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# Pennsylvania tax assessment appeals and common level ratios – four observations

### By Peter H. Schnore

The "Common Level Ratio" (CLR) is a figure calculated by a state administrative body every year for every county. It is calculated upon data that each county's assessment office is to regularly provide to the state. It is expressed as a percentage – "ratio" is a misnomer.

The CLR is very significant in Pennsylvania tax assessment appeals, because Pennsylvania counties rely on irregularly-conducted "base year" assessments. By statute, the CLR is applied to a Board of Assessment or Court's determination of current fair market value of a property at issue on appeal to set its assessment, with the intention that by doing so, the assessment will be sufficiently uniform with that county's base year assessments.

Attention has been drawn to Allegheny County's most recent CLRs following a challenge to how it was calculated for Tax Year 2022. The details of that case are very interesting, but are not germane to this article. This challenge ultimately resulted in a significant drop in that CLR, from 81.1% to 63.5%. The implications of this were significant: A property fairly assessed for 2022 based on the original CLR was suddenly more than 27% over-assessed (.811/.635 = 1.277). Allegheny County Council afforded property owners a second opportunity to appeal based on this development, and as one might expect, many property owners (those who were informed, and who had sufficient money at stake to make it worthwhile to appeal) took advantage of that opportunity. It is noted that the CLR applicable to Tax Year 2024 is 54.5%, further increasing the possibility that a given property is over-assessed.

Below are four observations regarding the Common Level Ratios. The first relates to Allegheny County, the others are points applicable statewide.

**1. A similar challenge remains pending for Tax Year 2023.** A case quite similar to the 2022 challenge is pending in relation to the CLR to be used to set assessments in tax year 2023 appeals. It remains to be decided. If this attorney were betting on the outcome, he would bet upon a reduction of this CLR, and that this will lead to a re-opening of the opportunity to file Tax Year 2023 appeals.

**2. The CLR is well behind current market conditions.** The CLR is calculated upon data from the calendar year two years prior to the Tax Year at issue. As an example, the "2020 CLRs" are based on data gathered upon sales occurring



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in 2020, calculated and published by the state by mid-2021, and used in connection with Tax Year 2022 appeals. Inflation or deflation of a county's recent market activity will not be "picked up" by the CLR in use for tax assessments for close to a year at best. In Allegheny County, where we have retrospective assessment appeals (i.e., Board of Assessment appeals being filed and disposed of during, rather than before, the given Tax Year), the sales data behind the applicable CLR is well more than a year old at the time of the Board hearing.

**3. The CLR is not precisely the mathematical reciprocal of the Common Level Ratio Real Estate Valuation Factors.** Transactional real estate attorneys are familiar with the Common Level Ratio Real Estate Valuation Factors (the CLR Factor), published by the PA Department of Revenue each year, as they are used to calculate realty transfer taxes in certain circumstances. As an example, the CLR Factor for Allegheny County in place for July 1, 2023, to June 30, 2024, is "1.84." It is the counterpart to the CLR to be used in Allegheny County tax appeals for Tax Year 2024 of 54.5%. While the Department of Revenue declares that the CLR Factors "are the mathematical reciprocals of the actual common level ratios," they are not truly reciprocals due to rounding differences. (E.g., 1/1.84 = .54645, or 54.645%.) In an assessment appeal, do not rely on the CLR Factor. Rather, find and apply the applicable CLR as required by the assessment statutes.

**4. The uniformity that the CLR provides is very, very rough.** Every state assesses real estate property taxes, and every state's constitution contains a uniformity clause applicable to the collection of these taxes. However, the particulars of the protections that are offered to preserve uniformity vary considerably from state to state. As an example, in Pennsylvania, all property must be treated as the same class, and as such, under judicial law, it is a violation of the Commonwealth's uniformity clause to assess different property types at different tax rates. Many states' interpretations of their uniformity clauses do not require this, and permit taxing jurisdictions to assess different tax rates for commercial vs. residential property.

Another area where Pennsylvania's assessment system attempts to achieve uniformity across all property types is through blanket use of one equalization ratio – the CLR – for all property in a county, regardless of whether it is residential

or commercial; office or industrial; and whether it is in a desirable or undesirable neighborhood. In other words, the sole applicable CLR is applied in an appeal regardless of whether the property type at issue is faring well or poorly relative to other property types since the base year values went into effect.

To be sure, residential property values have fared significantly better than downtown office complexes over the course of the last three years. But the law affords property owners use of one CLR calculated on all arm's length sales in the county in a given year, giving equal weight to each of those sales, despite its calculation upon property types and locations often faring much better or worse. Pennsylvania's appellate courts have observed that property owners are not entitled to perfect uniformity in assessments, but rather rough uniformity. The use of the CLR as the primary mechanism to establish uniform assessments through the appeals process is very, very rough.

Ultimately, despite being the primary way to unify assessments under the law, it is a poor mechanism to maintain uniformity both for individual properties, and countywide. ■

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