
Re-Assessment 2001/ 2:

Keystone Comedy¹ or Greek Tragedy?

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¹ "Keystone Comedy Co., the film producers, designating of, or, like the slapstick comedy of a series of silent films featuring a bungling, inept squad of policemen in wild chases, etc." *Webster's New World Dictionary*, Second College Edition.

² The views expressed in this testimony are the sole responsibility of the author and are not those of Carnegie-Mellon University or its Board of Trustees.

1. Introduction

Chairman Dermody, and members of the Allegheny County Democratic Delegation, I want to thank you for the opportunity to share some views and ideas with you this morning on the very thorny problem of how to fairly measure Allegheny County's real estate tax base.

As you may remember when you studied literature and the theater, in classical comedy, the drama or narrative is entertaining and has a happy ending. In classical tragedy, the story is serious, typically dealing with the problems of a central character leading to an unhappy or disastrous ending brought on by fate and a tragic character flaw.

As the title of my remarks indicates, I'm afraid the flap over assessments here has turned from the slapstick to the ugly, and has every likelihood of becoming a tar baby that could easily persist through the rest of the decade. This will not be a happy ending to what optimists and the framers thought was going to result from a new form of government and a new social compact. Perhaps the best thing that has come out of this tragedy is the continued commitment to publish on the Web the assessments of each property in the County. I know some of you have opposed this kind of disclosure, but I hope you now see that value of it. Nonetheless, I am concerned that unless various stakeholders think beyond the immediate, or outside the box of the politics of blame, the economic and financial consequences of continuing and growing chaos over assessments to the region and state will be quite adverse.

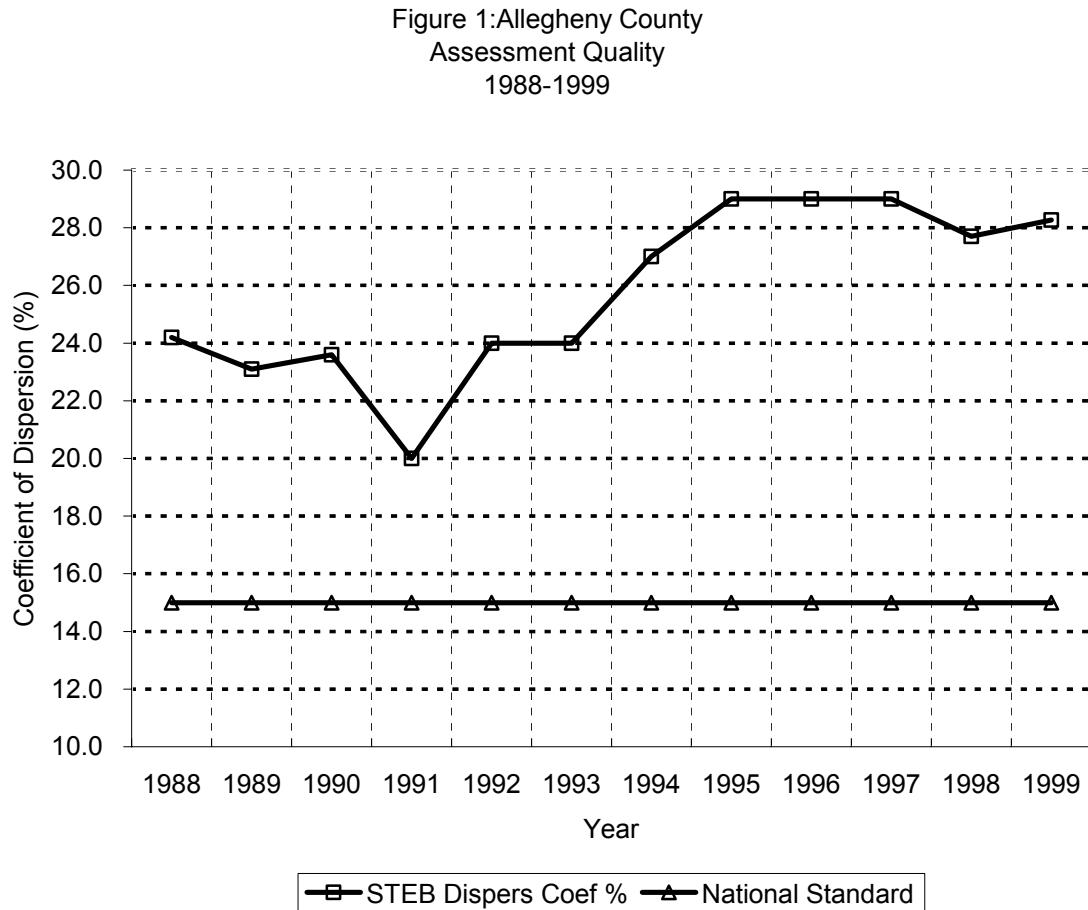
My basic message to you this morning is that Allegheny County needs to materially rework its assessment laws and especially its assessment management practices. Doing this in the General Assembly may make more sense than trying to fix it locally when things are so contentious.

2. Some Facts about the Past

There is some historical information available from the State Tax Equalization Board (STEB) that gives a fairly clear idea about how the overall quality of assessments has deteriorated in Allegheny County over the past 12 years. By "quality" I mean the accuracy of assessed values when compared to arms length sales prices.

The nationally accepted standard is that, overall, dispersion or prediction error around arms length prices should be 15% or less. It is well known that very few counties in Pennsylvania have been close to the magic 15% figure, and some are as high as 35 or 45%. Figure 1 plots the dispersion percentage for the period 1988-99. As you can see, the county did best in 1991 when the overall dispersion coefficient was 20%.

In the late 1990's the quality measure has been stuck at 28%, or almost *twice* as high as considered high quality. Some *states* have been able to get their statewide dispersion coefficient down below 10%, which gives lie to the argument or complaint that the property tax is no longer workable in a modern economy.



3. Trying to Get Some Facts about the Present

It had been my hope last year to take an independent look at Sabre's 2001 assessments, and to compare the professionalism of their work to what Cuyahoga County, Ohio accomplished in their 2000 reassessment. Cuyahoga County is interesting because we often compare ourselves with that area, and the staff there was quite willing to send historical data and their own ratio studies.

An obvious question that deserves answering independently is whether or not Sabre's 2001 assessed values are more accurate than what was going on before they came (and \$26 million was spent), and whether the 2002 assessments are also closer to some reasonable definition of reality. There has been a great deal of speculation and hyperbole, but very little if any independent evaluation. Comparisons I made but did not write up between all 2000 actual sales and their 2001 assessments were not particularly encouraging; however, the real proof of the adequacy or inadequacy of Sabre's work will

be borne out by comparing their 2001 assessments to arms length sales that occurred in 2001.

The independent evaluation of the 2001 assessments has not been possible because Allegheny County never fulfilled its obligation last year under state law to send each quarter certified information on sales and assessed values by municipality and school district to the State Tax Equalization Board. Throughout 2001 I called STEB, which had promised me the data, but as of late fall, STEB had received none. A phone call to STEB early this week revealed that in fact some sort of information on 13,000 sales was sent from the County to STEB in late December, 2001; however, I was advised that it was hardly worth my looking at because it contained obvious errors that STEB was sorting through. For those of you who know the scale of real estate activity in Allegheny County, 13,000 is a very low number of arms length transactions. Hopefully the complete set of certified sales for 2001 can be made available to independent researchers to see what happened.

There have been various claims that in 2001 and 2002 the dispersion coefficients, the measure of assessment quality, that Sabre and then Cole, Layer, Trumbull accomplished are much better than in the past, and other claims that their results are worse than before the reassessment. Not surprisingly, the optimistic appraisals come from those who are responsible for assessments, while the pessimistic appraisals come from those who must use the appraisals. By and large this seems to be breaking along political party lines.

4. What the Judicial System Says about the Quality of the 2001 Assessments and Suggested Changes in Assessment Receivership

As you know, late last summer Judge Wettick hired CONSAD, a local consulting firm, to help him sort through the claims about the quality of assessments, and perhaps forestall criticism of the receivership process. One local newspaper carried a story that last summer, in chambers with various interested parties, Judge Wettick offered my services to the County, but the County preferred CONSAD. Since Wettick and I have never met or discussed directly or indirectly such an activity, I was a little taken aback by that reported turn of events.

Friends told me I was lucky not to become so embroiled. As a practical matter, it is unlikely that Judge Wettick would have agreed to grant me subpoena power that seemed necessary to unravel just who did what to whom during the Sabre contract. There is no doubt in my mind that their contract was never subjected to meaningful oversight by either the County or the last County Controller and his staff. There also are stories floating around that Sabre did not receive complete cooperation from some parts of the County with the result that the quality of their work was undermined. Perhaps understanding that bit of history no longer matters; however, when one tries to improve data and computer systems, knowing such history is essential to moving forward instead of moving backward.

I would like to clear up a few things about my involvement in the assessment mess. First, I tried through intermediaries several years ago to talk privately with Judge Wettick to forestall the sort of debacle that is now unfolding, but was told he would not meet with me. I was not pandering, but rather, as somebody with expertise in the matter of taxation and without an interest in the assessment outcome (my employer is tax exempt, and since our baby sitter's murder in 1994 we have resided in Westmoreland County), I was trying to bring to his attention some pitfalls to avoid. He was thoughtful enough to send me his orders and opinions in the mail.

Second, I tried in conjunction with preparing for this meeting to obtain and read CONSAD's handiwork that the judge commissioned to see if it could plausibly inform the issue of what happened in 2001. I am sufficiently old-fashioned that I prefer reading studies in their entirety rather than simply taking press releases or newspaper accounts at face value.

So far, obtaining and reading the CONSAD study has not been possible. And I am not the only one who has been unable to obtain a copy. From newspaper reports, it remains unclear if CONSAD obtained certified sales data from the County (but STEB apparently did not); and it is unclear whether or not CONSAD performed a meaningful review of the physical characteristics which Sabre collected and were the basis of their assessment modeling efforts.

Earlier this week I called Judge Wettick's listed office phone number to get a copy of the CONSAD report, but could not talk to a real person. Evidently talking to a real person in his office is not easily achieved. Also, unlike attempted transactions with my utilities or bank whose phone line can be busy, there was no invitation to leave a message. In fact, the soothing but firm woman's voice on the recording stated unequivocally that anybody with questions about property taxes should call the County assessment office (whose phone line is always busy). In a remarkable act of judicial modesty, the soothing voice went on to assert that the judge does not have responsibility for the operations of the real estate tax.

This probably is one of those fine legal distinctions that ordinary citizens such as myself can not understand, since by most accounts the judge would be the first to remind anybody that he has to approve the way assessments are operated or changed during this period of receivership.

While the judge is in control of the way assessments are run, he evidently is not responsible or obligated to answer questions about what he orders the assessment process to do. I think this is something the General Assembly should remedy through changes in law, and something that I hope you will give serious consideration to. When the judicial system must deal with a matter that touches each citizen's life, as taxation does, it is doing more than simply refereeing private interests. Pennsylvania could become a leadership state in directing its judiciary to be responsive to all the citizens it affects when overseeing mandated property reassessments.

No doubt if you change the law in this area, Judge Wettick will obey it.

What might you consider doing? Since the judge is functioning as both the legislative and executive branches of government during a period of property assessment receivership, it makes sense to obligate him to hear what the public has to say about the past, the present, and the future, and not merely to hear from the citizen's elected officials. After all, the findings a judge makes of non-uniformity of assessments and subsequent receivership are really an indictment that representative government has failed to adequately perform its function for which it imposes taxes and pays its employees. An obvious way to accomplish learning what the public thinks about assessments is to require that the judge hold public hearings around the County. It may also make sense to consider citizen initiated recall petitions to overcome judicial indiscretions, or citizen initiated reassignment referenda to quickly address judicial abuse that presiding judges are loathe to address.

There is another area of judicial process related to the current mess that deserves some comment, and may lead you to correct the law so that taxpayers and tax administrators will not again be subjected to various kinds of foolishness that fill up the daily newspapers.

If one looks around Pennsylvania one finds that court-ordered reassessments have become relatively frequent. Mass reappraisals by outside firms that lead to permanent improvement in assessment quality have the following characteristics:

- 1) data collection on physical property characteristics
- 2) data verification
- 3) statistical modeling and creation of new assessments
- 4) evaluation through ratio studies of the new assessments and correction of errors
- 5) issuance of new assessments and property characteristics to taxpayers
- 6) provision of adequate period of appeals and property characteristic correction
- 7) implementation of new assessments and mailing of tax bills after all appeals are completed

The court order specifying the timetable for reassessment should stipulate each of these and make sure that the contract(s) reward performance and penalize the lack of performance.

These steps take a number of years to accomplish. The key mistakes that Judge Wettick seems to have made were not providing for steps 4) and 7), and not making the steps transparent and public procedures. Had he or his clerk placed a phone call to the county solicitor or judge presiding over the reassessment process in, say, Delaware County, Pennsylvania within the past five years, he or his clerk would have learned that the above sequential process works and avoids the kind of chaos that his forced timetable created in Allegheny County.

As long as appeals are closed and the results implemented in updated tax bills before the mailing of the tax bills, this process can enable annual reappraisal to occur, although there will typically be a one or two year lag built into the system.

Since local government, even home rule government, is your constitutional creature, there is no impediment to your establishing these procedures for reassessment through new state law to direct the judicial branch of government how to implement a court-ordered reassessment. Expecting County Council to sensibly address this now seems unreasonable, as tempers and patience are extremely short.

If one wishes to enquire outside Pennsylvania's boundaries about how court ordered reassessments work and do not work, there are many happy and unhappy places to study. Apparently Shelby County, Tennessee (Memphis) holds the recent record for reassessment chaos. Not one but two very expensive data collection efforts had to be undertaken (comparable to 2 Sabre engagements at a cost of \$26 million each), and years of waiting had to occur until some semblance of uniformity was finally accomplished. One question you may want to puzzle over is whether or not Allegheny County is on its way to a Shelby County, Tennessee kind of debacle.

5. Post-Gazette's January 31, 2002 Assessment Quality Study

While I was not able to obtain the CONSAD study, I did notice in yesterday morning's Post-Gazette that they carried out their own study of 2000 and 2001 real estate sales in comparison to assessed values. They reached the conclusion that assessment quality is better than in the past. It might be helpful if they complete Figure 1 for 2000 and 2001. The Michelmore-Belko article stated that:

“Sales data for 2000 and the first nine months of 2001 came from a copy of the county data supplied to Consad. Data for the last three months of the year came from Real-Stats Inc., a South Side Firm that collects real estate data for the industry.

I'm sure that STEB will be surprised to learn that a local taxpaying newspaper got data which they have yet to receive. However, whether their optimistic conclusion is warranted, that things have gotten better, can only be answered once the County sends all the certified sales data for 2001 to the State Tax Equalization Board, the Board accepts and certifies the sales data for 2001 as meeting the County's statutory requirement, and then STEB and others independent of the local assessment fight take a careful look.

I hope you realize that it is very easy to jimmy a comparison between sales prices and assessed values to make the comparison look good or bad. To make the comparisons look good, one need only toss out data on extremely low sales prices that reflect sales between cooperating parties (sales within a family at very favorable prices), and throw out extremely low assessments (the assessment process forgot to notice the house on what the database says is a vacant lot etc.) for sales prices that included all parts of the arms length sale. To make the comparison look bad, one simply reverses this process.

To my knowledge, there has not been a serious independent review of the *data* collected by Sabre; there has been much anecdotal information in the newspapers about houses on land that were missed or a tree house that was mistaken for a mansion. One thing I did in my 1995 study for the County Commissioners was simply add up the land area by municipality in the County's data file and compare it to the land by municipality reported by the Census Bureau. Since boundaries haven't changed, that would be an easy aggregate check of the quality of the land measurements. Also, a comparison between Sabre's measured building characteristics and those which the County collected and maintained in its CAMA file would be another interesting and extremely easy comparison; however I've not seen any such checking. Another interesting study would be to match voter registration to assessment change of any sort to see if anything systematic has been occurring.

What is known with some degree of reliability is that there are many angry taxpayers, and their anger is going to get much worse once the tax bills finally get sent out.

6. Three Longer Term Solutions

Aside from legislating some common sense into the conduct of the local judicial branch of government when it has to deal with reassessments, 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 Council and 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,
- (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.³

³ 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.

i: My 15% Solution Revisited

Before the elimination of the 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, 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.

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 is doubled, and the County Council members' salaries are 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 this approach with some trepidation since it may tread too heavily on executive 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 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.

ii: Elected 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 research on the subject indicates that separately elected assessors 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.

iii: 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 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, would be happy to jettison that responsibility to the County Controller, who increasingly is finding fault with the assessments.

7. Conclusions

Last April I was invited to the Lincoln Land Institute in Cambridge, Massachusetts to explain why the City of Pittsburgh eliminated its 2-tier tax on land and buildings. In the course of that I reread all the press clippings on assessments in the Carnegie Library. Most surrounded the last period of receivership when Judge Papadokis was in charge. It is my impression that the tribal warfare and politics of blame are orders of magnitude

worse now than in the late 1970's and early 1980's, and likely to persist for much longer. Allegheny County can ill afford continued bad publicity about its inability to get its assessments right.⁴

Whether 2001 or 2002 is taken to be the base year, and whether there is a 2,3,4 or 5 year freeze, it seems extremely unlikely to me that both the character of the judicial oversight that has occurred, and wobbly assessment management practices that persist are going to change, unless there is very clear legislative direction from the General Assembly, with the net result that the problem of non-uniform assessments will continue to fester.

Some editorial writers have argued that the appeals process will solve all inequities. Unfortunately, that presupposes that the resultant figure arrived at upon appeal is closer to economic reality than the one that brought the taxpayer and his attorney to the appeals process. My sense of the appeals process is that it has been dominated by appeasement and not a search for what the true market value of the appealed property really is.

I have suggested this morning a number of ways the General Assembly could change current law that could provide reasonable hope that the assessment mess will be cleaned up. Both the manner in which judicial oversight is performed, and the particulars of the assessment process deserve careful, bi-partisan consideration. Several years ago the idea of separating out the assessment function to a separately elected office sounded far-fetched. Today, I think it makes a lot of sense, and can imagine enough of your counterparts on the other side of the aisle scampering along with you to give the assessment hot potato to somebody else.

⁴ One reader of these remarks told me that her mother in New Hampshire regularly listens to KDKA radio and is appalled at the assessment debacle. Evidently bad news travel quickly.