

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Christopher M. Brunetti and Cheri L. Brunetti, husband and wife	:	
	:	
	:	
v.	:	No. 15 C.D. 2010
	:	Argued: November 8, 2010
Washington County Board of Assessment Appeals, Peters Township and Peters Township School District	:	
	:	
	:	
Appeal of: Peters Township and Peters Township School District	:	
	:	

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

**MEMORANDUM OPINION BY
PRESIDENT JUDGE LEADBETTER**

FILED: December 23, 2010

Peters Township and Peters Township School District (Tax Authorities) appeal from the order of the Court of Common Pleas of Washington County, sustaining the real estate tax assessment appeal of Christopher M. and Cheri L. Brunetti. On appeal, this court must determine whether common pleas erred as a matter of law in concluding that Washington County’s reassessment of the Brunettis’ lot after they purchased their newly constructed home from the developer violated the Fourth to Eighth Class County Assessment Law

(Assessment Law)¹ and the Uniformity Clause.² For the reasons explained in *Blazek v. Washington County Board of Assessment Appeals*, No. 16 C.D. 2010 (filed December 22, 2010), which involved the same issue and was argued *seriatim* with this case, we affirm.

The Brunettis own a 3,481 square foot home on a .37 acre lot located at 332 Buffalo Ridge Road, McMurray, Peters Township, Washington County. The home was built in 2004. The lot was initially assigned a base year market value of \$22,648 but that value was increased to \$45,296 when the developer sold the developed lot to the Brunettis,³ leading to a total base year market value of \$262,888 (the market value of the improvements were deemed to be \$217,592).⁴ The Brunettis appealed their assessment and the Board of Assessment Appeals reduced the total base year market value of the property to \$232,888 (reflected on the property record card as a reduction in the market value of the improvements). Application of the County's established predetermined ratio of .25 yielded an

¹ Act of May 21, 1943, P.L. 571, *as amended*, 72 P.S. §§ 5453.101 – 5453.706. The assessment and taxation of real estate in Washington County is also governed by The General County Assessment Law, Act of May 22, 1933, P.L. 853, *as amended*, 72 P.S. §§ 5020-101 – 5020-602.

² The Uniformity Clause, found in Article VIII, Section 1 of the Pennsylvania Constitution, provides that, “[a]ll taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax”

³ According to the expert report prepared by the Brunettis' expert, it appears that the Brunettis purchased the property in May, 2008, for \$406,000.

⁴ Pursuant to Section 602(a) of the Assessment Law, 72 P.S. § 5453.602(a), real property shall be valued for assessment purposes according to its actual value. However, in arriving at actual value, a county may use either the current market value or adopt a base year market value. Here, Washington County uses the base year market value for assessment purposes. The base year is defined as “the year upon which real property market values are based for the most recent county-wide revision of assessment of real property or other prior year upon which the market value of all real property of the county is based.” Section 102 of the Assessment Law, 72 P.S. § 5453.102. The last county-wide reassessment occurred in Washington County in 1981.

assessed value of \$58,222. The Brunettis further appealed and a de novo hearing was held before common pleas.

Before common pleas, the County placed its assessment record into evidence and presented the testimony of its Chief Assessor, Robert Neil. Neil essentially testified to the values above, noting that the lot had an assessed value of \$11,324 (based upon the increased market value of \$45,296) and the improvements were assessed at \$54,398 (based upon the original market valuation of \$217,592, before that value was reduced by the Board on appeal), rendering a total base year assessed value of \$65,722 (corresponding total base year market value of \$262,888). Neil also testified to the market and assessed values of two other properties in the same development which he believed were comparable to the subject property. Neil also confirmed for the court that, as he explained more extensively in his testimony in *Blazek*, the County doubled the market value of the Brunetti lot when the developer sold the property to the Brunettis.

In response to the County's evidence, the Brunettis offered the testimony of Alvin Barone, a residential real estate appraiser. Barone performed a comparable sales analysis for both the house and the lot. In doing so, he used home and lot sales from 1980 and adjusted the values according to their differences from the subject property.⁵ Based upon his analysis, he opined that the property had a total base year market value of \$150,000 and the lot a value of \$15,000.

Common pleas found that the property had a total base year market value of \$177,648, attributable to \$155,000 in improvements and \$22,648 to the

⁵ The comparable land sales ranged in value from \$16,900 to \$30,000. Based upon their differences from the subject property, however, he adjusted those market values to \$12,500 to \$16,900. See Petitioner's Exhibit 1, Appraisal report of Alvin Barone.

lot. In its initial opinion and order, common pleas found that the market value of the lot was the value originally set by the assessment office as the County lacked statutory authority to double the land value upon sale. In its subsequent opinion pursuant to Pa. R.A.P. 1925(a), common pleas also noted that in addition to concluding that the County lacked statutory authority to double the land value upon sale, thereby engaging in an impermissible spot reassessment, it reduced the base year value of the land to \$22,648 in accordance with the report and testimony of the property owners' expert, Barone, "as to comparable land sales at the time of the 1981 base year, and the testimony of Mr. Neil as the land value of the subject property." Opinion at 4, R.R. at 11a.⁶

The only issue raised on appeal is the propriety of the trial court's reducing the market value of the land to its originally assessed market value of \$22,648 before the lot was sold. For the reasons expressed in *Blazek*, we affirm.

BONNIE BRIGANCE LEADBETTER,
President Judge

⁶ As to the latter, common pleas is presumably referring to Neil's testimony that the assessment record initially reflected that the lot had a base year market value of \$22,645.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Christopher M. Brunetti and Cheri L.	:	
Brunetti, husband and wife	:	
	:	
v.	:	No. 15 C.D. 2010
	:	
Washington County Board of	:	
Assessment Appeals, Peters	:	
Township and Peters Township	:	
School District	:	
	:	
Appeal of: Peters Township and	:	
Peters Township School District	:	

ORDER

AND NOW, this 23rd day of December 2010, the order of the Court of Common Pleas of Washington County in the above-captioned matter is hereby **AFFIRMED.**

BONNIE BRIGANCE LEADBETTER,
President Judge