

New Jersey Local Property Taxation Update: An Overview of Material Depreciation in Value Post-Valuation Date

Client Alert

12.18.23

What You Need to Know

- New Jersey property owners should be aware of the statutory framework, related deadlines, and application of those deadlines within the context of the valuation of property for local taxation purposes.
- The impact of the material depreciation in value of a property after the annual statutory assessment date creates a conflict between the fundamental principle requiring uniform assessment and the statutory framework.
- The filing of a tax appeal will not provide a property owner with relief with respect to the material depreciation in property value post-valuation date.
- Following compliance with certain notice requirements, limited relief from the statutory assessment date for improvements that suffer from material depreciation in value, in the form of reassessment, may be available to a property owner.

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It is critical that New Jersey property owners be aware of certain statutory deadlines that impact a property's assessment and, ultimately, the amount of local property tax to be paid. Property owners, for example, may be aware that a tax appeal for a property with an assessment that exceeds \$1,000,000 can be filed in the Tax Court of New Jersey no later than April 1st of the current tax year. However, many property owners are unaware of the statutory framework and deadlines associated with the valuation of property for local taxation purposes. What follows is a discussion of the strict application of those deadlines and analysis of a limited exception available to a

taxpayer whose property has suffered a material depreciation in value after the relevant valuation date.

Statutory Framework

A fundamental principle of local taxation of real property in New Jersey is the requirement that all property be assessed by general laws and uniform rules. In furtherance of this principle, the state legislature has enacted a statutory framework that generally requires all real property to be annually assessed based upon the property's value as it existed on October 1st of the preceding tax year. This valuation is recorded in the municipal tax assessment list and filed with the County Board of Taxation on or before January 10th of the current tax year. The assessment is then certified by the County Board of Taxation and serves as the basis for the allocation of tax liability. Accordingly, a property owner's total tax liability for 2024 is based, in part, on the property's condition and value as it existed on October 1, 2023.

Impact of Material Depreciation

A conflict arises, however, between the fundamental principle requiring uniform assessment and the statutory framework with respect to any property that has suffered a material depreciation in value after the October 1st assessment date. For example, the owner of an apartment complex that was destroyed by fire in January of the current tax year is still liable for the entire yearly tax imposed against the property based upon the value and condition of the property as of October 1st of the preceding tax year. This example presents a clear inequity for a property owner whose property suffers a material depreciation in value in October, November, or December of the preceding tax year. Moreover, the inequities that arise under such circumstances will not be resolved by way of a tax appeal, as any tax appeal concerns the value and condition of the property as of the assessing date. Nonetheless, the courts strictly construe these statutory requirements and leave to the legislature as a matter of policy the inequities that may result.

A prime example of the application of this statutory framework and the clear legislative intent is the legislature's failure to enact responsive legislation following the destruction caused by the Great March Storm of 1962. In March 1962, New Jersey's coastal areas suffered catastrophic damage over the course of a four-day storm. The storm, according to reports, severely damaged approximately 20,000 homes and destroyed another 2,000. In response, the New Jersey Senate introduced and passed legislation that would have allowed for a reduction in tax assessment for those properties destroyed between October 1, 1961, and April 1, 1962. However, the New Jersey Assembly never passed the legislation, and the bill was never enacted. Thus, the property owners whose homes were destroyed in March of 1962 were obligated to continue to make tax payments for the remainder of the year based upon the value of the property as it existed on October 1, 1961.

Limited Relief is Available

It should be noted that there is limited relief from the statutory assessment date for improvements that suffer from material depreciation in value between October 2nd and December 31st of the preceding tax year. Upon such an occurrence, and only after the taxpayer's compliance with certain notice requirements, a tax assessor is required to reassess the property based upon the condition and value as it existed on January 1st of the current tax year.

As noted, a property owner is statutorily required to comply with certain notice requirements to invoke the above-mentioned exception. Specifically, a taxpayer must deliver written notice to the tax assessor on or before January 9th that identifies the cause and date of the event that resulted in the material depreciation of value. The tax assessor, upon receipt of said notice, and after inspection and inquiry, is required to reassess the property as it existed on January 1st of the current tax year. As such, a property owner whose property has been materially depreciated in value in October, November, or December of the preceding tax year may avoid the inequitable treatment of having to pay taxes based upon an assessment that no longer reflects the property's fair and full value.

Importantly, the underlying basis for which this limited relief is afforded is broadly defined statutorily to include any improvement "destroyed, consumed by fire, demolished, or altered in such a way that its value has materially depreciated, either **intentionally** or by the action of storm, fire, cyclone, tornado or earthquake, or other casualty." Thus, an improvement that has been destroyed or altered by a fire or storm in such a way that its value has materially depreciated is entitled to relief under the statute, so long as the fire or storm occurred between October 2nd and December 31st. Moreover, the ability to seek an assessment based upon the value of the property as of January 1st is not limited to instances of negligence or acts of nature. The statutory language specifically provides that a material depreciation in a property's value that results from the intentional demolition of any improvement or building provides a basis to invoke the statute. Accordingly, a property owner that demolishes an improvement in October, November, or December of the preceding tax year is entitled to demand that the tax assessor reassess the property based upon the condition and value as it existed on January 1st of the current tax year. Otherwise, a property owner will be required to pay 12 months' worth of taxes for an improvement that no longer exists.

The author of this Alert, Michael J. Coskey, has significant experience representing clients in complex property tax appeals, including those involving commercial buildings, industrial sites, energy producers, healthcare facilities, apartment buildings and condominiums. He routinely provides guidance on issues regarding valuation, exemptions, abatements, and farmland assessment qualifications.

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