



Changes affect property tax valuation appeals

Sara C. Clark, chief legal counsel

The role of school boards in real estate valuation appeals significantly changed when House Bill (HB) 126 took effect last July. This article reviews the changes, their impact on school districts and practical considerations for districts trying to protect their real property tax base.

Initial tax valuation

By law, county auditors must appraise and assess each parcel of land in their counties. These appraisals lead to an initial determination of taxable value for the property, reflected on a tax bill sent to the property owner in late December or January. HB 126 did not make any changes to the initial tax valuation process conducted by county auditors.

Filing complaints

Historically, property owners and school boards were able to challenge the county auditor's appraisal by filing a complaint with the county board of revision. If the property owner filed a complaint to reduce the value and the change in value sought was at least \$17,500, the school board was required to receive a notice of the complaint. At that point, the school board could have filed a counter-complaint that typically sought either to retain the auditor's value or increase it. School boards also could have filed an original complaint with the board of revision to increase the value set by the auditor.

HB 126 makes several important changes to the complaint process. First, a school board can no longer file an original valuation complaint seeking to increase the property's value unless both of the following are true:

- The property was sold in an “arm’s

length” transaction before the tax lien date for the year for which the complaint was filed, for a sale price that is more than 10% and more than \$500,000 above the value set by the county auditor. For example, if a school board wishes to challenge the value of a property for tax year 2022, it may do so only if the property was sold in 2021 or earlier, it has not been sold since and the auditor's valuation of the property for tax year 2022 is both 10% and \$500,000 less than the sale price. The \$500,000 threshold increases each year for inflation, beginning in tax year 2023.

- The school board has passed a resolution authorizing the complaint. The resolution must identify the parcel number and, if available in the county auditor's online records, the parcel's address; the name of the owner; the tax year for which the complaint will be filed; and the basis for the complaint. The resolution must be confined to identifying a single parcel or multiple parcels having the same owner. The school board may adopt one or more of these resolutions by a single vote, but the vote should be separate from the board's votes on different matters. In other words, the resolution authorizing the complaint should not be included on a consent agenda with other matters before the board. Before adopting the resolution, the board must send written notice by certified mail to the property owner's last known property tax mailing address and, if different, to the property's street address. Alternatively, the notice may be sent to the owner by ordinary mail

if it also is sent electronically to the owner. The notice must state the board's intent to adopt the resolution, state the proposed date of adoption and provide the basis for the complaint. The notice must be postmarked or, if electronic, sent at least seven days before the resolution is scheduled to be adopted. HB 126 directs the board of revision to update its property tax complaint forms to require the board of education to check a box to certify that it has adopted a resolution authorizing the complaint and has properly provided notice of the resolution to the property owner before adoption. If the box is not checked, the board of revision does not have jurisdiction over the complaint and must dismiss it.

Second, school boards are no longer required to receive mandatory notices of original complaints filed by property owners. Considering this change, boards of education should develop a plan to keep abreast of such complaints. Some county auditors have created searchable databases that allow individuals to search for complaints filed on properties in their districts. Other counties post and update spreadsheets on their websites that identify the recently filed complaints. If your county does not provide these public-facing resources, it may be necessary for the board to file regular public records requests to access the information. Many school law firms in Ohio have reached out to their district clients to help them establish a process for monitoring property owner complaints filed with the board of revision in their district.

Third, although school boards retain the right to file counter-complaints, they may do so only if the original complaint sought a change of at least \$17,500 in taxable value and only if the counter-complaint is filed within 30 days of the filing of the original complaint. This change again underscores the importance of establishing a process for monitoring complaints, since the clock for filing a counter-complaint starts ticking with the filing of the original complaint by the property owner.

Appeals

Under the prior law, if the owner or the school board disagreed with the board of revision's decision, either could appeal that decision to the board of tax appeals. After HB 126, while the property owner retains the right to appeal, school boards no longer have this right. HB 126 does not prohibit the school board from becoming the opposing party in an appeal filed by a property owner or another party.

When HB 126 took effect, there were several school board complaints from tax year 2021 that were in the appeals process. In October 2022, the board of tax appeals ruled that the language prohibiting school boards from filing appeals applied retroactively to appeals filed after the bill's July 21, 2022, effective date, regardless of the tax year

for which the complaints were filed. As a result, the board of tax appeals dismissed, for lack of jurisdiction, appeals that were pending before it. Several school districts have appealed this decision to the court of appeals and argued that the prohibition against filing appeals should apply only prospectively to present and future actions and not serve as a bar to prevent appeals from tax year 2021. These appeals are still pending.

Settlement agreements

In 2018, the Ohio attorney general issued an opinion that allowed boards of education to enter into a settlement agreement with a property owner. Under these agreements, the property owner typically made a payment to the district in exchange for the district's decision to dismiss its complaint, counter-complaint or appeal. HB 126 includes language that prohibits boards of education from entering into settlement agreements with property owners on or after the bill's effective date. As a result, these private payment agreements may no longer be used to settle property tax disputes. HB 126 does not prohibit agreements in which the parties agree on a new valuation for the property that is the subject of the complaint as long as the new valuation is reflected on the tax list and the agreement does not require any payments. Nor does it nullify existing agreements that were entered

into by boards of education and property owners prior to July 21, 2022.

Board of revision jurisdiction

Under prior law, the board of revision retained jurisdiction over valuation complaints and counter-complaints until they were decided. After HB 126, however, the board of revision must decide on the complaint within one year or it loses jurisdiction over the complaint. The bill does not require the board of revision to hear a complaint within a year, nor does it provide for any penalties for failing to do so. If the board of revision does not render a decision within one year of filing, the complaint will be dismissed.

HB 126's changes are significant and will require boards of education to put systems in place that are designed to help them protect their tax bases. If you have general questions about the changes, please call OSBA's Division of Legal Services at (855) 672-2529. If you have specific questions about parcels of property in your district, we encourage you to contact your district's legal counsel. ■

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