of any structure on the property, the appeal shall be withdrawn."
- b) Town is the assessing unit, the "town lister" (the assessor) is elected at town meetings , 17 2646; in unorganized towns and villages an appraisers Board is appointed, subject to the governor's approval, by the director of the division of property valuation, a state official, 24 1401.

8.3 Possible Implied Power To Enter:

- Arizona: a) Possible implied right in statutory language "ascertain value by diligent inquiry and examination," see 42-221.
- b) County is assessing unit and assessor is elected, see Arizona Constitution, Article XII, 3.
- Arkansas: a) Possibly implied right in statutory language that assessor may "make an examination or investigation" of the property, 26-18-305.
- b) County is assessing unit and assessor is elected, 14-14-1301.
- Connecticut a) No express power, but does seem likely that courts would imply a power, 12-40.
- b) Town is assessing body, assessor is elected , 9-197, unless town chooses option of appointment by town executive, 9-198..
- Delaware: a) Possibly implied power to enter with statutory language "Board of assessment or any member may personally inspect each tract or parcel of real estate," 9 8317.
- b) County appears to be assessing unit, 9 8101 and appears that county executive appoints assessor, 9 8201.
- Georgia: a) Possible implied power to enter with statutory language "Board shall make such investigation as may be necessary to determine value of any property," 48-5-299.
- b) Default rule is that Board of assessors is appointed by county governing authority, 48-5-290, unless county chooses option of electing Board; county is assessing unit; 48-5-309.
- Iowa: a) Possible implied power from court construction of statute that "under normal circumstances the law requires personal inspection of property to be

- assessed," see Makewand, 174 NW 2d 396 (construing meaning of 441.17 & 441.21).
- b) County is assessing unit, but cities w/ pop. over 125k have a separate assessor, 441.1, every city with population greater than 10,000 but less than 125,000 has option of appointing assessor, Id.; census publication indicates that these separate city assessors work under county supervision; assessors are appointed after going through an examination process, see 441.3 to 441.10.
- Louisiana: a) Possible implied power from statute language that "assessor shall personally visit . . . each piece of taxable property," 47 1958(c).
 b) Parish is assessing body, assessor is elected official, 47 1901.
- Missouri: a) Possible implied power when taxpayer fails to give assessor list of property and value from statutory language "assessor shall have right to enter any lands and make any examination and search that may be necessary" if taxpayer fails to file list, 137.115.
 b) County is assessing unit, assessor is elected, 53.010.
- Nevada: a) Possible implied power from statutory language that "assessor shall ascertain by diligent inquiry and examination of all real property," 361.260; see also 361.345(2) if taxpayer "has refused entry to assessor for purpose of conducting physical examination required by 361.260 then assessor shall make a reasonable estimate."
 b) County is assessing unit, assessor is elected, 250.010.
- Oklahoma: a) Possible implied power from stat. sections requiring physical inspection of all real property every 4 years, see 2820 to 2821.
 b) County is assessing unit, 168 2814, and assessor is elected, 19 131.
- Tennessee: a) Strong case for implied power to enter from stat language "assessor . . . [has] the authority to go upon land in order to obtain information for the assessment of property. If landowner refuses entry to assessor, assessor may petition court for order for purpose of appraising land and improvements," 67-5-303(e).
 b) County is assessing unit, assessor is elected, 67-1-502..
- Utah: a) 59-2-303 – possible implied right created with statutory language "assessor shall become fully acquainted with all property in their respective counties."
 b) County is assessing unit, county assessor is elected, 17-17-2.
- Virginia: a) 58.1-1-3280 – possible implied right created with statutory language "they shall make a physical examination thereof if required by taxpayer and in all other cases where they deem advisable."
 b) City or county is assessing unit – 58.1- 3275 – "assessment of real estate in a city or county shall be made by (i) a professional appraiser appointed by the governing body . . .; or (ii) a board of assessors appointed by the governing body of the city or county; 58.1-3270 provides that city of county governing body may elect to request that the state commissioner of revenue perform the assessment.

Wisconsin: a) 70.32 - possible implied right created with statutory language "real property shall be valued . . . from actual view or from the best information that the assessor can practicably obtain"; also possible implied right on appeal created by 70.47, "no person shall be allowed to appear before the Board, of review or to contest the amount of any assessment of real . . . property if the person has refused a reasonable request . . . of the assessor to view such property."

b) Default rule is that city/village/town is assessing unit, 70.05, but a county, by 60 adopt a county assessor system, 70.99 (census pub. indicates that one county, Kenosha, has adopted such a system); county assessor is appointed, 70.99, city/village /town assessor may be elected or may choose to appoint. 60.30.

Wyoming: a) Possible implied right created with statutory language "county assessor or his deputies or any representative of the department of revenue or the state board of equalization may examine any property", 39-2-301; see also 18-3-204. "assessor shall . . . secure data concerning listing and taxation of property from public records and other sources as will enable him to assess all property."

b) County is assessing unit, assessor is elected, 18-3-204.

Florida: a) Possible implied right with 193.023 requiring assessor to "physically examine property" every three yrs.; also 193.011 requiring assessor to consider "condition of property" in making assessment could be construed as requiring access to inside of homes.

b) County is assessing unit, assessor is elected, Florida Constitution Article 8, 1..

8.4 Possible Implied Power Of Entry When Taxpayer Appeals Assessment

Massachusetts: a) Possible implied power from statute language

stating that if taxpayer files administrative appeal he shall allow assessor "to enter upon . . . real estate or premises . . . [to] inspect," 58A 8A.

b) Towns and cities are assessing authorities, town/city has option of electing or appointing assessor. 41 24-25.

Michigan a) Possible implied power from 211.34(c).

b) City/town/village assessment system, city assessor is appointed, 85.3, township supervisor acts as township assessor, 41.61, he is elected, 41.1b; village assessor is elected, 62.1; home rule city may elect or appoint an assessor, 117.3.

North Carolina: a) Here it appears that assessor may enter after original assessment performed from statutory language stating that "upon request of owner, board of equalization and review, or board of county commissioners . . . [property] may

actually be visited and observed to verify accuracy of property characteristics", 105-317.

b) County is assessing unit and assessor is appointed by county commissioners, 105- 294.

Washington: a) 84.40.025 – possible implied right created with statutory language "for purpose of assessment and valuation of all taxable property in each county, any real property . . . shall be subject to visitation, investigation, examination, discovery and listing at any reasonable time by county assessor. . . ." If taxpayer refuses request assessor may request help of Department of Revenue which may use powers under 84.08, which include "giving any order to any . . . county assessor. . . ."

b) County is assessing unit, assessor is elected. 36.21011 et seq.

8.5 Statute Does Not Address Entry Issue

Alabama: a) No express power, nor does it seem likely that courts would imply a power, 40-7-1.

b) Assessor is county official and is elected, 17-2-1.

Colorado: a) No express power, nor does it seem likely that courts would imply a power, 39-5-101.

b) County is assessing unit, assessors are elected. Colorado Constitution; Article. 14, Section 8.

District of Columbia a) No express power, nor does it seem likely that courts would imply a power, 47-601 to 47-602..

b) Mayor appoints assessors, District is the assessing unit, 47-821.

Idaho: a) No express power, nor does it seem likely that courts would imply a power, 63 .301 to 320.

b) County is assessing body, assessor is elected, Art. 18, 6 Id. Constitution

Illinois: a) No express power, nor does it seem likely that courts would imply a power, 1200-9/70.

b) In counties with a township form of government municipality or township under county supervision is assessing unit; in other counties, county is assessing unit. In county with population of less than 3 million which chooses option of having elected Board of review assessor is elected, 35 ILCS 200/3-45, see also 35 ILCS 200/6-35, county with population of 3 million or greater has an assessor and he is elected, 35 ILCS 200/3- 50; township assessors are elected, 10 ILCS 5/2A-3.

- Kentucky: a) No express power, nor does it seem likely that courts would imply a power, 132.420.
- b) Assessor is elected in each county, but is an official of the state, 132.370; however county is classified as assessing unit.
- Maine: a) No express power, nor does it seem likely that courts would imply a power, 36 708.
- b) State tax assessor supervises city/town assessors, 36 200; city/town is assessing unit, city assessor is elected, 30A 2552; town determines at town meeting whether to elect or appoint an assessor, 30A 2526.
- Montana: a) No express power, nor does it seem likely that courts would imply a power, 15-8-101 to 15-8-102.
- b) County assessor may be either elected or appointed, depending on option chosen by county, 7-4-2202, 7-3-439; State Department of Revenue is responsible for assessing all property and equalizing all values, county assessor is an agent of the State Department of Revenue, 15-8-101 to 15-8-102(1).
- Nebraska: a) No express power, nor does it seem likely that courts would imply a power, 77-1311.
- b) Assessor is elected county official (depending on size of county he may be a separate office or the county clerk may perform the duties of assessor), 22- 3201, 32-310, 32-308; county may also elect to have assessment functions performed by state tax commissioner, 77-1340.
- New Hampshire: a) No express power, nor does it seem likely that courts would imply a power, 75:1 and 75:3.
- b) Cities and towns are assessing authorities; board of assessors is elected for each city, 48:13; town may choose to have an elected board of assessors, but if a town chooses not to have a board of assessors then assessing authority falls upon the elected selectmen.
- New Jersey : a) No express power, nor does it seem likely that courts would imply a power, 54:4-23; cf. Johnson v. Mercer, 459 A.2d 302 (1983) (refusing to allow assessor to take photograph of inside of home where taxpayer apparently allowed assessor entry inside home).
- b) Municipality is the assessing authority, governing body or chief executive of municipality appoints the assessor, 40A:9-146.
- North Dakota: a) No express power, nor does it seem likely that courts would imply a power, 57-02-34.
- b) In cities, city is the assessing body and city assessor is appointed by city government, 40-15-05, 40-14-04; in parts of counties not organized into townships and cities the county is the assessing body and county commissioners appoint the assessor, 57-02-33; in townships statute provides three options: (I) assessor can be elected at annual

township meeting; (ii) appointed by board of supervisors; (iii) office of assessor can be abolished and township may contract with the county, or any political subdivision or any individual to perform the functions of the assessor for the township.

Oregon: a) No express power, nor does it seem likely that courts would imply a power, 308.210.

b) County is assessing unit, assessor is elected, 204.005.

Pennsylvania: a) No express power, nor does it seem likely that courts would imply a power;

b) County is the assessing authority; different population size counties under slightly differing assessment statutes.

Rhode Island: a) No express power, nor does it seem likely that courts would imply a power, 44-5-11, 12.

b) Towns and cities are the assessing authorities, 44-5-11; assessor is elected, 45-4-1.

Texas a) No express power, nor does it seem likely that courts would imply a power, Tax Code 25.01, 26.01 et. seq.

b) County is main assessing unit, however stat. states that "taxing units other than a county or home rule city" may have assessors or may require county to perform their assessment, Tax Code 6.22; also, voters in a taxing district may vote to have assessment consolidated so that its performed by county; county assessor is elected, Texas Constitution, Article 8, Section. 14, if taxing unit other than county has an assessor then that unit determines how assessor will be chosen, Tax Code 6.22.

- note that Texas has only a county assessing system; it is possible that no other taxing units have chosen to perform assessments

West Virginia : a) No express power, nor does it seem likely that courts would imply a power, 11-3-2.

b) County is assessing unit, assessors are elected. 3-1-17.

8.6 Statute Clearly Prohibits Entry By Assessor

Kansas: a) Kansas recently amended their statute, the change in language seems to indicate that the legislature does not give assessors the authority to enter buildings, compare new language of 79-412 ("it shall be the duty of the county appraiser to value land and improvements") with old 79-412 ("it shall be the duty of the assessor to examine all buildings and other improvements . . .").

b) County is assessing unit, 79-1411b; need to check statute again to determine how assessor is selected.

Maryland: a) Here statute requires physical inspection of property, 8-104(b), but administrative regulations clearly prohibit entry absent consent of owner, Title 18, 18.02006.01.

b) Assessment is performed by "county supervisor" who is state official, appointed by director of State Department of Taxation, who in turn is appointed by the governor, Property Tax Code, 8-202.

Mississippi: a) Statute makes clear that assessor does not have power to enter a residence with language stating that " assessors shall have authority to enter . . . premises or place of business of any person other than a house uses as a residence", 27-1-23.

b) County is assessing unit, assessor is elected county official, 25-15-193.

New York: a) Statute states that "an assessor may not enter a private residence, for the purposes of inspection, without permission of the taxpayer." Real Property Tax Law, 102(3), 306; see also 2 Op. Counsel SBEA no. 78 (1972):

b) County, city, village, or town may be assessing unit, Real Property Tax Law, 102 (census pub. indicates that only two counties, Nassau & Tompkins, have taken over assessment functions); local assessor is an appointed office, Id. 310; however if prior law allowed assessor to be elected then assessing unit may have chosen to retain the elected assessor, Id. 329.

South Carolina a) Statute states that assessor "may enter and examine fully all buildings and structures (except dwellings) . . . ", 12-39- 120.

b) County is assessing unit, 13-37-90, unless 2 or more counties agree to establish a single assessor's office; check stat.. to determine how assessor (auditor) is selected.

8.7 Statute Has Been Interpreted To Prevent Entry By Assessor

California: a) California Attorney General concluded that statutory scheme of Rev. & Tax Code, 405.5 et. seq. "makes no provision for an assessor to enter private property against the will of an owner" therefore "a county assessor may not enter private property against the will of an owner." 61 Opinions California Attorney General 524 (1978); see also Simms v. Pope, 218 California Appeal 3d 472 (1990).

b) County is assessing unit, Government 24000, default rule is that assessor is elected unless voters choose by referendum (proposed by Board of supervisors) to change to appointed office. Government 24009.

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