IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carpenter Technology Corporation	:	
	:	
v.	:	No. 1569 C.D. 2007
	:	
Berks County Board of Assessment Appeals, Reading School District and City of Reading, Appellants	:	
	:	
Carpenter Technology Corporation, Appellant	:	
	:	
v.	:	No. 1622 C.D. 2007
	:	Argued: March 10, 2008
Berks County Board of Assessment Appeals, Reading School District and City of Reading	:	

BEFORE: **HONORABLE BONNIE BRIGANCE LEADBETTER,** President Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION BY
PRESIDENT JUDGE LEADBETTER **FILED:** April 6, 2010

This is the second appeal to this court from the tax assessment of a steel production and finishing facility located in Berks County. Taxpayer, Carpenter Technology Corporation, contends that the Court of Common Pleas of Berks County (common pleas) failed to comply with this court's directive on remand to "insure that each comparable relied upon [to calculate fair market value

of the subject property] has a price per square foot that is based upon the same square foot considerations as the subject property."[1] In their cross appeal, Berks County Board of Assessment Appeals, Reading School District and City of Reading (taxing authorities), contend that common pleas erred in applying the Common Level Ratio (CLR) to determine the property's assessed value in 2005 because the parties had previously stipulated that the Established Predetermined Ratio (EPR) for that year should be applied.

As we noted in our earlier opinion, Carpenter challenged its property assessment for the 2005 tax year;[2] the Berks County Board of Assessment Appeals (Board) held a hearing and, thereafter, determined that the property had a fair market value $17,939,600.[3] Carpenter appealed and a de novo hearing before common pleas followed. Carpenter and the taxing authorities each presented an appraiser and both relied principally upon the comparable sales method in rendering an opinion as to fair market value of the subject property. Based upon the comparable sales relied upon, Carpenter's appraiser, William Bott, concluded that the property had a fair market value of $4.00 per square foot of gross building area, including land.[4] Bott then multiplied that value by 2,382,016 square feet of gross building area to reach a total rounded market value of $9,530,000. In calculating the square footage of the subject property, Bott made his own on-site

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[1] *See Carpenter Technology Corp. v. Berks County Bd. of Assessment Appeals*, No. 812 C.D. 2006 (Pa. Cmwlth. filed October 25, 2006), slip op. at 17.

[2] The facility is situated on approximately 165 acres and contains 87 buildings or structures, varying in size, age, construction and condition. The property is assessed as seven different tax parcels.

[3] The Board provided a fair market value for each parcel.

[4] A more detailed description of each expert's analysis is contained in our first opinion as well as common pleas' initial opinion in this matter. *See* Reproduced Record (R.R.) at 56a and 5a, respectively.

measurements and excluded the square footage of the property's various basements without grade level access or mezzanines without mechanical access.

On the other hand, based upon his analysis of various comparables, the taxing authorities' expert, Douglas Haring, opined that the subject property had a fair market value of $7.00 per square foot. Using the square foot figure provided by Carpenter's engineering department, 2,494,590, Haring multiplied that figure by $7.00 per square foot to arrive at a total fair market value of $17,450,000. Unlike Bott, the square foot figure that Haring used included basements without outside access and mezzanines without mechanical access.

Common pleas did not wholly accept either expert's fair market value analysis, rejecting some of the comparables relied on by each expert and accepting others. In addition, common pleas further adjusted the sales price per square foot of several of the chosen comparables. Based upon the comparables considered, common pleas found that the property had a fair market value of $6.35 per square foot. In addition, the court accepted Haring's method of including mezzanines and basements in the square footage of the buildings, finding those areas to have value. Thus, common pleas found that the property had 2,494,590 square feet, which, when multiplied by the $6.35 per square foot value, rendered a total fair market value of $15,840,646.[5]

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[5] Common pleas opined:

> This Court finds that Bott's representations were an accurate determination of square footage, based on his method. However, upon review of the methods employed by the two (2) appraisers, this Court accepts Haring's method. The areas excluded by Bott are areas of value which are utilized by Carpenter in [its] manufacturing process. These areas have value to Carpenter. While Bott acknowledges this, he claims that the value appears in the price per square foot. In fact, the price per square foot was

(Footnote continued on next page…)

Based upon the parties' stipulation at the beginning of the hearing that the EPR of 100% applied for the 2005 tax year, common pleas found the assessed value to be $15,850,000 (after rounding). For tax year 2006, common pleas applied the CLR of .80 to arrive at an assessed value of $12,680,000.

Carpenter appealed, contending, *inter alia*, that common pleas erred in rejecting several of Botts' comparables for reasons unsupported by the record and in utilizing the total square footage supplied by the taxing authorities' expert, again arguing that figure was inconsistent with industry standard and the comparable sales data used. We agreed with the first contention and vacated common pleas' order, remanding for further findings and a hearing if necessary. We rejected the argument that the trial court erred in counting the basement and mezzanine space in the building's square footage, but cautioned that however the square footage was calculated, it needed to be consistent with that of the comparables. We specifically opined:

> [C]arpenter argues that common pleas erred in using Haring's square foot figure to calculate fair market value

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(continued…)

> calculated based on comparables, and it is unknown whether the comparables' measurements included or excluded these areas. Further, the building square footage of the comparables were [sic] substantially different from the subject, requiring an adjustment in some cases. Thus, the only way to ensure that the value of the areas excluded by Bott receive proper assessment is to include them as part of the gross building area have [sic] them assessed at the unit price of Six Dollars and Thirty-Five Cents ($6.35) per square foot.

Common pleas' op. at 48-49 (R.R. at 52a-53a).

because that figure includes "inconveniently-accessible basement and mezzanine areas" contrary to the "industrial marketplace protocol" for reporting building sizes. . . . According to Carpenter, in the industrial market place, the standard practice (as testified to by Bott) is to report property sales as building size exclusive of basement areas without outside access or mezzanine areas without mechanical access, and, Bott followed this standard in calculating the market value of the subject property. Carpenter maintains that common pleas' adoption of Haring's square foot figure not only violates industry protocol, but leads to a faulty analysis because the comparable square foot values are calculated on a different basis, resulting in an apples-to-oranges comparison.

Notwithstanding that the two experts disagreed as to what the industry standard requires, there must still be consistency in measuring square footage if the price per square foot calculated for a comparable is to be multiplied by the square footage of the subject property to determine fair market value. In other words, if both buildings have basements [without outside access] and mezzanines [without mechanical access], that square footage must either be included in both or excluded in both. Moreover, as common pleas noted, if such areas are usable, they will add some value to the property even if ordinarily excluded from the stated square footage, so the comparison will presumably require further adjustment when such a building is to be compared to one with no basements or mezzanines at all. We infer from Bott's testimony that the square footage of his comparables excludes any limited access basement and mezzanine areas, but it is unclear whether the comparables used by Haring included them, and equally unclear whether any of the comparables used by either expert even had such areas. Because these critical factors are unknown, it is impossible to tell whether the calculations made by common pleas resulted in an accurate assessment of fair market value.

Consequently, a remand is required. On remand, common pleas must reconsider those comparables that he

> rejected for reasons unsupported by the record (Bott comparables #2, #3, and #5). In addition, in calculating the subject's fair market value based upon a price per square foot, common pleas must insure that each comparable relied upon has a price per square foot that is based upon the same square foot considerations as the subject property. In order to do this, common pleas may need to hold additional hearings so that the experts can clarify or modify their figures, if necessary.

Carpenter Technology Corp. v. Berks County Bd. of Assessment Appeals, No. 812 C.D. 2006 (Pa. Cmwlth. filed October 25, 2006), slip op. at 15-17 (footnote omitted).

On remand, common pleas held an additional hearing, at the beginning of which the court reiterated that he had previously ruled that the mezzanine and basement space were properly counted in the square footage of the property and noted that, although that ruling was challenged in Carpenter's first appeal, this court had not overturned it. He urged counsel for Carpenter to present testimony to clarify the amount of mezzanine and/or basement space contained in the comparable properties and whether it was included in the square footages used to determine the price per square foot of the comparables, and expert testimony to provide the appropriate downward adjustment of those price per square foot figures if the buildings had no such space or if it had not previously been included. Counsel for Carpenter agreed that such expert testimony could be provided, but instead urged the court to reverse its previous ruling and accept Bott's method of excluding such space.

Carpenter again presented Bott as its expert witness. As noted by common pleas, Bott testified that it was possible to adjust a comparable property's price per square foot calculation based on a total square foot amount that excluded the low utility areas, in a manner which would allow equivalent comparison with a

subject property where such areas were included in the reported square footage. According to Bott, it was possible to make downward adjustments to the price per square foot of comparables which had no basement or mezzanine space, or where such space had not been counted, such that the revised price would be an equivalent comparable to the subject property measured to include such spaces. He refused to make such adjustments, however, insisting that his method was preferable, *i.e.*, to exclude such space in both the subject and comparable properties, considering it only as a minor "feature" in assessing building quality, rather than marketable building area.[6] He reasserted his opinion, previously rejected by common pleas, that such space had little or no significant value. Bott affirmed that when he calculated the fair market value per square foot for each comparable, basements and mezzanines without the required access were not included in the total square footage attributed to that property, and that he measured the Carpenter property the same way. Thus, he did not change his opinion of the price per square foot value of the properties he considered

[6] *See also* Hearing of June 19, 2007, Notes of Testimony (N.T.) at 89, where on cross-examination, Bott testified:

> But all I wanted to stress is that the adjustment is so small [for basement space without outside access and mezzanine space without mechanical access] in these low utility areas because of what I mentioned before. They're so user specific. And many times the mezzanines, if it's going to be purchased for an alternate use, are actually removed. So I just wanted to stress that the --- these low utility areas that I've included as another feature but not in my building areas require a very minimal adjustment if at all and, in some cases, they may require a downward adjustment because they actually interfere with the efficiency of the building to house other industrial operations.

R.R. at 119a.

comparable. Mr. Bott was not asked to provide any information nor to express any opinions concerning the two comparable properties previously identified by Haring and accepted by the court. Further, although Mr. Haring was present, neither side called him as a witness.

Ultimately, common pleas opined as follows:

> Unfortunately, neither party supplied the information required to satisfy the Commonwealth Court's directive. . . .
>
> . . . .
>
> What is missing from Bott's testimony are any adjustments required to properly incorporate the low utility value of the mezzanine and basement areas sufficient to reduce the square footage value to accurately reflect fair market. Bott certainly had sufficient data at his disposal to render such an opinion. He acknowledged that this analysis was possible, although he reiterated that he does not prefer this analysis. Carpenter's refusal to proffer this evidence is in keeping with its position that this Court should accept Bott's analysis of calculation of square footage, failing to recognize parameters established by the Commonwealth Court's Opinion in review of this Court's Decision.
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> For its part, [the taxing authorities] produced no evidence, other than the BOMA document, asserting that it was Carpenter's burden to produce the data necessary for the Court to make an informed decision within the parameters set by the Commonwealth Court, and that this burden was not met. It urged that no reduction for lower grade space would be appropriate.
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> Accordingly, we find that no adjustments to the price can be made to account for the lower grade value of the basement and mezzanine space. Bott's assertion that the value of the basement and mezzanine space is negligible is not sufficiently specific to form a conclusion on an appropriate adjustment. Even if it were, this Court had expressly rejected this opinion, finding that 112,574

> square feet [the total basement and mezzanine area] being actively utilized by the owner has value, and that this value must be incorporated into the price. We will not, therefore, guess what upward adjustment, if any, was made by Bott to his comparables analysis which might have influenced the price per square foot.
>
> Having said this, we are mindful of the potential for an inflated price per square foot, manifested by the inclusion of the low grade space in both the square footage calculation and as an adjustment for price. However, it appears from Bott's acknowledgments that the overlap is minimal, as his upward adjustment was "negligible" for all of his comparables. In any event, Bott had the opportunity to quantify his former upward adjustment, back it out of the analysis, and argue that the adjusted square foot price of the comparables should be accordingly reduced, but chose not to do so.
>
> This Court agrees . . . that it was Carpenter's burden to proffer the evidence required by Commonwealth Court. The price per square foot settled upon by this Court in its previous ruling did not incorporate any reduction for the lower grade utility of the basement and mezzanine areas. As Carpenter is the Appellant and also the party seeking to establish this price reduction, it was incumbent upon it to produce this evidence. . . .

Common pleas' op. at 6, 8-10 (footnote omitted).

Incorporating the Bott comparables previously rejected, common pleas then found that the average sales price per square foot was $5.15 and multiplied it by the total square foot figure of 2,494,590, to arrive at a fair market value for tax years 2005 – 2007 of $12,847,138. In addition, at the second hearing, Carpenter requested for the first time that common pleas apply Berks County's common level ratio for 2005 (86.3%) to determine assessed value for that tax year. Common pleas agreed to do so, over the objection of the taxing authorities. The present cross-appeals followed.

In its appeal, Carpenter contends that common pleas failed to comply with the court's directions on remand when it once again valued the subject property by multiplying the comparables' average selling price per square foot, which excluded limited access basement and mezzanine space in calculating total square footage, by a total square foot figure for the subject property, which includes these same areas. In conjunction with this argument, Carpenter notes that common pleas erred in concluding that the law of the case doctrine required that the same square footage be used to calculate the fair market value on remand.

Carpenter also argues that common pleas erred in relying on two of Haring's comparables (#3 and #5) because the record is devoid of any evidence to demonstrate whether the reported sizes of those properties included or excluded limited access basements and mezzanines and, therefore, it cannot be ascertained whether the calculated price per square foot is based upon the same square foot considerations as the subject property. Carpenter argues that these comparables cannot constitute competent evidence.

While we agree that the calculations ultimately made by the court are not consistent with our instructions on remand, we must conclude, as did common pleas, that this problem is one of Carpenter's own making. Common pleas had accepted Haring's method rather than Bott's and ruled that the basement and mezzanine space in the Carpenter buildings had independent value and would be counted.[7] Carpenter intentionally chose a strategy of refusing to adjust the prices per square foot for the comparable properties so as to provide a consistent

[7] Carpenter challenged this ruling in its first appeal and we did not hold it to be erroneous, although we did not specifically decide this issue. While we do not necessarily agree that this ruling became the law of the case, we see no error in the trial court's crediting one expert's method over that of another.

comparison with the subject property when measured as directed by the court, evidently attempting to coerce the court into accepting Bott's measurement method. Given that Carpenter refused to provide evidence, in accordance with the rulings of this and the trial court, which would provide a proper basis for comparison between the subject and comparable properties, common pleas could well have entirely discredited Bott's testimony as to value, or even found it incompetent.[8] Had the court done so, the taxing authorities' prima facie case established by the assessment record would have been unrebutted, and the assessment based on a fair market value of $17,939,204 would have remained in place. *See Green v. Schuylkill County Bd. of Assessment Appeals*, 565 Pa. 185, 772 A.2d 419 (2001); *Deitch Co. v. Bd. of Prop. Assessment, Appeals & Review*, 417 Pa. 213, 209 A.2d 397 (1965). However, the court chose to do the best it could with what was presented to it and gave Carpenter the benefit of accepting all the valuation testimony at face value, while acknowledging that Bott could have established lower valuations, had he chosen to do so, by computing the adjustments necessary to comply with the courts' rulings.[9] By following this course, the court arrived at a fair market value of $12,847,138. Having adopted a strategy which presented the court with the Hobson's choice of rejecting all valuation testimony or accepting testimony that was admittedly somewhat

[8] Indeed, the testimony may well have been incompetent, but we will not consider this question since it has not been raised by the taxing authorities.

[9] This is true of the two comparable properties presented only by Haring as well as the six comparables presented by Bott. We agree with common pleas that Carpenter had the burden of proof regarding value, and that Carpenter could have presented the appropriate adjustments to the original Haring valuations either through Bott or by calling Haring, who was present at the time of the hearing on remand but was not called by either side.

inaccurate, Carpenter cannot now complain that common pleas took the option which gave Carpenter a five million dollar advantage.[10]

Next, in their cross-appeal, the taxing authorities contend that common pleas erred in applying the Common Level Ratio (CLR) to the fair market value thus determined for 2005 in order to arrive at the correct assessment value.[11] Section 511(c) of The General County Assessment Law (Assessment Law), 72 P.S. 5020-511(c), provides, with respect to assessment appeals, that:

> The county commissioners, acting as a board of revision of taxes, or the board for the assessment and revision of taxes [hereafter referred to as the county commissioners], after determining the market value of the property, shall then apply the established predetermined ratio to such value *unless the common level ratio published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year being appealed to the county commissioners . . . varies by more than fifteen per centum (15%) from the established predetermined ratio,* in which case the county commissioners . . . shall apply that same common level ratio to the market value of the property. [Emphasis added].

See also Section 8(d.2) of the act commonly referred to as the Third Class County Assessment Law, 72 P.S. § 5349(d.2). Upon further appeal, the court of common pleas is to employ the same procedure. *See* Section 518.2 of the Assessment Law,

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[10] Based on the assessment record (*see* Transcript of proceedings of March 14, 2006, Volume II, at 909), it appears that after applying the 80% common level ratio and the applicable tax rates to fair market value, the actual tax savings would amount to $150,664.

[11] As we noted in our prior opinion, both The General County Assessment Law, Act of May 22, 1933, P.L. 853, *as amended*, 72 P.S. §§ 5020-1 – 5020-602, and the act commonly referred to as the Third Class County Assessment Law, Act of June 26, 1931, P.L. 1379, *as amended*, 72 P.S. §§ 5342 – 5350k, govern the assessment of Carpenter's property. *See Green v. Schuylkill County Bd. of Assessment Appeals*, 565 Pa. 185, 772 A.2d 419 (2001).

72 P.S. § 5020-518.2, Section 9 of the Third Class County Assessment Law, 72 P.S. § 5350. Here, as common pleas noted:

> At the first hearing, the parties agreed that for tax year 2005, Berks County's predetermined ratio is 100% and the [CLR] determined by the State Tax Equalization Board was 86.3%. As the CLR did not vary by more than 15% from the [EPR], the parties agreed that the EPR shall be applied for tax year 2005, in accordance with 72 P.S. §5350.

Common pleas' op. at 11. On remand, counsel for Carpenter requested that common pleas apply the CLR for the year 2005[12] based on language in the intervening decision in *Downingtown Area School District v. Chester County Bd. of Assessment Appeals*, 590 Pa. 459, 913 A.2d 194 (2006). Since the time of the common pleas' decision in this case, our Supreme Court has further refined and elucidated the *Downingtown* holding in *Clifton v. Allegheny County*, 600 Pa. 662, 969 A.2d 1197 (2009). Extended discussion of these precedents, which deal with requirements of the Uniformity Clause of the Pennsylvania Constitution,[13] is not necessary because the taxing authorities do not here dispute (as they had before common pleas) that applying these decisions to the present case would result in application of the CLR. Thus, we will not address that issue. Rather, they argue that Carpenter has waived any right to application of the CLR by its prior stipulation that the EPR should apply. The authorities also argue that any belated uniformity challenge to the procedures mandated by The General County Assessment Law is barred for failure to notify the Attorney General.

[12] Because the CLR varied by at least 15% from the EPR for the tax year 2006, the CLR had been applied for that year, also by agreement, at the time of the first hearing.

[13] PA. CONST. art. VIII, §1, requiring equality of taxation.

We may dispose of the latter claim in fairly short order. Our Supreme Court in *Clifton* made clear that the Assessment Law is not facially unconstitutional, but rather subject to as-applied challenges based on the particular facts demonstrated. We have long recognized that notice to the Attorney General is required only where a statute is challenged on its face, not where its application is claimed to be unconstitutional under the circumstances of the particular case at hand. *County of Bucks v. Cogan*, 615 A.2d 810 (Pa. Cmwlth. 1992) [citing *Scalzi v. Altoona*, 533 A.2d 1150 (Pa. Cmwlth. 1987)]. Therefore, no notice was required, and Carpenter's request that the CLR be applied is not barred on this ground.

The claim of waiver is not so simple, however. As noted by Judge Spaeth in his concurring opinion in *Tice v. Nationwide Life Insurance Co*., 425 A.2d 782 (Pa. Super. 1981), the doctrine of waiver and the law regarding retroactive application of new decisions to pending cases are interrelated and, to a certain extent, stand in conflict. *Id*. at 789 (Spaeth, J., concurring). While there is no question that a party may waive his rights, even those of constitutional dimension, the general rule is that a new decision is applied to cases which remain pending at the time of the new holding. Thus, in circumstances like those presented here, the two doctrines mandate opposite results. Our Supreme Court was first faced with such a challenge in *Kuchinic v. McCrory*, 422 Pa. 620, 222 A.2d 897 (1966). There the Court stated:

> While there are no cases in Pennsylvania dealing with the effect of a change in decisional law pending appeal, there is authority in a closely related field. Unless vested rights are affected, a court's interpretation of a statute is considered to have been the law from its enactment date, despite contrary intervening holdings. In such circumstances, the latest interpretation is applicable to a case whose appeal has not yet been decided.

> Moreover, there are occasions when a party is given the benefit of a change in the law in order to prevent an injustice, especially when, as here, the other party could not have changed his position in reliance on the initial decision. . . .
>
> The effective administration of justice ordinarily requires that a litigant who fails to raise at trial an available objection waives it on appeal. This Court is reluctant to permit a party to allege error in the jury charge for the first time on appeal, because it would be manifestly unfair to permit a party to take his chances on a verdict, and then complain if he loses, when an earlier objection would have afforded the trial court an opportunity to correct the error. The present case, of course, is one where an earlier objection would have been to no avail, because the charge correctly stated prevailing law. Furthermore, the rule espoused by appellee would compel counsel to urge upon the trial court every conceivable theory, on the mere chance that, before his case is finally concluded, one such theory might become the law…. [T]his requirement would tend to delay justice.

Id. at 625-26, 222 A.2d at 900-01 (footnotes and citations omitted). This reasoning was reaffirmed in *Cleveland v. Johns-Manville Corp.*, 547 Pa. 402, 690 A.2d 1146 (1997), as follows:

> In most circumstances, the failure to raise a claim before the trial court results in the waiver of that claim, and issues presented for the first time on appeal will not be considered. *Dollar Bank v. Swartz*, 540 Pa. 369, 657 A.2d 1242 (1995). The waiver rule promotes the orderly administration of justice by requiring the parties to give the trial court an opportunity to correct the alleged error, reducing the need for appellate review. *Tagnani v. Lew*, 493 Pa. 371, 426 A.2d 595 (1981). However, where a fundamental change in the law occurs after the lower court enters its order, but before the appellate court rules, the failure to raise the issue in the lower court will not preclude appellate review of that issue. *Kuchinic v. McCrory,* 422 Pa. 620, 222 A.2d 897 (1966).

> . . . .
> Additionally, we have stated that "[i]t would be manifestly unfair to hold [a defendant] to a waiver when this waiver is alleged to have occurred at a time when neither the defendant nor his attorney had any way of knowing there existed a right to be waived." *Commonwealth v. Cheeks,* 429 Pa. 89, 95, 239 A.2d 793, 796 (1968) . . . .

Id. at 411-12, 690 A.2d at 1151.

While these cases involved the right to assert a new decision for the first time in a pending appeal, we believe the standards announced therein are equally applicable where the claim is first asserted on remand following an initial appeal. In applying these standards, common pleas reasoned that, in spite of the fundamental nature of the waiver doctrine in Pennsylvania:

> Nevertheless, we agree with Carpenter that it should not be bound by its stipulation to accept the application of [the] EPR to tax year 2005. At the time the stipulation was entered, the Downingtown case had not been decided. The applicable statutory language clearly required application of a 100% EPR to fair market value, an interpretation accepted by all parties and this Court, as this was the law at the time.
>
> We believe that requiring Carpenter to foresee the change in the law rendered by Downingtown would be inequitable. Constitutional challenges to taxing statutes are generally complex, often resulting in decisional disjunction among reviewing Courts, as illustrated in Downingtown, where the Supreme Court and Commonwealth Court reached opposite conclusions and both Courts were divided.
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> . . . .
>
> Here, as in Kuchinic, the decision to render the stipulation nonbinding does not affect the status of the nonmoving parties or prejudice them in any way. The issue is simply whether [the] EPR or CLR is to be applied to the fair market value for the property in 2005, a question of law requiring no additional evidence.

> . . . .
>
> For all the aforesaid reasons, we find that it would be manifestly unjust to prohibit Carpenter from revisiting whether [the] EPR shall be applicable for 2005, in light of the Downingtown holding.

Common pleas' op. at 14-17. We believe that the trial court appropriately weighed the factors considered by our Supreme Court in *Kuchinic* and *Johns-Manville,* and thus did not abuse its discretion in applying the CLR for the 2005 tax year.

For all the foregoing reasons, the decision of the court of common pleas is affirmed.

BONNIE BRIGANCE LEADBETTER,
President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carpenter Technology Corporation	:	
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v.	:	No. 1569 C.D. 2007
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Berks County Board of Assessment Appeals, Reading School District and City of Reading, Appellants	:	
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Berks County Board of Assessment Appeals, Reading School District and City of Reading	:	

O R D E R

AND NOW, this 6th day of April, 2010, the order of the Court of Common Pleas of Berks County in the above-captioned matter is hereby AFFIRMED.

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BONNIE BRIGANCE LEADBETTER,
President Judge