Volume 1 - Opinions of Counsel SBEA No. 75

Opinions of Counsel index

Revaluation (review) (town board) - Assessors (powers and duties):

A local legislative body has no authority to set aside a newly completed and filed assessment roll based on a revaluation, and to reinstate a prior assessment roll.

Our opinion has been requested as to whether a town board has the authority to prohibit the assessor from using a reappraisal the board considers unsatisfactory and to direct the assessor to use a prior roll as the basis for the current assessment roll to be completed.

A revaluation firm was retained by the town to assist the assessor in completing the revaluation of all real property within the town and such work was to be completed on or before a specified date. The work was not completed until eleven months later. The town was so dissatisfied with the performance of the revaluation firm that it has refused to make the final payment under the contract. It was also alleged that the revaluation firm breached the contract in failing to utilize experienced appraisers and in admittedly curtailing the quality of their work in order to complete the reappraisal within the contract price. The assessor utilized the reappraisal as a basis for preparing the current assessment roll. The members of the town board have no confidence in the reappraisal and wish to direct the assessor to use a prior assessment roll as the basis of the assessment roll to be prepared rather than continuing to use the reappraisal as the basis for his assessments.

Section 2 of Article 16 of the Constitution of the State of New York provides, in part, that the Legislature shall provide for the supervision, review and equalization of assessments for purposes of taxation. The State Legislature has delegated the exclusive authority to assess real property for the purposes of local real property taxation to local assessors (Town Law, section 33; Real Property Tax Law, section 500 et. seq.). The State Legislature has also provided exclusive remedies, administrative and judicial, for the review of assessments (Real Property Tax Law, Articles 5 and 7). Setting aside a newly completed and filed assessment roll and reinstating a prior assessment roll would constitute a review of the entire assessment roll and a determination, judicial in nature, that the assessment roll was invalid and there is no authority for such action by a local legislative body (1962, Op.Att’y.Gen. 145).

The town board, therefore, has no authority to substitute its judgment for that of the assessor and the exclusive remedy available to a property owner, who considers himself aggrieved by reason of any assessment made by the assessor, is that which is provided in Articles 5 and 7 of the Real Property Tax Law.

March 13, 1972

Updated: September 19, 2017